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No. 41

## House of Representatives

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

### DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
March 13, 2003.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

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

### PRAYER

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

Lord of history and Conqueror of evil, empower us to surrender completely to Your spirit. With renewed faith in Your guidance, even in the midst of conflicting inspirations, we commend to You the Members of Congress, the President, his Cabinet, and all who struggle to lead Your people and acknowledge Your sovereignty over all events and times.

When faced with impending decisions or making a deep commitment, Your devout people not only turn to You in prayer but they use every ounce of intelligence and every source of consultation to know Your holy will. Lord, human as we are, often we talk to You as we would a friend or an intimate, wondering what is Your mind.

At a certain moment, we begin to look for signs from You that will confirm the movement in our heart. Lord, send forth Your light that we may discern well the desolations or consolations You give us. If conscience is flooded with anger, resentment, and darkness, we will reexamine their source. If, however, You fill us with a surge of energy borne of inner peace

and freedom, that takes us beyond our ego and is in tune with Your word, we will continue to seek to do Your will now and forever.

Amen.

### THE JOURNAL

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

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

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN 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 five 1-minutes on each side.

### BAN PARTIAL-BIRTH ABORTION

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

Mr. PITTS. Mr. Speaker, today, our colleagues on the other side of the building will vote on a bill banning the barbaric procedure of partial-birth abortion. Partial-birth abortion is one of the most violent and gruesome acts known to mankind.

Despite what its supporters say, several thousand times a year in the United States healthy babies and

healthy mothers in the fifth and sixth months of pregnancy undergo this horrific procedure. As we seek to lead the world against tyranny and in support of basic human rights, we must recommit ourselves to promoting the basic human rights of the most vulnerable among us, the most innocent and defenseless members of the human race. We have a chance to stand up for what is right, to stand against what is wrong. We have a chance to defend those who need it most, to stand against those who seek to harm them.

Partial-birth abortion is not rare, partial-birth abortion is not safe, partial-birth abortion does not foster a respect for human life. It degrades us all. Partial-birth abortion must be banned. Let us pass the bill.

### THE CRISIS WITH IRAQ

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

Mr. KENNEDY of Rhode Island. Mr. Speaker, I voted for the resolution authorizing the forcible disarmament of Iraq, and I continue to agree with the President of the United States that we should disarm Iraq by force, if necessary, in order to protect American lives. But I also recognize that if we go to war right now, the war will have little legitimacy in the eyes of the world community, and that increases the risks. I, therefore, believe that it is in our security interests to support Great Britain's latest proposal to establish specific unambiguous disarmament benchmarks and a firm deadline. Failure to comply with all requirements would trigger military action without further debate.

If Iraq does comply, we would have achieved our aims without the need for war, everybody's first choice. If Iraq again fails to meet its obligations, our

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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good-faith effort will have helped restore some of the U.S.'s lost credibility, thereby strengthening the coalition supporting the war as well as improving our ability to prosecute the war on terrorism, as well as decreasing the risk and cost of rebuilding Iraq after a conflict.

I urge my colleagues to support this reasonable approach to the crisis.

#### WOMEN AND HEART DISEASE

(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, last month we celebrated Heart Month, a time for us to reflect upon heart disease, its effects, and our methods of prevention.

I would like to take this opportunity to recognize the Miami Heart Research Institute for its dedication to the research and the treatment of this life-threatening disease.

Heart disease is the single leading cause of death for American women. Obviously, women make an indispensable contribution to the growth of our culture and must be ensured every opportunity for good health and longevity. It is critical that women be educated on the risk of heart disease as well as on the effective methods of prevention.

I hope that my colleagues will join me in recognizing the efforts of the Miami Heart Research Institute and that we will all grow in the awareness of the impact which heart disease has on Americans, especially our Nation's women.

#### IN MEMORY OF FORMER CONGRESSMAN GUS YATRON

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

Mr. HOEFFEL. Mr. Speaker, I have the sad task of informing my colleagues that my predecessor, Gus Yatron, passed away unexpectedly early this morning.

Gus Yatron dedicated his entire life to public service, first serving as a school director for the Reading School District, and then serving in the Pennsylvania State House and in the Pennsylvania State Senate. He served with distinction in the halls of Congress for 24 years.

During Gus Yatron's years of public service, he helped thousands of people and was respected by all the colleagues that he served with. Our thoughts and prayers go out to his wife, Millie; his daughter, Theana; his son, George; and to his grandchildren.

#### ELIMINATING UNFAIR DOUBLE TAXATION ON DIVIDEND INCOME

(Mr. WILSON of South Carolina asked and was given permission to ad-

dress the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, over 250 economists have urged Congress to repeal the unjust double taxation on dividend income. This is an excellent opportunity to dramatically boost our economy and create jobs for Americans.

There is an urgent need to pass President Bush's plan. On March 11, the widely respected Charles Schwab wrote in *The Washington Post*, and I quote, "If we are going to stimulate the economy, we need a tax policy that bolsters confidence, improves corporate governance, unlocks the stagnant capital inside companies, and lifts the stock market across the board. Only the elimination of the double tax on dividends achieves all these goals. Congress ought to act quickly."

That is why I have introduced H.R. 225, the Double Taxation Elimination Act of 2003, and I ask my colleagues to join me in ending this unfair double tax on dividends which has been championed by the House Policy Committee chaired by the gentleman from California (Mr. COX) and which has been promoted by the Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS). With this plan we can stimulate the economy and create jobs.

In conclusion, Mr. Speaker, God bless our troops.

#### SUPPORT OF TROOPS

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

Mr. GREEN of Texas. Mr. Speaker, our 1-minutes are designed for us to talk about things that are happening in our districts or whatever issues may be important for the day. I wanted to talk about a situation that is happening in east and northeast Harris County.

Mr. Speaker, we have a group that is talking about communities rallying for our troops. Now, our troops are in Iraq and in Afghanistan. We have two groups, the 373rd Support Battalion and also the 450th Chemical Battalion. They are Houston Reserves who are serving our country. What is happening this week in North Shore and Channel View and northeast Harris County and Houston are our communities showing support for those young men and women serving our country everywhere in the world.

Mr. Speaker, we are fighting for freedom and democracy everywhere in the world. My only frustration is that here on the floor of the House today we do not even get an amendment on a major piece of legislation. But we know that we support our troops, whether they are in Afghanistan, Iraq, or anywhere else in the world.

#### FREEDOM OF SPEECH DOES NOT MEAN DESTRUCTION OF PRIVATE PROPERTY

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

Mr. BARTLETT of Maryland. Mr. Speaker, today I rise to talk about a misunderstanding about our Constitution. It has been reported that some antiwar protesters destroyed a 9-11 memorial in La Habra, California, last Saturday. The memorial was on private property and was set up after 9-11 to honor those murdered by the terrorist attackers. The antiwar protesters burned and ripped flags while the local police watched and did nothing.

It is unconscionable there would be Americans who would show no respect for those victims of 9-11. Even more outrageous is that the police department excused this vandalism by citing the first amendment's protection of freedom of speech. Freedom of speech is a God-given right of every American; destroying private property is not.

What would the police officers do if a citizen wanted to exercise his freedom of speech by setting fire to city hall? Can a person express their freedom of speech by punching a speaker they disagree with? Obviously not.

I encourage the La Habra Police Department and all police departments across this country to protect freedom of speech while at the same time not allowing vandals to destroy private property.

#### NATION REJOICES IN RETURN OF ELIZABETH SMART

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

Mr. LAMPSON. Mr. Speaker, the Nation grieved with the Smart family when Elizabeth disappeared 9 months ago. As chairman of the Congressional Missing and Exploited Children's Caucus, I, and our Nation, are overjoyed at her discovery. This is the light at the end of the tunnel for her family and friends, something that every parent who has a missing child would dream of.

I want to thank the media, the citizens who paid attention and called in leads, and the law enforcement officials who worked so hard on this case. This is the ultimate example of the growing cooperation between law enforcement, the public, and the media. By working together, people become the eyes and ears of law enforcement, increasing their numbers by thousands.

We can learn a great deal from this case. First of all, the parents did exactly the right thing and were prepared with current photos and information of Elizabeth. This is the most important thing for parents to have. Elizabeth's sister was an incredible witness and a

wonderful example of how kids can play a part in their own and others' safety. And we also saw law enforcement officials that handled the case well.

Through cooperation, like what we saw in this case, cooperation of the media, the public, witnesses, and the family, we will bring more children home.

#### MONTANANS GATHER TO SUPPORT OUR TROOPS

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

Mr. REHBERG. Mr. Speaker, I have been disturbed by the headlines depicting extremists protesting the disarmament of Saddam Hussein even before it begins. I sadly read about a group of anarchists trashing a 9-11 memorial in California, tearing up dozens of American flags. In doing so, these people send a caustic message to our young men and women in uniform who, instead, need our support.

I am proud of our troops. In my home State of Montana, our citizens admire these brave young people. Two weeks ago in Missoula, a large gathering of community leaders, families, and senior citizens gathered to show their support for the people in uniform who have volunteered to put their lives on the line for this country. Several days ago, a similar gathering in Kalispell turned out to show support for those who serve our country. Last weekend, more than 200 Montanans gathered in Billings, shouting "USA" and "God Bless America."

In each of these cases, Montanans gathered not to criticize our role in the Middle East, but to say, We love our country and we support our President. They gathered to tell our young men and women in uniform, We love you, we are proud of you, go with God, and may His grace surround you should you enter harm's way.

#### MEDICAL LIABILITY LIMITATION ACT

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

Ms. SOLIS. Mr. Speaker, today I rise in strong opposition to the so-called medical malpractice bill that we are going to be voting on today.

I have heard from the minority physicians in my area, and they are quite alarmed. They are quite alarmed because their insurance premiums keep skyrocketing. And I am talking about the State of California, where we had some reforms back in 1974 through a law called MICRA, which was supposed to bring down the cost of malpractice lawsuits. What happened there was not much.

We had also Proposition 103 that was passed to bring down insurance pre-

miums. Guess what, folks? In California it helped slightly, but not enough.

□ 1015

In fact, in California, the rates are still 8 percent higher than other parts of the country. I want to call the Members' attention to the fact that the caps that we are going to be looking at in this proposal discriminate against children, seniors, and the unemployed.

I want to call attention to the case of Jessica Santillan, a Latina teenager, who died last month after doctors at Duke University Hospital confused her blood type during an organ transplant. Under this proposed bill, Jessica's family would only be allowed to recover \$250,000 in damages. That is wrong. This is no small amount that can compensate for the suffering of the family. I urge Members to allow Congress to vote on the Conyers-Dingell alternative.

#### PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 139

*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. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committees on the Judiciary and on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

SEC. 2. House Resolution 126 is laid on the table.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 139 is a closed rule providing 2 hours of debate for consideration of H.R. 5, Help Efficient, Accessible, Low-cost, Timely Healthcare Act, more commonly known as the HEALTH Act. The rule waives all points of order against consideration of the bill and provides one motion to recommit with or without instructions.

Mr. Speaker, my home State of New York has been designated by the American Medical Association as one of the 18 crisis States because of the staggering number of physicians that are unable to obtain or afford liability insurance. It is not just physicians that are feeling the crunch; hospitals and other providers have also reached their breaking point.

Take, for example, family-run skilled nursing facilities in my district that have not once had a claim brought against them, yet they have seen their liability insurance rates climb over 200 percent during the past 2 years alone. That is 200 percent in the last 2 years alone.

According to a study conducted by the American Hospital Association and the American Society of Risk Management, one-third of the hospitals experienced an increase of 100 percent or more in liability insurance premiums in 2002. Meanwhile, patients are the ones losing choices, access, and care.

Mr. Speaker, last September I stood on this floor to speak in favor of the HEALTH Act. Since that time, my home community of Erie County, New York, has lost 40 actively practicing physicians. Only 3 months into the current year, they are anticipating a loss of another 20 physicians. If we do not solve the problems facing physicians in this community and so many others across America, who will provide the health care services so vital to all of our constituents?

The fact is that physicians are limiting their patients, moving to States with lower insurance rates, or closing their practices altogether. The fact is that astronomical costs and unpredictability in the legal system are causing this alarming trend.

The effect? Doctors practice defensive medicine to avoid litigation and think twice about openly discussing and reporting possible errors. A study released by the Department of Health and Human Services last week emphasizes that bolstering predictability in the legal system will dramatically reduce the incentives for unnecessary lawsuits. Those who need care will get it faster and more reliably, and those who may need proper redress will get it faster and more reliably.

The HEALTH Act will provide that predictability, while at the same time halting the exodus of providers from the health care industry, stabilizing premiums, limiting astonishing attorney fees, and above all, improving patient care.

Just as important is what HEALTH Act will not do. It will not preempt any existing State laws that limit damages at a specific amount, and it will not establish any new causes of action.

Also, it will not prevent juries from awarding unlimited economic damages. This means that quantifiable lost wages, medical costs, pain-reducing medications, therapy and lifetime rehabilitation can all be recuperated as tangible economic damages. Patients that have been wrongly injured will not be denied access to substantial amounts in economic damages.

The HEALTH Act is modeled after legislation adopted by a Democratic legislature and a Democratic Governor in the State of California nearly 30 years ago. While insurance premiums increased over 500 percent nationwide, California's have risen only a third of that much, by 167 percent.

California's insurance market has stabilized, increasing patient access to care and saving more than \$1 billion per year in liability premiums. Equally important, California doctors are not leaving the State.

By following California's lead to place modest limits on unreasonable economic damage awards, an estimated \$60 billion to \$108 billion could be saved in health care costs each year. The Congressional Budget Office calculated that medical liability insurance premiums would be lowered an average 25 to 30 percent from what they are now under current law. And CBO also predicts that reducing the occurrence of defensive medicine would save anywhere from \$25 billion to \$44 billion per year of taxpayers' money.

I want to thank the leadership of the Committee on Energy and Commerce and the Committee on the Judiciary for working so expeditiously to bring this important measure back to the floor and focusing our attention on health care, particularly for coupling the HEALTH Act this week with patient safety legislation. Physicians need an environment where they can both share and learn, while at the same time practicing medicine without the fear of burgeoning liability rates and unnecessary lawsuits.

Mr. Speaker, spiraling medical liability insurance rates have hemorrhaged in recent years. Today we have an opportunity to stop the bleeding and maximize healthy patient outcomes. I urge Congress to support this rule and the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HASTINGS of Florida asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, let me say to the gentleman from New York (Mr. REYNOLDS) that the gentleman and I handled this measure last fall when this bill was brought to the floor. It was a bad bill then, and

it is a bad bill now. I also want to clear up something about so-called unnecessary lawsuits. There are penalties for lawyers who bring frivolous claims into any courtroom; thus, I theorize that the majority evidently does not understand that particular distinction.

Mr. Speaker, I rise today in strong opposition to this closed rule for H.R. 5. This legislation requires a full and open debate. The closed rule is abhorrent and cowardly. It denies the opportunity for free and fruitful discussion that would uncover all this legislation's deficiencies.

The current Committee on Rules chairman, the gentleman from California (Mr. DREIER), said in 1994 when a Member of the minority, and referring to the Democratic members of the Committee on Rules, "But we should have a structure which allows Members to participate more than they do now, and that it is again underscoring Lord Acton's very famous line that power corrupts, and absolute power corrupts absolutely. The arrogance of power with which they prevent Members, rank-and-file Democrats and Republicans, from being able to offer amendments, that is what really creates the outrage here."

That was the gentleman from California (Mr. DREIER), and outrage continues in the minority today. If the majority alleges that Democrats were wrong in utilizing the closed rule when we were in the majority, why not be the bigger party and end the practice? Why the political games, or is it simply more fun to be principled when it is convenient?

There is no question that medical liability insurance rates are out of control. Consequently, fine doctors, as well as other health care providers, often do not properly attend to patients. However, the underlying bill will not relieve doctors of high malpractice insurance premiums. I am focused on giving Americans quality health care, as all of my colleagues are, not increasing profits for the health insurance industry; and there are good proposals to correct the situation. H.R. 5 is not one of them.

Instead of protecting patients, H.R. 5 protects HMOs and big insurance companies. The so-called HEALTH Act of 2003 addresses the health of the health care industry and not that of physicians and patients. H.R. 5 is bad legislation; but like perennial flowers, its contents sprout every Congress, replenishing the coffers of its supporters. HMOs and big health insurers should not receive special treatment. They are not above the law. Nor should they be exempt from new legislation simply because they contributed millions of dollars in the last two election cycles.

H.R. 5 applies to medical malpractice, medical products, nursing homes, and health insurance claims because its supporters' true concern is not the suffering of patients or victims. Instead, H.R. 5 advocates want immunization from the consequences of irresponsible civil behavior.

The top priority in reforming America's health care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year.

Wrong-doers must remain accountable. When a stay-at-home mom dies or a child dies or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away compensation for parents who lose children, husbands who lose wives, children who lose parents, and patients who lose limbs, eyesight and other very real losses that are not easily measured in terms of money.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. The malpractice insurance market is having a predicament because of the insurance industry. The other side of the aisle claims that the lure of big wins prompts many to file frivolous lawsuits. But, in fact, victims are already at a disadvantage. Two-thirds of patients who file a claim do not get a dime. About 61 percent of cases are dismissed or dropped, and 32 percent are settled; and too many of them are on the courthouse steps when they could have been settled earlier. Only 7 percent of all cases go to trial.

□ 1030

Patients prevail in only one in five of the cases that are tried. These are pretty staggering odds against the victims.

The American people would know these truths if their Representatives could expose the selective use of data and statistics that the majority uses in supporting H.R. 5. One classic example would be the notion that in California, after 1975, premiums went down. Well, they did not go down until California reformed the insurance laws. It did not go down. It went up progressively for 12 years.

But under today's closed rule, the majority is committing the greatest form of political malpractice. When the majority has finished bullying its members into voting the party line today, the American people will not only be barred from seeking compensation when a doctor transplants an incorrect organ but they will realize that with closed rules as the order of business, they cannot even seek compensation in the People's House.

For example, if this bill were current law, no experienced trial lawyer would take the case of the young Mexican girl who lost her life at Duke University. The case would be complex, obviously, and expensive to put on, there would be no economic damages, and the maximum noneconomic award would be \$250,000. H.R. 5 treats the health care insurance businesses as the victims, and that is unacceptable.

The consequences of an injury are highly subjective and affect different people in vastly different ways. Put another way, how much is my arm worth? How much is your leg worth? This one-size-fits-all solution contradicts the

promise of individualized justice and objectifies victims and the uniqueness of their suffering. Different States have different experiences with medical malpractice insurance and insurance remains a largely State-regulated industry. The \$250,000 cap that must have been taken out of somebody's cap as a reason for going forward takes away juries' abilities in our States to determine the appropriate level of compensation for people who suffer grievous injuries at the hands of their health care providers. The majority does not trust the people to defend its political contributors.

Al Hunt of the Wall Street Journal quoted a Republican lawyer from Houston as asking, "Why are juries okay to take a man's life on the criminal side but are not competent to put a dollar value on an innocent victim's life on the civil side?" That is shameful. H.R. 5 is a health care immunity act that does not benefit physicians and victimizes patients.

When Democrats were in the majority, Republicans complained time after time that closed rules were unfair. On all of the radio infrastructure, we heard closed rules were unfair, unpatriotic and contrary to the goals of the framers. However, in more than 8 years that Republicans have been in the majority, closed rules are preferred and ruling with an iron fist is the practice. I am in strong opposition to this closed rule and the underlying bill.

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

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

Mr. Speaker, the debate has begun. We are going to have an hour on this rule. I believe after that we are going to have 2 hours of general debate. It really cuts right down through the center. As I talked about excessive court trial damage driving up the cost of patient health care, I listened to the other side say it is the insurance companies and the doctors that are the cause of so much of this. It will be a good debate. It will be a full hour here on this rule and it will be 2 hours of general debate, and then we are going to have an up or down on the HEALTH Act and we are going to find out whether it is passed and sent to the other body.

But I must say that over 60 percent of the doctors in the United States are insured by insurance companies that are owned and operated by other doctors and which operate primarily for their benefit. The idea that those companies would price-gouge the very physicians who own them, I think, is absurd.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. I thank the gentleman for yielding me this time.

Mr. Speaker, I practiced defensive medicine for 15 years before I was elected to Congress. Defensive medicine is extremely costly. The way it works is very simple. The patient

comes in. You think the patient has something. And then you think of all the other things that it could be and how you could be sued if you missed those things, so you order more and more tests. You may say, well, this is just one doctor speaking anecdotally, but actually this very issue was studied scientifically in California. They looked at the reforms put in place in California and its impact on charges in the Medicare plan. They discovered that over time after the cap on damages went into place and the threat of very, very excessive damages went away that charges for two diagnostic codes, the two codes they looked at were unstable angina and myocardial infarction, went down and there was no increase in morbidity and mortality. In other words, quality was maintained while charges went down.

This study was published in 1995 in the Journal of Economics. It was done by economics professors at Stanford University. They argued that the high cost of litigation cost the Medicare plan billions of dollars a year in unnecessary procedures and tests. They further went on to say that it cost, in 1995 dollars, our health care system \$50 billion a year. Today that figure is estimated at over \$100 billion a year.

Mr. Speaker, this is not just an issue of access. We are going to hear about access from the gentleman from Florida (Mr. KELLER). He is going to talk about the trauma facility in Orlando, Florida, being closed down because of this problem. This is not just an issue of high cost. This is an issue of the uninsured. As the costs go up because of the high cost of litigation, more and more people are pushed out of the insured market into the uninsured category. We all say here that we care about the uninsured, the people who cannot afford health care, but this is impacting them. This is impacting our competitiveness in the global marketplace because all these costs of litigation get transferred into the costs of health care that get transferred into the costs of our products and services as we compete in the global marketplace.

If we pass this bill and if the other body passes it, the President has said he would sign it, it is going to allow more people to get access to health care, it is going to reduce our costs through the Medicare plan, and we may ultimately be able to better afford more services through Medicare like prescription drugs. And, yes, it will help our businesses and industries to be more competitive in the global marketplace.

This is a good rule, it is a fair rule, and this is an extremely important bill. I encourage all my colleagues to vote "yes."

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 30 seconds.

In response to my good friend and colleague regarding the fairness and openness and the 1 hour of debate, 31 amendments were offered last night in

the Committee on Rules and my good friend the gentleman from New York (Mr. REYNOLDS) and I were there. Not one, not one, was permitted. What is fair about that?

In response to Dr. WELDON's defensive medicine argument, some people claim that billions of dollars are being wasted on so-called defensive medicine. Our own Congressional Budget Office has concluded that the idea of defensive medicine is uncertain and hypothetical. You can find that on page 74 of House Report 108-32.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FROST), the distinguished ranking member of the Committee on Rules.

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

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

Mr. Speaker, we all agree that there is a problem in America's medical system, but Republicans are not taking a serious approach to this problem. They are just playing politics and risking the rights of patients in order to carry water for HMOs and insurance companies. We know this, Mr. Speaker, because Republican leaders have brought this bill to the floor under a closed rule.

Now, on this very important subject, let me quote from a statement made 9 years ago by the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), at a time that he was in the minority. He said, and I quote, "I oppose closed rules, Mr. Speaker. I believe they are anathema to the concept of deliberative democracy."

Mr. Speaker, if Republicans wanted to deal with medical malpractice in a serious and substantive way, would they be using a process that is, as the gentleman from California himself said, anathema to the concept of deliberative democracy? I do not think so. And would they be preventing the House from voting on Democrats' comprehensive medical malpractice reform plan? Certainly not. But that is exactly what Republican leaders are doing today. As a result, the only bill made in order by this rule today is the Republican one and it is a shocking attempt to protect insurance companies while attacking the rights of victims.

Make no mistake, Mr. Speaker, the Republican bill will not reduce doctors' premiums, but it will protect HMOs and insurance companies, and it will punish patients who suffer from medical mistakes, patients like 17-year-old Jessica Santillan, who died because of a tragic medical mistake in North Carolina earlier this year. Or patients like the 1-year-old baby who died in Dallas last August after a surgical error.

That is right, Mr. Speaker. Instead of reducing malpractice premiums, Republicans are reducing victims' rights. Instead of protecting patients, they are protecting the profits of HMOs and insurance companies. It is absolutely

outrageous, but that is what you get with this Republican Congress.

It did not have to be that way, Mr. Speaker. Democrats, led by the two most senior Members of the House, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS), offered a comprehensive plan to bring down doctors' insurance rates and protect patients. The Democratic plan combines tort reform and insurance reform. It cracks down on frivolous lawsuits. And, just as importantly, it forces insurance companies to pass on their savings to doctors. Without this rate rollback provision, Mr. Speaker, insurance companies can just pad their profit margins instead of passing the savings on. That is a lesson we learned in Texas when we passed tort reform. So the Texas legislature and then-Governor Bush agreed on a law that specifically required that insurance companies reduce doctors' premiums, and that is all we are trying to do here. But Republican leaders decided to protect insurance company profits while they were reducing patient protections. So they defeated our amendments in the Committee on Rules last night.

Mr. Speaker, doctors and patients deserve better than this. So I urge my colleagues to defeat the previous question. Then we can amend the rule to bring up the only comprehensive plan to reform medical malpractice, the Democratic substitute. And if Republicans succeed in passing this rule, I urge a "no" vote on the underlying bill. Do not let Republicans sacrifice victims' rights in order to protect HMO profits.

I would make one other point. Last night in the Committee on Rules when challenged by the gentleman from Michigan (Mr. DINGELL), the gentleman from California (Mr. DREIER), the chairman of the committee, explained why the committee was not going to grant an open rule, why they were going to grant a closed rule. What he said was, "This is payback. This is payback for what you did when you were in the majority."

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

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

Mr. DREIER. I thank my friend for yielding. Would the gentleman state the quote again that I said? I did not hear it correctly.

Mr. FROST. Mr. Speaker, I was sitting next to the gentleman from California, and I believe that I heard him say that this was payback.

Mr. DREIER. I never said anything of the kind.

Mr. FROST. Mr. Chairman, I was sitting right next to you.

Mr. DREIER. I never said anything of the kind. I just would like the record to show that, Mr. Speaker.

I thank my friend for yielding.

Mr. FROST. All I can say is I was sitting next to the gentleman. I understand and I know what I heard last night.

Mr. Speaker, assuming that the Republicans are pursuing some sort of payback because they do not like what we did when we were in the majority, I would only point out that we rarely granted closed rules, and they normally were bills out of the Committee on Ways and Means. Bills of this nature, of this controversy, when we were in the majority, we permitted the minority to have a substitute on the floor, something which they have denied us today.

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

Mr. Speaker, I have only served under the distinguished chairmanship of Chairman DREIER, but I am always pleased that in each rule that we make there is always a recommit. Looking back at history, one of the people that I think was a distinguished chairman of the Committee on Rules, Joe Moakley, I am not sure he always had a recommit in the legislation. I am not sure that former Speaker Tip O'Neill when he was a member of the Committee on Rules always voted that there would be a recommit. But I do believe that there has been a recommit in here. More importantly, I think it is important that this legislation was thoroughly vetted in two committees, the Committee on Energy and Commerce and the Committee on the Judiciary, and even passed by voice vote in the Committee on the Judiciary. Just weeks ago these same committees once again took testimony and the bill passed through the Committee on Energy and Commerce by voice vote.

□ 1045

The Committee on Rules last night took testimony for over 2 hours and reasonably provided 2 hours of general debate, in addition to the standard motion to recommit, and I believe we will have a full hour on this rule today.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER). The gentleman, a doctor, is an expert in this legislation.

Mr. FLETCHER. Mr. Speaker, I will have to say it is rather amazing that when the minority is wrong on policy, they focus on process.

Mr. Speaker, as a family physician, I have always tried to do what is best for patients, and as a Member of Congress I still try to do what is best for patients in Kentucky and all across America.

Mr. HOYER. Mr. Speaker, will the gentleman yield on that point?

Mr. FLETCHER. Not at this time. I have 3 minutes.

Mr. HOYER. We yielded on our side.

Mr. FLETCHER. Mr. Speaker, what is best for the patient? I believe that unlimited medical liability awards are bad for patients, because they cause malpractice insurance prices to climb, resulting in more expensive care, fewer doctors, and problems obtaining access to needed care.

H.R. 5, the HEALTH Act of 2003, actually ensures fair compensation for

everyone. We need to keep in mind that everyone is entitled to full compensation for their losses, medical bills and wages under H.R. 5.

It is not unusual to hear stories of doctors moving from Kentucky to Indiana, where they have enacted comprehensive liability reform, to take advantage of lower costs of medical liability insurance.

Passing the HEALTH Act, which reasonably reforms our liability system, will hold premiums at a lower, more predictable rate. That will ensure patients are not left without their local physician, who may be otherwise driven out of their practice. And to say that this bill will not reduce frivolous lawsuits and reduce malpractice premiums is truly laughable. Lawsuits do not prevent injuries, they do not reduce medical errors, but they do create an atmosphere of fear, defensiveness and distrust in the doctor-patient relationship.

In fact, a recent study estimated that defensive medicine cost \$163 per person per year in Kentucky. That means Kentucky spends about \$655 million on unnecessary care due to fear of litigation.

Let me give you specific examples, too. Blue Grass Orthopedic Group in my district has never lost any of the handful of claims filed against its eight doctors. Yet their premiums, which were \$222,000 last year, shot up to \$635,000, nearly tripling in a single year. Why? Because personal injury lawyers, hoping to hit the jackpot, file frivolous lawsuits.

More than 70 percent of Kentucky physicians say their medical liability insurance premiums increased in 2002. Emergency physicians saw increases greater than 200 percent, general surgeons and orthopedists saw increases between 87 and 122 percent, and obstetricians and internists saw increases between 40 and 64 percent. Several saw several hundred percent increases in their premiums. In other words, this is just unsustainable.

It is estimated that for every obstetrician that leaves a practice in Kentucky, 140 women are left without their physician. That means that women during prenatal care will have to drive an extra 30 or 50 minutes to see a doctor. That also means during labor if that unborn child is in fetal distress, there is an extra 30 minutes of fetal distress, which could blankly rob that child of all their hopes and future of what they potentially could be.

As a family physician, I took an oath to do no harm. The only bill today that will help physicians keep that oath is one that ensures safe and timely access to care through reasonable, comprehensive and effective health care liability reform, and that is H.R. 5. I urge my colleagues to support this rule and vote yes on H.R. 5.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, there is a recent study reported in USA Today of medical malpractice insurance that concluded that,

on average, doctors still spend less on malpractice insurance, 3.2 percent of their revenue, than on rent. I offer that for the gentleman from Kentucky (Mr. FLETCHER).

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I want to say to my friend from Kentucky, who says that we rise to focus on process, I tell my friend from Kentucky there is a reason for that, because your Committee on Rules does not have the courage to allow us to debate substance. It does not have the courage to allow us to offer a substitute and amendments to your bill so that we could discuss substance. Have courage on your side, that substance is what ought to be at risk here. We are prepared to debate it. Allow us to do so.

Mr. Speaker, once again today the Republican leadership is employing outrageous tactics that trample the rights of the minority and rig the rules of this debate.

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

Mr. HOYER. As long as the gentleman yielded to me.

Mr. Speaker, these tactics demean the People's House. Hear me. Hear me. These tactics demean the People's House, demean democracy, demean freedom, and they fly in the face of commitments by Republicans when they regained the majority to run an open and deliberative process.

These comments are on the record. Here is how Gerald Solomon, the former Republican Chair of the Committee on Rules, explained it in November of 1994 when you were just about to take power. This is a quote, on the record:

"The guiding principles will be openness and fairness. The Rules Committee will no longer rig the procedure to contrive a predetermined outcome. From now on," the Republicans said, "the Rules Committee will clear the stage for debate and let the House work its will."

The year before, Congressman Solomon remarked, "Every time we deny an open amendment process on an important piece of legislation, we are disenfranchising the people and their representatives from the legislative process."

Mr. Speaker, this side of the aisle represents at least 140 million people. This side of the aisle represents 140 million Americans, and you have shut them up today, and you shut them up last week, and you may be considering shutting us up next week. Not 204 or 205 Democrats, but 140 million Americans.

I submit that this is precisely what we are doing today under this closed rule, which is what Mr. Solomon said you would not do. But you do it this day, and you demean this House.

I would say to the gentleman from Kentucky (Mr. FLETCHER), yes, that is why we talk about process, because we want to show why we are not serving doctors this day; why in State after State after State that have capped recovery premiums have not gone down. Doctors will not be served by this legislation you offer, and you will not allow us an amendment to do something that will protect doctors, that will protect patients, that will protect injured people.

This is a travesty of democracy, and it is a travesty for people who are injured severely by the negligence of others.

Vote against the previous question, vote against this bill, vote for fairness and equity in this House.

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

Mr. Speaker, we are going to continue on the debate of the issue of the day, which is medical liability. I must tell you, while I guess it is important to listen to some of the process, and half of this debate by the leadership of our House is on the process, I am hoping that we can continue to hear the debate that was at least opened by myself and my good friend from Florida who has a different view.

I look at it that we need to helm doctors and patients, and to make sure we can control the costs of malpractice insurance. I have listened to some of the debate on the other side that it is the doctors and insurance companies that are at fault.

It is an important debate. This is a debate that was heard 7 months ago in both the Committee on the Judiciary and the Committee on Energy and Commerce. The Committee on the Judiciary voted by voice vote to put the bill out. Only recently we have had those hearings again in the Committee on Energy and Commerce and the Committee on the Judiciary, and, in a bipartisan fashion, it was passed by a voice vote there.

Last night we took 2 hours of testimony. The Committee on Rules responded with a 2-hour debate, plus what will be a full hour of the resolution, now going forward here on the rule itself.

I look forward to the debate, I look forward to hearing it, and then I look forward to voting up or down on whether we are going to help patients or not.

Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would indeed like to debate the issue, I would like you all to live in my State of West Virginia over the last year. Our Trauma I Medical Center in the State's Capital, Charleston, West Virginia, closed. No specialist. It was reopened, but it was closed for 2 or 3 months.

In September of 2002, a young boy who had something lodged in his windpipe, his parents had to drive him 4 hours to get a specialist in Cincinnati, Ohio. Thank goodness it had a good ending, but it might not have.

In January, a group of Wheeling surgeons left the emergency room to illustrate the deep and devastating problem that West Virginia doctors are suffering with the high cost of medical liability. And, guess what happened? Our State legislature, which is predominantly Democrat, in probably the largest way of any State legislature, we have a Democratic Governor, they passed and signed the day before yesterday a medical liability bill that does in fact have caps on non-economic damages. Because, you know what? When your grandmother, when your mother, when your husband or wife cannot find medical care at a trauma center, cannot find an OB/GYN, when their general practitioner leaves to go to California, North Carolina, Georgia, that is a human problem. That is a health problem.

So the answer to this is the legislation that we are going to pass today. I proudly voted for it last year. I think it will help not only my State of West Virginia, but it will help every State in the Union.

We cannot retain and recruit physicians in the State of West Virginia because of this problem. We have had a brain drain because our older physicians are leaving, they are practicing defensive medicine, and they are afraid of the lawsuits that are pending in front of them. Sixty-three percent of them say they considered moving to another State, 41 percent are considering retiring early, and 30 percent are considering leaving the practice of medicine altogether.

Mr. Speaker, this is a devastating problem. Come to West Virginia and see. It is a quality of life issue, it is an economic issue.

Today I join with my colleagues to vote for H.R. 5, and I will be extremely happy to see national legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2¼ minutes to my good friend, the gentlewoman from New York (Ms. SLAUGHTER), who is an expert in this area, with a Master's of Public Health.

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

Mr. Speaker, this is one of the debates that has gone on for many years and it has always been characterized as a debate between physicians and lawyers, leaving out one of the major players in all of these problems, the insurance industry.

This health care act is wrongly named. It is the wrong prescription for curing any malady in medical malpractice insurance. The proponents want to claim jury awards for rising insurance premiums. But a study by Americans for Insurance Reform reported that rising insurance premiums are not tied to jury awards.

Let me for a moment talk about how an insurance company meets a lawsuit that is filed against it. The money that is asked for in that bill is set aside in a separate pot of money as though they



had lost the suit. Of course, only about one of nine of those cases is ever brought to court, but that large pot of money still exists over there for the insurance company, on which they pay a very low rate of taxes. They should be a major player here.

Wait until your doctors hear back home that what we have done here today, because I am sure it is going to pass, will not do a thing in the world about lowering their insurance premiums. There is no mention in here that insurance companies of any sort will have to give back money to the physicians or to lower their rates. They are probably not going to give up anything out of that large pot they have had all of these years, and which we have no right, because the Federal Government has no oversight over insurance, to see what is there.

One of the most egregious things in this legislation and this debate is we have been told over and over that 5 percent of the physicians in the United States are responsible for more than 55 percent of the lawsuits. Would you not think that the sensible thing to do would be to get rid of that 5 percent? If this law passes, the 5 percent still continued to create malpractice, have bad outcomes on their patients. The only difference after this bill is passed is that patients will have no recourse at all.

□ 1100

The caps are really extensive. There is no recourse. And in addition, one more thing I would say. Not only are the insurance companies protected, but also the people who manufacture medical devices, HMOs, and pharmaceutical companies. It is very far-reaching and will do nothing to lower premiums.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

(Mr. KELLER asked and was given permission to revise and extend his remarks, and include extraneous material.)

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

Mr. Speaker, I rise today in strong support of H.R. 5, because there is absolutely a medical liability crisis in Florida which will, among other things, result in patients in Orlando with severe head injuries not having access to a doctor. Let me give one example of the crisis.

The Orlando Regional Medical Center is a large hospital located in the heart of my district in Orlando, Florida. It is home to the only level-1 trauma center in the central Florida area. It specializes in treating patients with severe head injuries. The trauma center was praised last month by the State of Florida as delivering patient care that is "above and beyond" that of other level-1 trauma centers. I personally toured this trauma center, and I can tell my colleagues it is a source of pride for many central Floridians.

Last week, Orlando Regional Medical Center announced that they were closing in April 2003 because the neurosurgeons in the Orlando area can no longer afford skyrocketing medical liability insurance premiums.

Now, how bad is the situation? Dr. Jonathan Greenberg, the chairman of the Department of Neurosurgery at ORMC, personally told me that the malpractice insurance premiums have risen five-fold over the past 2 years from \$55,000 a year to \$256,000 a year.

We do not have to guess what the consequences are when this sort of facility is closed down. Just last week, Mrs. Leanne Dyess testified before our Committee on the Judiciary. Her husband suffered one of these severe head injuries in a car accident. There were no longer any neurosurgeons in the area because they could not afford the liability insurance. As a result, it took 6 hours to airlift Mr. Dyess to a different location. It was too late. Mr. Dyess is now permanently brain damaged. He is unable to talk, unable to work, unable to provide for his family.

We must bring common sense back to the health care system so that patients with severe head injuries have access to trauma centers. We should care about each other more and sue each other less.

I ask my colleagues to vote "yes" on H.R. 5 and the rule. I will also include in the RECORD an article dated March 11, 2003 from Dr. Greenberg and published in the Orlando Sentinel.

[From the Orlando Sentinel, Mar. 11, 2003]

NEUROSURGEON: SAVE TRAUMA CENTER

(By Jonathan Greenberg, M.D.)

A human tragedy of immense proportions is unfolding in Central Florida, and my neurosurgical colleagues and I have been unable to prevent it.

Less than two weeks after a state trauma-site review lauded Orlando Regional Medical Center's Level I trauma center for its high level of patient care and dedication "above and beyond" that at other Level I centers, the ORMC administration was compelled to inform the state that it will go off-line as an adult Level I trauma center as of April 1 because of the lack of neurosurgical coverage.

Seven neurosurgeons resigned from the ORMC medical staff, citing the physical stress of on-call requirements, medical malpractice-insurance premiums, increased liability exposure in treating trauma patients and the adverse impact that on-call coverage has had on their private practices.

I cannot fault my neurosurgical colleagues for having taken this action. They have complained that they were being charged significantly increased malpractice-insurance premiums—or were going to be denied malpractice insurance altogether—for the privilege of getting up in the middle of the night to take care of critically ill head and spine-injured patients.

Three neurosurgeons have closed their practices and left the community. Trying to replace them has been almost impossible. What sane physician would move to a state known to be in the throes of a "medical malpractice-insurance crisis," where insurance is either unobtainable or exorbitantly priced, and where there is a constant threat of frivolous but nonetheless disruptive lawsuits?

ORMC has lobbied vigorously for relief; we have demonstrated to increase public awareness and spoken with state representatives.

For those who denied that there was a "physician drain" or a problem with the tort system, who asserted that this was only an insurance-industry, stock-market-cyclical financial problem, who ignored the looming crisis, the end results of denial, deception, apathy and procrastination are clear.

As of April 1, Central Florida will have lost one of its most precious assets, the ORMC Level I trauma center. There will not be enough neurosurgeons left to fully man the on-call schedule.

We know that in the past many patients survived their injuries because they were brought to ORMC; they would not have survived elsewhere. After April 1, similarly injured patients may not survive. I am profoundly saddened by this prospect.

It will take more than an act of God to avert this catastrophe. It will take responsible action by the governor, the state Legislature, and county and regional leaders. Band-Aid solutions will not save a health-care system that is exsanguinating. ORMC has the only Level I trauma center in the state without sovereign immunity. Relief from predatory lawsuits and unaffordable insurance premiums and adequate compensation for extraordinary medical care will be necessary.

Mr. HASTINGS of Florida. Mr. Speaker, would the Chair announce the remaining time on both sides, please?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 10¼ minutes remaining; the gentleman from New York (Mr. REYNOLDS) has 10½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased and privileged to yield 3 minutes to my good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House, who I think can speak to both substance and process.

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

Mr. DINGELL. Mr. Speaker, I say to my colleagues, vote down this iniquitous rule. It is unfair. It is demeaning. It strikes at the heart of the parliamentary practices that are the proud tradition of this body. It also tears at the throat of honorable and open and fair debate. It denies every Member, not just Democrats, the right to offer amendments to the bill. Mr. Speaker, 31 amendments were requested of the Committee on Rules last night; not a one was given. A substitute was given.

The chairman of the committee talks of the need to have a fair and open process. Well, we do not have a fair and open process. Therefore, vote down the rule, vote down the previous question. It is an outrage, and it is inconsistent with the tradition and practices of the House.

I would point out that in the rules, rule XVI, clause 6 begins, "When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order." It is in the rules. The Committee on Rules should read it.

We are not discussing the substance of the legislation. We hope to have a fair chance to do so. We hope to have a



fair chance to amend the basic proposition before this body. The Committee on Rules has not given it to us.

I went before the Committee last night and I asked, am I wasting my time and am I wasting your time by being here? The answer is, I was. I was not told that I was, but the simple fact of the matter was the decision had already been made. The process had already been carefully cooked so that no opportunity to amend the bill is before this body at this time.

We can talk about what it is that is wrong with this legislation and how the amendments would improve it. That is really not important. What is important is that the basic rights of the Members of this body, the basic prerogatives of the institution to perfect legislation before it has been denied by the majority, functioning through the organism of the Committee on Rules.

In 14 years as the chairman of the Committee on Commerce, never once did I go before the Committee on Rules to ask for anything other than an open rule so that all Members might have a fair chance to participate in the debate on the legislation and to offer amendments as the need would require, no matter how complex or controversial the legislation was. That is the way this institution should work.

This rule demeans this body. It demeans every Member here, and it demeans the Committee on Rules and those who have inflicted this outrage upon this body.

I say again, vote this rule down. It is wrong. It is arrogant. It is without justification. I note that it comes up on a day when this is the last item of business of the week and when this is the last item of business that will be done. Let us vote it down, and let us then go about the business of conducting the business of the House in a fashion which is consistent with the traditions of this great democratic institution.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, it is a great honor to be a Member of this institution, and it is an honor for me to have the opportunity to follow my very good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House.

As we have listened to the arguments that have been provided about the rights of the minority, I have to say that while the gentleman from Michigan (Mr. DINGELL) served for 14 years as chairman of the Committee on Commerce, I served for 14 years as a member of the minority in this institution. When we won the majority in 1994, I felt very strongly about something that had existed under the democratic rule in this place for 4 uninterrupted

decades. I felt strongly about ensuring that the minority had the right to come forward with at least an opportunity, through an amendment and a motion to recommit, which was denied us on many occasions.

Now, last night when we had the testimony in the Committee on Rules, the gentleman from Michigan (Mr. DINGELL) told me that he came here in 1955, and our good friend, the gentleman from Michigan (Mr. CONYERS) came here in 1965, and they had never known of any instance whatsoever when the Democrats had denied the Republican minority the opportunity to consider at least an opportunity to amend through a recommittal motion.

I have to say that I have the greatest respect for the gentleman from Michigan (Mr. DINGELL), my friend; but I have a list right here of in the 100th Congress, 16 examples of where this was denied.

Now, this issue of payback has come up. Well, so is this payback now that we are imposing on the minority? Absolutely not. Because when we passed our opening day rules package, having served 14 years in the minority, I was very sensitive to make sure that we would guarantee the minority that right to offer a motion to recommit with an amendment, and that is exactly what is going to exist under this process.

Now, I believe that we should have as open and as fair a process as we can, and I stand here continuing to be committed to our goal of ensuring that the minority does have as many rights as possible, and I will continue to fight in behalf of that, because I believe in the Madisonian spirit of minority rights.

I also know that we have a responsibility to move our agenda. And we are doing that, while guaranteeing these minority rights.

Now, when we opened this process last night, I am very happy that my friend, the gentleman from Florida (Mr. HASTINGS), began by talking about the fact that we did meet his request to provide 2 hours. There will be a debate. There will be an opportunity for Members to voice their concern, regardless of what side of this issue they are on. I happen to think that it is very important for us to also recognize that the Committee on the Judiciary and the Committee on Energy and Commerce both had full markups with the exchange of ideas, and the people who have stood up to speak against this rule are people who in fact offered amendments through the committee process. The committee process has worked very effectively here.

We have come together with a package which I believe, through both committees, can, in fact, have an opportunity to be heard; and I urge my colleagues to vote in support of this rule and for the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would remind the distinguished chairman, my friend, that we did have 31 amendments last night;

none of them have been allowed to come to the floor.

Mr. DREIER. Mr. Speaker, I thank the gentleman for reminding me.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT), my very good friend.

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. SCOTT of Virginia. Mr. Speaker, this closed rule does a disservice to the legislative process. Medical malpractice is a very complicated issue, there are many different provisions, and we cannot possibly debate each one with a closed rule. The fact is that one-half of the medical malpractice premiums represent ½ of 1 percent of health care costs, and those costs have been going up at the same rate of health care inflation. California had medical malpractice reform, but the rates did not go down until there was insurance reform.

This bill does nothing to eliminate frivolous lawsuits, but it makes the bona fide lawsuits even more difficult to bring. The elimination of joint and several liability means that you have to chase each and every doctor for each and every portion of their liability. The young Mexican girl with the transplant, one would have to prove a separate case against each and every company, the transplant company, the hospital, and everybody else before she could get anything. She would probably use up the whole \$250,000 cap before she could get anything.

The collateral source rule will shift the cost of malpractice onto the employer. If one has a self-insured employer, if one of their employees gets put in a malpractice-induced coma, the employer will have to pay the bill. This bill prohibits subrogation so that the employer cannot get the money back; the malpractice insurance company will not have to pay that hospital bill.

Mr. Speaker, we need to debate that and discuss it; but we cannot, because it is a closed rule.

I hereby attach to my statement, the additional dissenting views I offered to the Judiciary Committee report on H.R. 5.

#### ADDITIONAL DISSENTING VIEWS

In addition to the dissenting views, I would add the following:

1. In addition to the comments on the bill's elimination of joint and several liability, I would add that this new burden on the plaintiff is administratively unfair to the plaintiff. The apportionment of malpractice responsibility is routinely made in the health care field by apportionment of insurance coverage. Health care providers can and do decide in advance who will pay for what coverage. The plaintiff, on the other hand, is not in a position to apportion damages, because the plaintiff often has no idea what happened, much less who was responsible. The entire concept of *res ipsa loquitur* is based on the fact that some cases are so obviously the result of malpractice that the general burden of proof is eased for such victims. With the elimination of joint and several liability, and without knowing exactly what

happened, the plaintiff will have to make a separate case, including establishing a standard of care, violation of that standard and proximate cause for each conceivable participant in his care and always have the possibility of defendants pointing to an "empty chair" or an insolvent defendant at the trial. This burden comes with the costs of expert witnesses for each doctor, nurse and hospital even minimally involved in the most egregious and obvious cases. As the dissent mentions, any defendant can always seek contribution without the elimination of joint and several liability.

2. In addition to the comments in the dissent on the collateral source rule, I would add that there are three interested parties: the plaintiff, the health care insurance company and the defendant. Good arguments can be made for the plaintiff to benefit from the provisions he has made to pay his bills. Some may have saved money over the years, including a medical savings account, and others may have paid for insurance. Those persons who have invested in insurance should be able to benefit from their thrift. If one is not persuaded by that argument, and is offended by the plaintiff "being paid twice" for the same bill, then one could reasonably say that the health insurance carrier should be able to get its money back through subrogation, and charge a smaller premium based on the anticipation that some of their claims will not ultimately have to be paid, because a tortfeasor will be responsible. The last person of interest who should benefit from the plaintiff's insurance should be the tortfeasor. In fact the prohibition against subrogation in the bill creates the bizarre situation in which a self-insured small business could have an employee in a malpractice induced coma, and have to pay all of the hospital bills, notwithstanding the fact that the negligent doctor is fully insured.

3. Finally, one of the reasons why the "average" malpractice award is increasing is because smaller cases are not brought. The complexity of the cases makes it impossible to hire an attorney if the award is too small to generate a meaningful attorney's fee. This "average" will undoubtedly increase if this bill is enacted because of limitations on damages, limitations on attorney's fees, elimination of joint and several liability and elimination of collateral sources. A better measure of the impact malpractice litigation has on the health care system is the fact that all malpractice awards and settlements have been approximately 1/2 of 1 percent of the national health care costs and have been recently increasing at the same rate as the health care costs generally.

ROBERT C. SCOTT.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE), a member of the Committee on Rules and Chair of the Republican Conference.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my home State of Ohio is one of a dozen States that is facing a real crisis in health care. Simply put, doctors are leaving and patients are suffering. One by one, facilities are closing their doors, retiring early, and not performing various procedures because, simply put, they cannot afford the insurance. The result is a pending perfect storm, where all of the converging factors meet to create utter and total chaos.

Among Ohio physicians surveyed last year, 96 percent expressed serious con-

cerns about the impact of rising liability insurance. Seventy-two percent in high-risk specialties said insurance premiums have affected their willingness to perform procedures, and 34 percent have admitted that they have to order more tests, perform more procedures, and practice defensive medicine just to protect themselves. But as a result, health care costs soar. In Ohio alone, there is story upon story of doctors retiring early or leaving the State just because of liability premiums.

Take Brian Bachelder, who had to stop practicing obstetrics this year because he simply could not afford it. As a result, his patients, many of whom had trouble just paying for the gas to get to their appointment with him, will now have to travel 50 or 65 miles further for prenatal care. Or take Dr. Romeo Diaz, whose patients had to actually chip in and raise \$40,000 to cover his increased premiums. All of this scrimping and saving for a doctor who had not had a malpractice claim filed in over 10 years.

America's health care system is quickly approaching the eye of a perfect storm, a world without doctors. They are becoming increasingly hard to find in so many places; and even worse, when you find one, they often cannot help. Their hands are tied.

Far too many Americans are unable to find a doctor to deliver a baby, to perform a surgery, or to provide trauma care necessary to save a loved one's life.

Mr. Speaker, Congress needs to act today and pass a medical liability reform plan that keeps our doctors practicing, alleviates patients' suffering, and restores medical justice to this system.

□ 1115

Mr. HASTINGS of Florida. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 5¼ minutes remaining. The gentleman from New York (Mr. REYNOLDS) has 5½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my good friend, 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, Nathaniel is in fact the face of the devastation of H.R. 5. In the name of God and country, this rule says to Nathaniel, 6 days old, he is brain damaged because physicians and nurses failed to diagnose jaundice. In this bill he would be denied under the capping of noneconomic damages that are capped. Nathaniel is the face of the horror of what happened in the Committee on Rules last night. There will be no response to our physician friends and doctor friends on the question of reducing premiums because they re-

jected my amendment that said 50 percent of the savings by insurance companies should be reinvested into physicians to lower their premiums.

They know that California did not have those premiums go down until California enacted insurance reform. This is an insurance giveaway bill. This is not going to bring doctors into rural and urban America.

Mr. Speaker, this rule should be voted down in the name of Nathaniel, now brain damaged. H.R. 5 is a devastation and a disgrace to this baby who lost the ability to live a good quality of life.

Mr. Speaker, I am disgusted by this closed rule and call on my colleagues to defeat the rule and the underlying bill. We have a health care crisis on our hands. We need to work together in a democratic fashion to address it: to improve access to care, to protect patients, to ensure that good physicians can afford to continue treating those patients, and to decrease frivolous lawsuits. The underlying bill does nothing to address any of those issues, and I and many of my colleagues came forth last night to present amendments that would have ensured that it did. Not a single one of those excellent ideas will be even considered today.

What in the name of God and Country is our Democracy coming to when on the Floor of the House of Representatives, there is not a single chance to debate and vote on one of many ideas that could save lives and rescue our floundering health care system?

I hate the idea of putting a price tag on a human life, or a value on pain and suffering. However, we all know that malpractice premiums are outrageously high in some regions, for some specialties of medicine. I understand that some physicians are actually going out of business because the cost of practicing is too high, and that we run the risk of decreasing access to healthcare if we do not find a way to decrease malpractice insurance premiums.

But it would be doubly tragic if we did compromise the ability of patients suffering from medical negligence from seeking recourse in our courts, and did not achieve any meaningful decrease in malpractice premiums. Therefore, I offered an amendment last night that would require that all malpractice insurance companies make a reasonable estimate each year of the amount of money they save each year through the reduction in claims brought about by this Act. Then they would need to ensure that at least 50% of those savings be passed down in the form of decreased premiums for the doctors they serve.

I shared this concept with doctors and medical associations down in Texas, and they were very enthusiastic, because this amendment would ensure that we do what, I am being told, this bill is supposed to do—lower premiums for doctors.

Without my provision, this bill could easily end up being nothing more than heartbreak for those dealing with loss, and a giant gift to insurance companies. Parents who lose a child due to a tragedy like the one in North Carolina recently where the wrong heart and lung were placed in a young girl—they don't lose any money—they lose a part of their souls. We are going to tell them that their child was only worth \$250,000 in non-economic damages for all of their pain and suffering. We are being told that we are going to do this to such devastated families, in order to enable our doctors

to keep treating patients. However, the Rules Committee has decided to prevent us from voting on amendments that would ensure that this bill helps any doctor at all.

Without debate and votes, a Democracy is not a Democracy. I will vote against this Closed Rule, and encourage my colleagues who care about helping patients and good doctors to do the same.

Mr. REYNOLDS. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. LINDER), a distinguished member of the Committee on Rules.

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

Mr. Speaker, I rise in support of the rule and the underlying legislation, H.R. 5, the underlying medical malpractice reform bill. This rule gives the minority party a motion to recommit with or without instructions. This motion to recommit provides the minority with an opportunity to amend H.R. 5 as it sees fits, something the House Democrats often refused to give Republicans before 1995.

As a former dentist I understand the necessity for this particular form of tort law and how the reality of judicial adventurism is a prime cause of rising health care costs and reduced access in our country.

I absolutely believe that medical malpractice litigation has a substantive effect on health care quality and costs.

In a recent survey of Georgia doctors, 18 percent said they would stop providing high risk procedures to limit their liability; 33 percent of OB-GYNs and 20 percent of family practitioners said they will abandon high-risk procedures such as delivering babies. In addition, 11 percent of physicians will stop providing emergency room services.

The benefits of capping malpractice damages are staggering. In California it is estimated that MICRA has saved under those with high-risk specialties as much as \$42,000 per year, not to mention the \$6 billion per year of savings to patients in California. According to the U.S. Department of HHS, limits on noneconomic damages could yield taxpayers 25- to \$44 billion per year in savings.

Our founders incorporated explicit protections for citizens in criminal trials in the sixth amendment. However, they foresaw the potential abuse in civil trials and thus remained explicitly silent on the rights of juries to operate in civil cases.

In Federalist 83 Alexander Hamilton went to great lengths to discuss the absence of constitutional protections in civil cases, going so far as to claim that he could not "discern the inseparable connection between the existence of liberty and the trial by jury in civil cases."

According to Hamilton, the genius of the constitution was not only its flexibility in handling the changing nature of the American judiciary but also its reliance on the legislature to prescribe the effective checks on such changes.

Abuse in our judicial system can be remedied by the implementation and power of trials by jury, but a balance must be struck between that idea and the notions of common sense and personal responsibility. Unfortunately, our current system does not strike that balance.

I urge, as such, my colleagues to join me in passing this rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT), who has studied this problem long-standing as an attorney.

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

This is Linda McDougal, and like Nathaniel and many others she too would be a victim of the underlying bill H.R. 5. She received an unnecessary double mastectomy after doctors mixed up her results, her lab results, and erroneously told her she had breast cancer.

Under this bill her lifetime of pain and disfigurement would be worth \$250,000 and not a penny more. I ask my friends, is that fair?

Well, if my friends have any doubts, I would suggest they ask their mother, their sister or their daughter.

Mr. REYNOLDS. Mr. Speaker, I yield 45 seconds to the gentleman from Nevada (Mr. PORTER).

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

Mr. PORTER. Mr. Speaker, I rise in support of the HEALTH Act of 2003. This bill will be the first step towards curing the escalating medical liability costs.

The runaway litigation has forced a dozen States into near cardiac arrest, including my home State of Nevada. In Nevada medical liability costs have skyrocketed, forcing doctors to leave in droves. The trauma center in our top hospital had to shut its doors because there were not enough doctors to treat the patients. Just about every day you pick up the paper and you turn on the TV and there is another story about a pregnant woman or an emergency patient going into other States to have their babies delivered or emergency care treated. It is just one example.

In Las Vegas, Mr. Speaker, obstetrician Dr. Shelby Wilbourn packed up a 12-year practice and moved to Maine, where insurance rates are more affordable and doctors appear less likely to be sued.

Mr. Speaker, in order to remedy this, we must pass this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would say to the gentleman from Nevada (Mr. PORTER), the gentleman from Nevada (Ms. BERKLEY), who is married to a physician, does not find that H.R. 5 is going to remedy her husband's problem.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS), who is a registered nurse and has seen what we are talking about.

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the rule and the underlying bill.

We should not be capping the awards for pain and suffering that an injured patient receives when they have been harmed by their doctor. This puts the burden of rising insurance rates onto the innocent patient rather than the insurance company.

Mr. Speaker, I offered an amendment to the Committee on Rules which was not made in order. My amendment would set caps in the bill of \$250,000 or the total compensation package of the CEO of the insurance company representing the doctor in the case, whichever is highest.

It is not fair for insurance companies to pay their executives millions of dollars, give them bonuses, increase their pay when they are trying to deprive victims of their rightful compensation. In these days of Enron and MCI WorldCom, I believe that Congress should be siding with injured patients over corporate executives.

The Nation's largest medical malpractice insurance company pays their CEO \$9.7 million, but even so they apparently cannot keep paying for the pain and suffering of patients their clients have injured and so they keep raising their rates. You have to wonder about priorities.

This is about Nathaniel and Linda. This amendment that I propose promotes corporate responsibility. It is a more fair approach, and I urge my colleagues to defeat this rule and the underlying bill.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), who is an expert on the Committee on Energy and Commerce on this issue.

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

The gentlewoman from Texas (Ms. JACKSON-LEE) showed me a picture of Nathaniel, a young boy tragically brain damaged. I want my colleagues to understand that this bill of ours is modeled after California law. And in California law just last May under the same kind of law, a little boy who was brain damaged at a very young age because of malpractice was awarded \$43.5 million. And our bill would do nothing to prevent this young man from getting what they need, and that is probably a lifetime of round-the-clock medical care, a lifetime of lost wages.

All that would be recoverable in full, as it should be, and on top of that at least a quarter of a million dollars in pain and suffering; and if the State from which the child comes wanted to, that State could raise that level to whatever it wants. We have a flexible cap. This is a question of balance. This is a question of balance. We have to figure out how do we properly pay for medical liability claims in a reasoned way that still allows us to retain our doctors and hospitals.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), my friend, who is an attorney married to a physician, who has studied this problem actively and carefully over a period of time, coming from a State with dramatic problems.

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

Ms. BERKLEY. Mr. Speaker, I fear we are doing a terrible disservice to our Nation's physicians and the patients who depend on them. We are deceiving them by passing a bill that does not ensure that doctors will actually benefit from these caps.

As a representative of southern Nevada I am all too familiar with the medical liability issue. Nevada has faced a serious medical malpractice crisis for years. Doctors cannot afford insurance premiums and they are threatening to leave the State. Some have and some are refusing to accept new patients.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited noneconomic damages to \$350,000 and allowed for judicial discretion in particularly egregious cases. Nevada passed caps. But the medical insurance companies have refused and have failed to reduce their premiums.

This Congress cannot for a minute pretend that we have addressed the real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all of the evidence demonstrating that the current crisis is due more to insurance company misuses than liability claims. We must combine them both and I urge you to reject this rule.

Mr. Speaker, I rise in opposition to the rule.

As a Representative of southern Nevada, I am all too familiar with this medical liability issue. Nevada has faced a serious medical malpractice crisis for the last year. Doctors cannot afford insurance premiums and are threatening to leave the State. Some have or are refusing to accept new patients.

I convened discussion groups of doctors and lawyers at my home to try to understand the medical malpractice issue, and it's a regular conversation in my own home as my husband and I, a doctor and lawyer, have searched for effective solutions to this crisis.

Nevada's problem is not one of obscene awards and lawsuits, but of poor calculations and bad decisions on the part of insurers over the past couple of decades.

Nevada's problem is the result of artificially inflated profits, over saturation and price slashing by the insurance company and when Nevada was no longer profitable, St. Paul Insurance Co. withdrew from the market. When that happened, 60% of Nevada's doctors lost their insurance carrier and the remaining medical malpractice insurance companies raised their rates to unconscionable extremes.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited non-economic damages to \$350,000 and al-

lowed for judicial discretion in particularly egregious cases.

Nevada passed caps, but the medical insurance companies have refused and have failed to reduce their premiums.

The evidence demonstrates that judgements are not the full, or even a large measure of the problem. And therefore caps will have a very limited effect on solving this problem.

This Congress cannot—for a minute—pretend that we have addressed the very real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all the evidence demonstrating that the current crisis is due more to insurance company misuses than to liability claims.

It is fundamentally unfair and bad public policy to limit jury awards without directly addressing reform of the insurance industry. If this Congress is going to pass tort reform, it should be accompanied by insurance reform so that insurance companies will pass along the savings, and doctors become the direct beneficiaries of cap limitations.

Anything less will fail to solve the malpractice crisis in my State and in this Nation.

I urge my colleagues to vote against this Rule. We are doing a terrible disservice to our Nation's physicians and to the patients that depend on them. We are deceiving them by passing a bill that does not insure that the doctors will actually benefit from caps.

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

The SPEAKER pro tempore. The gentleman from New York has 1¼ minutes remaining. The gentleman from Florida (Mr. HASTINGS) has 2 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS) and then I will be prepared to close.

Mr. EDWARDS. Mr. Speaker, I am deeply disappointed that the Republican House leadership refused last night to even let this House consider my amendment, a reasonable amendment, to exclude the \$250,000 caps only in cases where someone is guilty of gross negligence.

I support cracking down on frivolous lawsuits and I even favor punishing attorneys who file them. But under the guise of stopping frivolous lawsuits, it is wrong for the Republican leadership to protect those guilty of gross negligence even when the consequence is the loss of a child.

Jeanella Aranda was a 1-year-old baby. Last August Jeanella died needlessly in Dallas, Texas, because the transplant liver team did not check the fact that the father's liver and blood type were not compatible. Had they checked they have would have found out little Jeanella's mother could have donated part of her liver and Jeanella would most likely be alive today.

Mr. Speaker, I hope every Member of this House will ask his or herself this question before voting on this awful unfair rule: Had Jeanella Aranda been your child, would you think it would be fair for politicians in Washington to

decide how to hold responsible those involved in her death?

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, everyone in this body knows why pregnant mothers cannot find doctors to deliver their babies, why emergency room and trauma centers are closing and why physicians are leaving their practices. The health care liability crisis has been worsening every year since 1993, when I first introduced this legislation that we are considering today.

The national median malpractice awards has been increasing 43 percent a year. It is unsustainable. Today the average physician faces a new lawsuit every year. The opponents of this legislation are convinced that the best place to make split second medical decisions is in the courtroom. But this bill is about getting better health care in America for doctors and patients and all of the people who rely upon this system. It is high time for medical justice and high time to enact this legislation.

□ 1130

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will allow the House to consider the Conyers-Dingell substitute to the medical malpractice bill. My amendment will give Members an opportunity to vote on this substitute which, unlike the majority, takes a comprehensive approach to rising medical malpractice insurance premiums. It takes steps to weed out frivolous lawsuits. It requires insurance companies to pass their savings on to health care providers, and it provides targeted assistance to the physicians and communities who need it most.

Let me make it clear that a "no" vote on the previous question will not stop consideration of this bill. A "no" vote will allow the House to consider and get a vote on the Conyers-Dingell substitute. However, a "yes" vote on the previous question will shut out any opportunity for a vote on the substitute. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and a description be printed in the RECORD immediately prior to the vote on the previous question, on which I urge a "no" vote on the base rule.

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

There was no objection.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remaining time.

I hope my colleagues have had the opportunity to read the heart-wrenching testimony presented by Leanne

Dyess earlier this month before the Committee on the Judiciary. I hope their compassion will allow them to consider how it would feel if a similar tragedy befell someone they love simply because doctors had been pushed out of the area; and I hope they can recognize that, today, we have the opportunity to prevent such tragedies from happening to others.

The HEALTH Act is about patients getting the best possible care they can when and where they need it. Dollar signs do not cure people; doctors do. Let us make sure doctors and other providers all across the country remain open for business.

I urge a "yes" vote on the rule and the underlying legislation. A "yes" vote is a vote for patients.

Mr. CONYERS. Mr. Speaker, there is one word that best describes this closed rule: cowardly. This is a Republican leadership that fears a real debate on this cold hearted proposal that would rob victims of medical malpractice. They fear that too many of their own Members would vote for a democratic bill because it makes sense and would address the problem.

They have decided to dodge a clean vote on a real bill and bury real debate in procedural doubletalk. They have decided to let their Members hide behind parliamentary tricks.

The Republican leadership has shredded any semblance of fairness or open debate. Just last year, for the first time since 1910, this Republican leadership denied the Minority party a motion to recommit. Today, the two most senior members of the House of Representatives, who are also the two Ranking Democrats on the Committees of jurisdiction, are being denied the opportunity to offer the amendment of their choosing.

The Republican leadership's bill doesn't solve the problem of medical malpractice insurance rates skyrocketing. It has no insurance reform at all. Doctors who are being price gouged by insurance companies will not see one cent of savings from this bill.

The simple fact is that draconian caps on damages do not reduce insurance premiums. In a comparison of states that enacted severe tort restrictions in the mid-1980s and those that resisted enacting any tort reform, no correlation was found between tort reform and insurance rates.

Our bill takes away the antitrust exemption for medical malpractice insurance providers that has allowed those providers to collude to jack up rates for doctors.

The Republican leadership's bill does nothing about the deadly problem of medical malpractice that costs victims literally their life and limb. Between 44,000 and 98,000 people die each year because of medical negligence in hospitals and the Republican answer is to take away the rights of surviving family members and accountability for bad apple health care providers.

H.R. 5 does nothing about the fact that 5% of all doctors are responsible for 54% of malpractice claims paid. H.R. 5 does nothing to solve the problem that medical malpractice is the fifth leading cause of death in the country.

Our bill preserves accountability in the health care system.

The Republican leadership's bill does nothing about frivolous lawsuits, only hurts victims.

All this bill does is take away compensation from the most seriously injured plaintiffs. These are the victims who have a case that has so much merit that a jury of their peers decides they deserve more than \$250,000 in non-economic damages.

Our bill requires an attorney to file a certificate of merit that an action is not frivolous and, if that certificate is false, that attorney can be disbarred.

The Republican bill takes a chain saw to the health care system instead of a scalpel. It is no wonder they fear a fair and honest debate and a clean vote.

I urge Members to:

(1) Vote "no" on the Previous Question so that we can make in order a vote on Conyers-Dingell and other worthy Democratic amendments.

(2) If we are not successful in defeating the previous question, vote "no" on this one sided, anti-democratic rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 139—MEDICAL MALPRACTICE: H.R. 5—HELP EFFICIENT ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

In the resolution strike "and (2)" and insert the following:

"(2) an amendment in the nature of a substitute consisting of the text of H.R. 1219 if offered by Representative Conyers or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

CONYERS/DINGELL DEMOCRATIC SUBSTITUTE—H.R. 1219, "THE MEDICAL MALPRACTICE AND INSURANCE REFORM ACT OF 2003"

#### SECTION-BY-SECTION ANALYSIS

Scope. The legislation narrowly defines "medical malpractice action" to cover "licensed physicians and health professionals" for only cases involving medical malpractice. These definitions are intended to include doctors, hospitals, nurses, and other health professionals who pay medical malpractice insurance premiums. See, sec. 107(8).

#### Title I—Reducing frivolous lawsuits

SEC. 101.—Statute of Limitations. This section limits the amount of time during which a patient can file a medical malpractice action to the later of three years from the date of injury or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury. Children under the age of 18 have the later of three years from their eighteenth birthday or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury.

SEC. 102.—Health Care Specialist Affidavit. This section requires an affidavit by a qualified specialist before any medical malpractice action may be filed. A "Qualified Specialist" is a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

SEC. 103.—Mandatory Sanctions for Frivolous Actions and Pleadings. This section requires all plaintiff attorneys who file a medical malpractice action to certify that the case is meritorious. Attorneys who erroneously file such a certificate are subject to strict civil penalties. For first time violators, the court shall require the attorney to

pay costs and attorneys fees or administer other appropriate sanctions. For second time violators, the court shall also require the attorney to pay a monetary fine. For third time violators, the court shall also refer the attorney to the appropriate State bar association for disciplinary proceedings.

SEC. 104.—Mandatory Mediation. This section establishes an alternative dispute resolution (ADR) system for medical malpractice cases. Participation in mediation shall be in lieu of any other ADR method required by law or by contractual arrangements by the parties. A similar approach is recommended by the Committee for Economic Development (CED), which suggests that defendants make and victims accept "early offers." The effect of the "early offer" program, according to the CED, is that defendants will reduce the likelihood of incurring litigation costs, and victims would obtain fair compensation without the delay, expense or trauma of litigation.

SEC. 105.—Punitive Damages. This section limits the circumstances under which a claimant can seek punitive damages in a medical malpractice action. It also allocates 50 percent of any punitive damages that are awarded to a Patient Safety Fund managed by HHS. HHS will administer the Patient Safety Fund through the Agency for Healthcare Research and Quality. The Secretary will promulgate regulations that will establish programs and procedures to carry out this objective. See also, Sec. 221-223.

SEC. 106.—Reduction in Premiums. This section requires medical malpractice insurance companies to annually project the savings that will result from Title II of the bill. Insurance companies must then develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay. Insurance companies must report these activities to HHS annually. The section provides for civil penalties for the non-compliance of insurance companies.

#### Title II—Medical malpractice insurance reform

SEC. 201.—Prohibition on Anti-competitive Activities by Medical Malpractice Insurers. This section would repeal McCarran-Ferguson Act to ensure that insurers do not engage in price fixing. The Act, enacted in 1945, exempts all anti-competitive insurance industry practices, except boycotts, from the Federal antitrust laws. Over the years, uneven oversight of the insurance industry by the States, coupled with no possibility of Federal antitrust enforcement, have created an environment that fosters a wide range of anti-competitive practices.

SEC. 202.—Medical Malpractice Insurance Price Comparison. This section creates an internet site at which health care providers could obtain the price charged for the type of coverage the provider seeks from any malpractice insurer licensed in the doctor's state. This section specifies the availability of online forms and that all information will remain confidential.

#### Title III—Enhancing patient access to care through direct assistance

SEC. 301.—Grants and Contracts Regarding Health Provider Shortages. This section authorizes the Secretary of Health and Human Services (HHS) to award grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health care providers as a result of dramatic increases in malpractice insurance premiums.

SEC. 302.—Health Professional Assignments to Trauma Centers. This section amends the Public Health Service Act to authorize the Secretary to send physicians from the National Health Service Corps to trauma centers that are in danger of closing (or losing

their trauma center status) due to dramatic increases in malpractice premiums.

*Title IV—Independent advisory commission on medical malpractice insurance*

SEC. 401-402.—Independent Advisory Commission on Medical Malpractice Insurance. This section establishes the national Independent Advisory Commission on Medical Malpractice Insurance. The Commission must evaluate the causes and scope of the recent and dramatic increases in medical malpractice insurance premiums, formulate additional proposals to reduce those premiums, and make recommendations to avoid any such increases in the future. In formulating its proposals, the Commission must, at a minimum, consider a variety of enumerated factors.

SEC. 403.—Report. This section requires the Commission to file an initial report with Congress within 180 days of enactment and to file annual reports until the Commission terminates.

SEC. 404.—Membership. This section specifically establishes the number and type of commissioners that the Comptroller General of the United States must appoint to the Commission. Generally, the membership of the Commission will include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

SEC. 407.—Authorization of Appropriations. This section authorizes that such sums be appropriated to the Commission for five fiscal years.

(Prepared by the Democratic staffs of the Committee on the Judiciary and the Committee on Energy and Commerce.)

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

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 8, as follows:

[Roll No. 61]

YEAS—225

Aderholt	Barton (TX)	Blackburn
Akin	Bass	Blunt
Bachus	Beauprez	Boehlert
Baker	Bereuter	Boehner
Ballenger	Biggert	Bonilla
Barrett (SC)	Bilirakis	Bonner
Bartlett (MD)	Bishop (UT)	Bono

Boozman	Hastings (WA)
Bradley (NH)	Hayes
Brady (TX)	Hayworth
Brown (SC)	Hefley
Brown-Waite,	Hensarling
Ginny	Herger
Burgess	Hobson
Burns	Hoekstra
Burr	Hostettler
Burton (IN)	Houghton
Buyer	Hulshof
Calvert	Hunter
Camp	Isakson
Cannon	Issa
Cantor	Istook
Capito	Janklow
Carter	Jenkins
Castle	Johnson (CT)
Chabot	Johnson, Sam
Chocola	Jones (NC)
Coble	Keller
Cole	Kelly
Collins	Kennedy (MN)
Cox	King (IA)
Crane	King (NY)
Crenshaw	Kingston
Cubin	Kirk
Culberson	Kline
Cunningham	Knollenberg
Davis, Jo Ann	Kolbe
Davis, Tom	LaHood
Deal (GA)	Latham
DeLay	LaTourrette
DeMint	Leach
Diaz-Balart, L.	Lewis (CA)
Diaz-Balart, M.	Lewis (KY)
Doolittle	Linder
Dreier	LoBiondo
Duncan	Lucas (KY)
Dunn	Lucas (OK)
Ehlers	Manzullo
Emerson	McCotter
English	McCrery
Everett	McHugh
Feeney	McInnis
Ferguson	McKeon
Flake	Mica
Fletcher	Miller (FL)
Foley	Miller (MI)
Forbes	Miller, Gary
Fossella	Moran (KY)
Franks (AZ)	Murphy
Frelinghuysen	Musgrave
Galleghy	Myrick
Garrett (NJ)	Nethercutt
Gerlach	Ney
Gibbons	Northup
Gillmor	Norwood
Gingrey	Nunes
Goode	Nussle
Goodlatte	Osborne
Goss	Ose
Granger	Otter
Graves	Oxley
Green (WI)	Paul
Greenwood	Pearce
Gutknecht	Pence
Harris	Peterson (PA)
Hart	Petri

NAYS—201

Abercrombie	Carson (OK)	Etheridge
Ackerman	Case	Evans
Alexander	Clay	Farr
Allen	Clyburn	Fattah
Andrews	Conyers	Filner
Baca	Cooper	Ford
Baird	Costello	Frank (MA)
Baldwin	Cramer	Frost
Ballance	Crowley	Gonzalez
Becerra	Cummings	Gordon
Bell	Davis (AL)	Green (TX)
Berkley	Davis (CA)	Grijalva
Berman	Davis (FL)	Gutierrez
Berry	Davis (IL)	Hall
Bishop (GA)	Davis (TN)	Harman
Bishop (NY)	DeFazio	Hastings (FL)
Blumenauer	Delahunt	Hill
Boswell	DeLauro	Hinchey
Boucher	Deutsch	Hinojosa
Boyd	Dicks	Hoeffel
Brady (PA)	Dingell	Holden
Brown (OH)	Doggett	Holt
Brown, Corrine	Dooley (CA)	Honda
Capps	Doyle	Hooley (OR)
Capuano	Edwards	Hoyer
Cardin	Emanuel	Inlee
Cardoza	Engel	Israel
Carson (IN)	Eshoo	Jackson (IL)

Pickering	Jackson-Lee
Pitts	(TX)
Platts	Jefferson
Pombo	John
Porter	Johnson, E. B.
Portman	Jones (OH)
Pryce (OH)	Kanjorski
Putnam	Kaptur
Quinn	Kennedy (RI)
Radanovich	Kildee
Ramstad	Kilpatrick
Regula	Kind
Rehberg	Klecza
Renzi	Kucinich
Reynolds	Lampson
Rogers (AL)	Langevin
Rogers (KY)	Lantos
Rogers (MI)	Larsen (WA)
Rohrabacher	Larson (CT)
Ros-Lehtinen	Lee
Royce	Levin
Ryan (WI)	Lewis (GA)
Ryun (KS)	Lipinski
Saxton	Lofgren
Schrock	Lowe
Sensenbrenner	Lynch
Sessions	Majette
Shadegg	Maloney
Shaw	Markey
Shays	Marshall
Sherwood	Matheson
Shimkus	Matsui
Shuster	McCarthy (MO)
Simmons	McCarthy (NY)
Simpson	McCollum
Smith (MI)	McDermott
Smith (NJ)	McGovern
Smith (TX)	McIntyre
Souder	McNulty
Stearns	Meehan
Sullivan	
Sweeney	
Tancredo	
Tauzin	
Taylor (NC)	
Terry	
Thomas	
Thornberry	
Tiahrt	
Tiberi	
Toomey	
Turner (OH)	
Upton	
Vitter	
Walden (OR)	
Walsh	
Wamp	
Weldon (FL)	
Weldon (PA)	
Weller	
Whitfield	
Wicker	
Wilson (NM)	
Wilson (SC)	
Wolf	
Young (AK)	
Young (FL)	

Meek (FL)	Sanchez, Loretta
Meeks (NY)	Sanders
Menendez	Sandlin
Michaud	Schakowsky
Millender-	Schiff
McDonald	Scott (GA)
Miller (NC)	Scott (VA)
Miller, George	Serrano
Mollohan	Sherman
Moore	Skelton
Moran (VA)	Slaughter
Murtha	Smith (WA)
Nadler	Solis
Napolitano	Spratt
Neal (MA)	Stark
Oberstar	Stenholm
Obey	Strickland
Olver	Stupak
Ortiz	Tanner
Owens	Tauscher
Pallone	Taylor (MS)
Pascarell	Thompson (CA)
Pastor	Thompson (MS)
Payne	Tierney
Pelosi	Towns
Peterson (MN)	Turner (TX)
Pomeroy	Udall (CO)
Price (NC)	Udall (NM)
Rahall	Van Hollen
Rangel	Velazquez
Reyes	Visclosky
Rodriguez	Waters
Ross	Watson
Rothman	Watt
Roybal-Allard	Waxman
Ruppersberger	Weiner
Ryan (OH)	Wexler
Sabo	Woolsey
Sanchez, Linda	Wu
T.	Wynn

NOT VOTING—8

Combest	Gilchrest	Rush
DeGette	Hyde	Snyder
Gephardt	Johnson (IL)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members have 2 minutes to record their votes.

□ 1154

Ms. WATSON, Messrs. SANDLIN, MATSUI, HINOJOSA, SHERMAN, KUCINICH, Mrs. JONES of Ohio, Messrs. RUPPERSBERGER, BALLANCE, DEUTSCH, OWENS, Ms. MAJETTE, and Mr. DAVIS of Florida changed their vote from “yea” to “nay.”

Mr. PETRI and Mr. PAUL changed their vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 201, not voting 8, as follows:

[Roll No. 62]

AYES—225

Aderholt	Bartlett (MD)	Bilirakis
Akin	Barton (TX)	Bishop (UT)
Bachus	Bass	Blackburn
Baker	Beauprez	Blunt
Ballenger	Bereuter	Boehlert
Barrett (SC)	Biggert	Boehner



Bonilla  
Bonner  
Bono  
Boozman  
Bradley (NH)  
Brady (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Carter  
Castle  
Chabot  
Chocola  
Coble  
Cole  
Collins  
Cox  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeLay  
DeMint  
Diaz-Balart, L.  
Diaz-Balart, M.  
Doolittle  
Dreier  
Duncan  
Dunn  
Ehlers  
Emerson  
English  
Everett  
Feeney  
Ferguson  
Flake  
Fletcher  
Foley  
Forbes  
Fossella  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gibbons  
Gillmor  
Gingrey  
Goode  
Goodlatte  
Goss  
Granger  
Graves  
Green (WI)  
Greenwood  
Gutknecht

## NOES—201

Abercrombie  
Ackerman  
Alexander  
Allen  
Andrews  
Baca  
Baird  
Baldwin  
Ballance  
Becerra  
Bell  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Brown (OH)  
Brown, Corrine  
Capps  
Capuano  
Cardin  
Cardoza

Harris  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hensarling  
Herger  
Hobson  
Hoeckstra  
Hostettler  
Houghton  
Hulshof  
Hunter  
Isakson  
Issa  
Istook  
Janklow  
Jenkins  
Johnson (CT)  
Johnson, Sam  
Jones (NC)  
Keller  
Kelly  
Kennedy (MN)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline  
Knollenberg  
Kolbe  
LaHood  
Latham  
LaTourette  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Manzullo  
McCotter  
McCrery  
McHugh  
McInnis  
McKeon  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy  
Musgrave  
Myrick  
Nethercutt  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Osborne  
Ose  
Otter  
Oxley  
Paul  
Pearce  
Pence  
Peterson (PA)

Petri  
Pickering  
Pitts  
Platts  
Pombo  
Porter  
Portman  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Ramstad  
Regula  
Rehberg  
Renzi  
Reynolds  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Royce  
Ryan (WI)  
Ryun (KS)  
Saxton  
Schrock  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Shays  
Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Souders  
Stearns  
Sullivan  
Sweeney  
Tancredo  
Tauzin  
Taylor (NC)  
Terry  
Thomas  
Thornberry  
Tiahrt  
Tiberi  
Toomey  
Turner (OH)  
Upton  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Ford  
Frank (MA)  
Frost  
Gonzalez  
Gordon  
Green (TX)  
Grijalva  
Gutierrez  
Hall  
Harman  
Hastings (FL)  
Hill  
Hinchey  
Hinojosa  
Hoeffel  
Holden  
Doggett  
Dooley (CA)  
Doyle  
Edwards  
Emanuel

Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
John  
Johnson, E. B.  
Jones (OH)  
Kanjorski  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind  
Kleczka  
Kucinich  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Lee  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowey  
Lynch  
Majette  
Maloney  
Markey  
Marshall  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McNulty  
Meehan

Combest  
DeGette  
Gephardt

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1207

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.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

## HELP EFFICIENT, ACCESSIBLE, LOW-COST TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 139, I call up the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 139, the bill is considered read for amendment.

The text of H.R. 5 is as follows:

H.R. 5

*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 "Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003".

## SEC. 2. FINDINGS AND PURPOSE.

## (a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

## SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:



(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

#### SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

#### SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first \$50,000 recovered by the claimant(s).

(2) 33½ percent of the next \$50,000 recovered by the claimant(s).

(3) 25 percent of the next \$500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

#### SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

#### SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the

case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS IN COMPLIANCE WITH FDA STANDARDS.—

(1) PUNITIVE DAMAGES.—

(A) IN GENERAL.—In addition to the requirements of subsection (a), punitive damages may not be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, on the basis that the harm to the claimant was caused by the lack of safety or effectiveness of the particular medical product involved, unless the claimant demonstrates by clear and convincing evidence that—

(i) the manufacturer or distributor of the particular medical product, or supplier of any component or raw material of such medical product, failed to comply with a specific requirement of the Federal Food, Drug, and Cosmetic Act or the regulations promulgated thereunder; and

(ii) the harm attributed to the particular medical product resulted from such failure to comply with such specific statutory requirement or regulation.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

#### SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

#### SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care

lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) **COLLATERAL SOURCE BENEFITS.**—The term “collateral source benefits” means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers’ compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) **COMPENSATORY DAMAGES.**—The term “compensatory damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term “compensatory damages” includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) **CONTINGENT FEE.**—The term “contingent fee” includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) **ECONOMIC DAMAGES.**—The term “economic damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) **HEALTH CARE LAWSUIT.**—The term “health care lawsuit” means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) **HEALTH CARE LIABILITY ACTION.**—The term “health care liability action” means a

civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) **HEALTH CARE LIABILITY CLAIM.**—The term “health care liability claim” means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) **HEALTH CARE ORGANIZATION.**—The term “health care organization” means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) **HEALTH CARE PROVIDER.**—The term “health care provider” means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) **HEALTH CARE GOODS OR SERVICES.**—The term “health care goods or services” means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) **MALICIOUS INTENT TO INJURE.**—The term “malicious intent to injure” means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) **MEDICAL PRODUCT.**—The term “medical product” means a drug or device intended for humans, and the terms “drug” and “device” have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) **NONECONOMIC DAMAGES.**—The term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) **PUNITIVE DAMAGES.**—The term “punitive damages” means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) **RECOVERY.**—The term “recovery” means the net sum recovered after deducting

any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

## SEC. 10. EFFECT ON OTHER LAWS.

(a) **VACCINE INJURY.**—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) **OTHER FEDERAL LAW.**—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

## SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) **HEALTH CARE LAWSUITS.**—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) **PROTECTION OF STATES’ RIGHTS.**—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) **STATE FLEXIBILITY.**—No provision of this Act shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

**SEC. 12. APPLICABILITY; EFFECTIVE DATE.**

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

**SEC. 13. SENSE OF CONGRESS.**

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on the Judiciary and the Committee on Energy and Commerce printed in the bill, an amendment in the nature of a substitute printed in House Report 108-34 is adopted.

The text of H.R. 5, as amended pursuant to House Resolution 139, is as follows:

H.R. 5

*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 "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003".

**SEC. 2. FINDINGS AND PURPOSE.****(a) FINDINGS.—**

**(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.**—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

**(2) EFFECT ON INTERSTATE COMMERCE.**—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

**(3) EFFECT ON FEDERAL SPENDING.**—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

**(b) PURPOSE.**—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

**SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

**SEC. 4. COMPENSATING PATIENT INJURY.**

**(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.**—In any health care lawsuit, nothing in this Act shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

**(b) ADDITIONAL NONECONOMIC DAMAGES.**—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

**(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.**—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$250,000, the future noneconomic damages shall be reduced first.

**(d) FAIR SHARE RULE.**—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party

in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

**SEC. 5. MAXIMIZING PATIENT RECOVERY.**

**(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.**—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first \$50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next \$50,000 recovered by the claimant(s).

(3) 25 percent of the next \$500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

**(b) APPLICABILITY.**—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

**SEC. 6. ADDITIONAL HEALTH BENEFITS.**

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

**SEC. 7. PUNITIVE DAMAGES.**

**(a) IN GENERAL.**—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded

with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i) such medical product was subject to premarket approval, clearance, or licensure by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(ii) such medical product was so approved, cleared, or licensed; or

(ii) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the

obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—

A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval, clearance, or licensure of such medical product.

#### SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

#### SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribu-

tion, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and non-economic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local

government; or which is grounded in anti-trust.

(8) **HEALTH CARE LIABILITY ACTION.**—The term “health care liability action” means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) **HEALTH CARE LIABILITY CLAIM.**—The term “health care liability claim” means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) **HEALTH CARE ORGANIZATION.**—The term “health care organization” means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) **HEALTH CARE PROVIDER.**—The term “health care provider” means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) **HEALTH CARE GOODS OR SERVICES.**—The term “health care goods or services” means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) **MALICIOUS INTENT TO INJURE.**—The term “malicious intent to injure” means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) **MEDICAL PRODUCT.**—The term “medical product” means a drug, device, or biological product intended for humans, and the terms “drug”, “device”, and “biological product” have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) **NONECONOMIC DAMAGES.**—The term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) **PUNITIVE DAMAGES.**—The term “punitive damages” means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care

organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) **RECOVERY.**—The term “recovery” means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

#### SEC. 10. EFFECT ON OTHER LAWS.

(a) **VACCINE INJURY.**—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) **OTHER FEDERAL LAW.**—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

#### SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) **HEALTH CARE LAWSUITS.**—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) **PROTECTION OF STATES’ RIGHTS AND OTHER LAWS.**—(1) Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action.

(c) **STATE FLEXIBILITY.**—No provision of this Act shall be construed to preempt—

(1) Any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary

amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

#### SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

#### SEC. 13. SENSE OF CONGRESS.

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 40 minutes and the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 20 minutes.

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

#### GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, our Nation is facing a health care crisis driven by uncontrolled litigation. Medical professional liability insurance rates have soared, causing major insurers to either drop coverage or to raise premiums to unaffordable levels. Doctors are being forced to abandon patients and practices or to retire early, particularly in high-risk specialties such as emergency medicine, brain surgery and obstetrics and gynecology. Women are being particularly hard hit, as are low income and rural neighborhoods.

H.R. 5, the HEALTH Act, is modeled after California’s highly successful health care litigation reforms enacted in 1975 and known under the acronym MICRA. California’s reforms, which are included in the HEALTH Act, include a \$250,000 cap on noneconomic damages, limits on the contingency fees lawyers can charge, and authorization for defendants to introduce evidence to prevent double recoveries. The HEALTH Act also includes provisions creating a fair share rule by which damages are allocated fairly in direct proportion to fault, reasonable guidelines on the award of punitive damages, and a safe

harbor for punitive damages for products that meet applicable FDA safety requirements.

It is important to note that nothing in the HEALTH Act limits in any way the award of economic damages from anyone responsible for harm. Economic damages include anything to which a value can be attached, including lost wages, lost services provided, medical costs, the cost of pain-reducing drugs, and lifetime rehabilitation care, and anything else to which a receipt can be attached. Because of this, the reforms in the HEALTH Act still allow for very large, multi-million dollar awards to deserving victims, including homemakers and children, as the experience in California has shown.

Still, the California reforms have been successful. Information provided by the National Association of Insurance Commissioners shows that since 1975, premiums paid in California increased by 167 percent while premiums paid in the rest of the country increased by 505 percent. As Cruz Reynoso, the Democratic Vice Chairman of the U.S. Civil Rights Commission wrote recently in the *Los Angeles Times*, "What is obvious about MICRA is that it works and it works well. Our California doctors and hospitals pay significantly less for liability protection today than their counterparts in States without MICRA-type reforms."

The Congressional Budget Office has concluded that "under the HEALTH Act, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law." If California's legal reforms were implemented nationwide, we could spend billions of dollars more annually on patient care. Reform at the Federal level is necessary because the current crisis is national in scope.

According to a report by the Department of Health and Human Services, "The cost of these awards for non-economic damages is paid by all other Americans through higher health care costs, higher health insurance premiums, higher taxes, reduced access to quality care, and threats to quality of care. The system permits a few plaintiffs and their lawyers to impose what is in effect a tax on the rest of the country to reward a very small number of patients." Congress must act to let doctors treat patients wherever they are and to reduce health care costs for all Americans.

H.R. 5 will also save the Federal taxpayers billions of dollars. Former Democratic Senator George McGovern has written in the *Wall Street Journal*, "Legal fear drives doctors to prescribe medicines and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this 'defensive medicine' squanders \$50 billion a year, enough to provide medical care to millions of uninsured Americans."

According to the Department of Health and Human Services, "If rea-

sonable limits were placed on non-economic damages to reduce defensive medicine, it would reduce the amount of taxpayers' money the Federal Government spends by \$25.3-44.3 billion per year."

Furthermore, despite accusations from the other side of the aisle, this is not a crisis caused by insurance companies. The President of the National Association of Insurance Commissioners wrote last month that "To date, insurance regulators have not seen evidence that suggests medical malpractice insurers have engaged or are engaging in price fixing, bid rigging, or market allocation. The preliminary evidence points to rising loss costs and defense costs associated with litigation as the principal drivers of medical malpractice prices."

We all recognize that injured victims should be adequately compensated for their injuries, but too often in this debate we lose sight of the larger health care picture. This country is blessed with the finest health care technology in the world. We are blessed with the finest doctors in the world. People are smuggled into this country for a chance at life and healing, the best chance they have in the world.

The Department of Health and Human Services issued a report recently that included the following amazing statistics. During the last half century, death rates of children and adults up to age 24 were cut in half and infant mortality rates have plummeted 75 percent.

□ 1215

Mortality among adults between the ages of 25 and 64 fell nearly as much and dropped among those 65 years and older by a third. In 2000, Americans enjoyed the longest life expectancy in American history, almost 77 years.

These amazing statistics just did not happen. They happened because America produces the best health care technology and the best doctors to use it. But now there are fewer and fewer doctors to use that miraculous technology or to use that technology where their patients are. We have the best brain-scanning and brain-operation devices in history and fewer and fewer neurosurgeons to use them. Unlimited lawsuits are driving doctors out of the healing profession. They are reversing the clock; and they are making us all less safe, all in the name of unlimited lawsuits and personal injury lawyers' lust for their cut of unlimited awards for unquantifiable damages. But when someone gets sick or is bringing a child into the world and we cannot call a doctor, who will we call, a lawyer?

As a Nation today, we have to choose. Do we want the abstract ability to sue a doctor for unlimited, unquantifiable damages when doing so means that there will be no doctors to treat ourselves and our loved ones in the first place? On behalf of all 287 million Americans, all of us who are patients, let us say yes to reasonable

health care litigation management and pass the HEALTH Act.

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

Mr. CONYERS. Mr. Speaker, I am pleased to start the debate off on our side by yielding 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law, where this bill would have gone had there been subcommittee hearings.

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

Let me say first of all that I do not argue with the right of California to do tort reform or North Carolina or New York or any of the States. There are crises in some States, situations vary from State to State, and State legislators have the prerogative to set whatever tort laws they think are desirable. But I think it is the ultimate act of arrogance on our part as Members of Congress to think that we should dictate to the States in an area that has historically and forever been the prerogative of the State and in a way that I think substantially adversely impacts our whole Federal form of government, and in a way that runs contrary to just about everything my Republican colleagues say they stand for, which is devolving things back to the States.

I talked to a doctor this morning and I said to him, I have never seen a malpractice take place across State lines. To the extent that you operate on a patient from North Carolina, you being a doctor in North Carolina and the patient is from South Carolina, that creates diversity of citizenship and gets you into the Federal court. I offered an amendment in the Committee on the Judiciary designed to restrict this legislation to suits that are brought properly in the Federal court. I think we have the prerogative as the Congress to define what the Federal tort standards should be. But when we start dictating to the States that you have got to follow this one-size-fits-all bill, I think we have just kind of lost sight of the whole thing.

This should not be about getting the result that we want in any particular lawsuit that is pending. It should be about setting a framework, a public policy framework that honors the parameters that our Founding Fathers set up. For the life of me, I cannot figure out what the Federal nexus is for having a bill this broad. We can argue that there is a crisis; I do not think that is really the issue. The issue is how should we respond to the crisis and what should be our role at the Federal level in this context.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

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

Today, America faces a national insurance crisis that is destroying our

health care system. Medical liability insurance rates have soared, causing insurers either to drop their coverage or raise premiums to unaffordable levels. Doctors and other health care providers have been forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, brain surgery, and obstetrics and gynecology. This is an intolerable problem that cries out for a solution.

The American people understand the problem. A poll conducted in early February shows that 59 percent of all Americans believe the crisis should be solved either by reining in personal injury lawyers or by placing caps on the amounts juries can award. The obvious cause of skyrocketing medical professional liability premiums is escalating jury verdicts. The median medical malpractice jury award doubled between 1995 and 2000, from a half a million to \$1 million. That does not reflect the huge costs of cases that do not result in jury awards. In fact, 70 percent of all medical malpractice claims result in no payments because claims are either dismissed or withdrawn.

The CEO of Methodist Children's Hospital in my hometown of San Antonio has seen his premiums increase from less than \$20,000 to \$85,000 in less than 10 years. He has been sued three times. In one case, his only interaction with the person suing was that he stopped by her child's hospital room and asked how the child was doing. Each jury cleared him of any wrongdoing, and the total amount of time all three juries spent deliberating was less than 1 hour. Of course, the doctor's insurance company did spend a great deal of time, effort and money in his defense.

Mr. Speaker, Congress can solve the current health care crisis, but it can solve it only by passing the HEALTH Act.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from New York (Mr. WEINER), a distinguished member of the committee.

Mr. WEINER. Mr. Speaker, first of all, as the debate begins, let us put some myths to rest. We are going to hear a great deal of references to the California law that put in a cap. Since 1998, premiums have gone up 37 percent in California. Nationally they have gone up about 6 percent. So you keep talking about how great that has worked, but frankly it has not. In Florida where they also have a cap, and there are plenty of places around the country that do, they have a \$450,000 cap that was put in the last time that suddenly we had an insurance crisis in this country in 1985, 1986. What happened then? Oh, yeah, insurance companies lost a lot of money in the stock market then, too, so that was the last crisis that we had. At the time Florida, they were smart, they asked insurance companies to report back to them the effect of the law. Aetna Casualty re-

ported back. St. Paul, then the largest malpractice insurer, reported back; and in the words of St. Paul they said, quote, "The new limits will produce little or no savings to the tort system as it pertains to medical malpractice."

So feel free to keep talking about the examples that we have, but I think that you will find that when push comes to shove, the precedent is that these caps do not lower premiums. They do not lower premiums.

We are also going to hear a great deal of assertion today about out-of-control juries, out-of-control awards, judges who are completely out of their mind when they make decisions. Frankly, Duke Law School studied this notion not so long ago, as a matter of fact, in December of 2002. Here is what they said, and this is a quote: "The assertion that jurors decide cases out of sympathy for injuries to plaintiffs rather than the legal merits of the case have been made about malpractice juries since at least the 19th century, yet no research shows support for these claims."

But this is part of what I think is an underlying theme on the other side. American citizens cannot be trusted on juries to decide for themselves. They are not smart enough. Apparently my colleagues believe that juries that are made up of nine or 12 American citizens from your districts cannot be trusted to make these decisions. They simply are not trustworthy. But who are they? They are the same people that voted for you. Why is it you trust them to make a decision about who their Congressman would be and you will not trust them to make a decision about whether or not some medical malpractice case occurred and someone should be held accountable for that?

But there is another current here that I think is even more pernicious. Here we are. We sit in the Committee on the Judiciary. Let us take a look at what we have been doing recently. First, we are coming out after victims of this. This law only applies to you if you have been a victim of medical malpractice. You are a victim, but still we in the House want to take away your rights. Next we are going to take up bankruptcy reform. If you are really poor or you have fallen on hard times, we are coming after you next. But do not get too comfortable, because soon I hear that if you are an asbestos victim, we are going to come after your rights, too. This is who the Republican Party is standing up for in this House.

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

Ms. HART. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act. The practice of medicine in the United States is in real crisis. According to the American Medical Association, Pennsylvania's OB-GYN medical malpractice insurance rates increased from \$25,000 to \$64,000 over the last few years. That is an increase of over 125 percent. That is, if the doctor can get insurance.

Excessive lawsuits have gotten so out of control that many doctors are closing their practices, leaving many patients with long waits to see physicians who are farther and farther away from them. Just this past Monday, I met with a dozen physicians in my district. Of the dozen, nearly all of them raised their hands when I asked them if they have children. Of those, all but a few said that they would advise their children not even to consider studying medicine; and one doctor said his wife forbade their kids to even entertain such notions, all because of the unreasonable burden of out-of-hand insurance costs and the consistent fear of lawsuits.

The Pennsylvania Medical Association reports that 80 percent of physicians have difficulties in recruiting new doctors and 89 percent of doctors practice defensive medicine, which increases health costs and drives doctors away from the highly specialized fields.

This bill sets time-tested limits on liability so that we can end this crisis. The proposal provides commonsense reforms. It limits the number of years to file a health care liability action so claims are brought while evidence and witnesses are available. It allocates damage in proportion to a party's degree of fault. It allows patients to recover full economic damages, such as future medical expenses and loss of future earnings while establishing a cap on noneconomic damages of \$250,000. It places reasonable limits on punitive damages as well.

The criteria in this bill assure patients who are injured by a doctor that they will recover. But it also ensures that more of the money goes to the injured patient, not the attorney. Essentially, the lawyer is limited to 40 percent of the first \$50,000 of the award, one-third of the second \$50,000 and 15 percent of amounts over \$600,000. The bill will protect victims of real malpractice, but it will also help reduce lawsuits.

Our Nation has the best health care system in the world, but it is in peril. H.R. 5 will put us back on track.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds for the benefit of my distinguished colleague, the gentleman from Pennsylvania, on the Committee on the Judiciary. She does not know, as she leaves the floor, that a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors in Pennsylvania increased by 13.5 percent, while the population increased by only 3.4 percent.

Mr. Speaker, I include the following citation for the RECORD:

In Pennsylvania a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors increased by 13.5 percent, while the population increased by only 3.4 percent. Not only is Pennsylvania not losing doctors, it had more doctors in 2001 than it did in the preceding



five to ten years. Furthermore, the Philadelphia Inquirer notes that in 2000, "Pennsylvania ranked ninth-highest nationally for physician concentration, a top-10 position it has held since 1992. There were 318 doctors for every 100,000 residents in 2000, according to the American Medical Association.

□ 1230

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER), a distinguished member on the Committee on the Judiciary.

Mr. WEXLER. Mr. Speaker, I rise in opposition to H.R. 5. I do so because the proponents of this bill would have the country believe that the issue before this Congress is whether or not there is a medical malpractice crisis in America.

There is a medical malpractice crisis, but the issue before this Congress is how do we resolve that crisis? How do we minimize the premiums that doctors have to pay in order to participate in our medical society?

The reason we are in this position, according to a recently released report, particularly as it relates to my State, the State of Florida, by the group Public Citizen, is that a small number of negligent doctors and the cyclical nature of the insurance industry are largely to blame.

The Public Citizen report found that 6 percent of all doctors are responsible for one-half, 50 percent, of all medical malpractice cases. Six percent of doctors are responsible for 50 percent of malpractice cases. Yet the bill before this Congress does not at all address peer review of physicians, nor does it address the insurance aspect of the medical malpractice crisis, nor, most importantly, does it require insurance companies to pass on the savings from the alleged cap that would occur, pass that money on to doctors in the form of lower premiums.

In the State of Florida, which amounts to about 16 million people, in the last reported year there were 230 cases of awards in excess of \$250,000, yet the proponents of this bill would argue that we will resolve this problem by limiting the excessive number of lawsuits that amount to excessive damages. They do not exist, these lawsuits, in the excessive number that they claim.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the distinguished chairman of Committee on the Judiciary for granting me time to speak on H.R. 5, the Medical Justice Act, HEALTH ACT of 2003. As an OB/GYN Member of the body, I think I have a unique perspective on this issue, not only as a physician who has delivered more than 5,000 babies and seen many of my colleagues giving up their practice because of fear of runaway lawsuits, but also as a grandparent. Let me explain that to you, because this issue is all about access to care for our patients, the citizens this country.

My identical twin granddaughters were born 5 years ago at 26 weeks. They each weighed 1 pound 12 ounces. Thank God we were in a community where we had access to care. There was an OB/GYN physician willing to take care of my daughter in that high risk situation. There was a skilled neonatologist. We did have a hospital that still had an intensive care nursery.

Had we not been in that situation, had we been in a more rural part of my State or in some of the other States that are in a crisis mode, like the testimony that we heard from the mother yesterday from the State of Mississippi, my daughters would not have received that care, and instead of being healthy, vibrant 5-year-olds today, I am sure that both of them would have cerebral palsy, our family would be devastated and society would probably bear the brunt of the cost of their care for the rest of their lives.

So this bill is all about access to care. It is not taking away a person's right to a redress of grievances in a situation where they have been injured by a practice below the standard of care. It is not taking away from a trial attorney that works in the area of personal injury their right to do business, and most do in a very equitable manner and with integrity. No, it is not about that at all. It is about access to care.

I am proud to stand here today and enthusiastically support H.R. 5, and I hope the rest of my colleagues in this Chamber will do the same.

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

Mr. Speaker, only for the benefit of the gentleman from Georgia, who asserts that this bill does not take away anybody's rights, the gentleman must be aware, sir, as a Member of Congress and a doctor, that there is a \$250,000 cap on noneconomic damages, unless he thinks that is not taking away anybody's rights.

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

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

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we know, this bill, of course, is applicable to those States that have not addressed this issue. Certainly the State of West Virginia and others who have finally tackled this issue, as they did in California in 1978, I believe, they can set their own caps. This law, H.R. 5, will be applicable to those States who, for one reason or another, have not.

Mr. CONYERS. Mr. Speaker, reclaiming my time, what about the States that have no caps?

Mr. GINGREY. Mr. Speaker, if the gentleman will continue to yield, the States that have no caps, of course, for noneconomic damages, this cap of \$250,000 would be applicable.

Mr. CONYERS. In other words, the gentleman is sticking to his statement that this takes away nobody's economic rights, is that correct?

Mr. GINGREY. If the gentleman will allow me to respond?

Mr. CONYERS. If the gentleman will just answer yes or no.

Mr. GINGREY. The answer is no, it takes away no one's economic rights.

What in H.R. 5 is the gentleman pointing out to me or suggesting that takes away a person's right to economic recovery?

Mr. CONYERS. Mr. Speaker, if may I kindly and politely reclaim my time, and I would ask the gentleman to seek his own time from this point on.

Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), who has really worked hard on two committees and covered a lot of territory as a Member of Congress.

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

Mr. Speaker, next week we will be considering most likely on the floor of the House a bill dealing with bankruptcy. Today we are considering a bill that is bankrupt, because it is an act of special cruelty that is being perpetrated on the most vulnerable of victims of malpractice, stay-at-home mothers and children, children like Steven Olson, who was left blind and brain damaged after an HMO refused to give him a \$800 CAT scan when he was 2 years old. He is going to need round-the-clock care for the rest of his life. A jury, a jury, awarded him more than \$7 million for his pain and suffering. But California has a cap on noneconomic damages, so the judge was forced to reduce the award to \$250,000. That is \$12 a day for the rest of his normal life expectancy.

Is that all he is owed for the irreversible damage that was done to him? Is that fairness? Is that justice? I think we know the answer.

Mr. Speaker, the sponsors of this bill have assured the physicians of America that this bill will lower their insurance premiums. The doctors are being deceived, for it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year, according to some estimates, up to 98,000 deaths per year. That is a real crisis. It does nothing to weed out the 5 percent of the medical profession who are responsible for 54 percent of the medical claims. So what is going to happen is good doctors will continue to subsidize those that ought to be out of the profession.

It does nothing to regulate the rates that insurance companies charge their policyholders. That did prove effective in California when it was passed in 1988.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims, capping injury awards at artificially low levels that are insufficient to meet their needs and making it difficult for them

to even find a qualified attorney who is willing to take their case.

It is unconscionable, Mr. Speaker, for Congress to deprive these victims of the right to have a jury of their peers decide what their pain and suffering is worth. It is rather ironic that rather than regulating insurance rates, the apostles of the free markets opt to impose a system of wage and price controls. What irony.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I first would like to thank the distinguished chairman for his hard work on bringing this bill forward.

Mr. Speaker, we have heard a number of things today, including from my good friend from North Carolina who mentioned that he had failed to see a situation where a malpractice case crossed State lines. Yet the case law in his own State contains many cases just like that.

As a matter of fact, the Supreme Court in North Carolina has actually ruled that if a patient leaves North Carolina, where they have no cap, travels to Virginia and are treated by a doctor there who thinks he has the protection of a malpractice cap, they can actually be sued in North Carolina, and the Supreme Court there said no cap applies.

Mr. Speaker, I have worked on this crisis, which I believe is indeed a crisis in health care and access to health care, for over a decade now, and every single time this issue is debated I see the opponents of this type of legislation coming in and they try to paint these faces.

On the one hand, they will show a victim of the most egregious scenario, and certainly those victims do exist. On the other side, they will show a portrait, mental, if no other way, of a doctor who is the most egregious kind of doctor.

Mr. Speaker, that is not the true face of this legislation, not the true face of this problem. Let me give you three of those faces.

One is the young internist who tries to save the life of a patient who can no longer breathe, and is actually getting on a helicopter and traveling to a hospital with that patient. At the end, even though they have committed no malpractice, they end up in litigation for almost 4 years. At the end of the process, the doctor looks at you and says, I did nothing wrong, but for 4 years I had a cloud of litigation over me, worried about whether I was going to lose my home and everything I had.

It has the face of the emergency room physician who has been working for 8 hours, and all of a sudden responds to a code outside of the department with a dying patient that he cannot pull one more miracle out of the hat on, and that patient dies. He is brought into that litigation just as a shotgun approach, and, after 3½ years, even though he has no award against

him, his malpractice premium has gone up 70 percent.

Mr. Speaker, it also has the face of a family practitioner, an African American practitioner who I met with just a few months ago, who 2 years ago his premium was \$30,000. Last year it went up to \$100,000. This past year it went up to \$230,000. Mr. Speaker, he closed his doors. The difficulty is not that he is no longer in that office; the difficulty is when all of the patients he serves knock on that door, he is not there to open it again.

Mr. Speaker, the difficulty with not passing this bill is the fact that all of those patients would no longer have access to health care. That is why it is important we get it passed.

□ 1245

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from Michigan (Mr. CONYERS).

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary and a ranking member on the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, today we are here to debate a bill, H.R. 5, written for us by the insurance industry. Supporters of restricting jury awards and malpractice lawyers' fees say excessive billion-dollar damage awards in medical liability suits is the reason medical malpractice insurance premiums have risen so sharply and that nearly half the States are experiencing an insurance crisis. However, others say, and I agree, that rising malpractice rates are part of the cyclical nature of the insurance business, and insurers are raising premiums now to recoup recent stock market losses. In addition, I believe any crisis that exists is specific to certain medical specialties and regions of the country.

Let us, Mr. Speaker, say it like it is: the insurance industry wants this bill because it will increase their profits. Well, forgive me if I do not support the insurance industry over injured patients. I do not represent insurance industry profiteers. I represent the people in my district, the people who will be severely disadvantaged if this bill passes in its current form.

We have gone back and forth on this issue for a long time now. The medical malpractice insurers tell us again there is a crisis, there is a shortage, there is a stoppage, or whatever else they think will bully Congress into doing their bidding. It is truly terrible that good doctors are paying the price for the insurance industry's bad business decisions. It is truly terrible that the insurance industry has fooled doctors into believing that injured patients are to blame for high premiums, and it is

truly terrible that the insurance industry has this control over the health care system.

I would say to my colleagues, it is time for us to put an end to the misrepresentations of the insurance industry. It is time for us to stand up for our constituents and for people who have been injured, who have been maimed, and even killed, who deserve to be protected.

I say vote "no" on this bad bill. Our citizens deserve to be compensated for medical malpractice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank my distinguished chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time and also for his work on this important bill.

Mr. Speaker, I would like to rise in support of H.R. 5. Many of the people I represent in Iowa have to drive a long ways to see a doctor and even further to see a specialist. Thankfully, the health care access prices in Iowa may not be as severe as they are in some of the other States, and we have heard some of that this afternoon. However, I know that rural States like Iowa need to do everything they can do to improve access to health care.

Rising medical liability premiums due to lawsuits make it harder for doctors to stay in business and continue to see patients. As I said before, sometimes it is easier to sue a doctor than it is to see one. The health care access crisis hits rural Iowa hard because we have to drive further to seek medical attention. The people in my district cannot afford to lose a single OB-GYN or ER doctor to the rising medical insurance premiums; and if we do, our families will suffer.

Expectant mothers will have to drive further to see their obstetricians, accident victims will spend critical minutes and hours in transportation, seniors will have to drive further and sometimes will not receive the care that they need. Access is critical. The people I represent should not have to spend more time on the road than in a doctor's office.

The health care access crisis is further exaggerated in my district because we have the lowest reimbursement rate of the 50 States for Medicare reimbursement rates, and that means we have a thinner margin to play with.

I would point out also that, if the folks that are seriously opposing this bill were defending just the interests of the patients, we would have seen an amendment that would have waived contingency fees on noneconomic damages.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. LOFGREN), a senior member of the House Committee on the Judiciary and Committee on Science.

Ms. LOFGREN. Mr. Speaker, I am probably one of the few Members who have actually operated under MICRA in California. In the 14 years that I served on the board of supervisors, we bought malpractice insurance for the doctors at the county hospital; we settled lawsuits pursuant to MICRA related to the county medical professionals. People have argued the pros and cons of MICRA. The point that needs to be made is that H.R. 5 is not MICRA.

MICRA's cap on noneconomic damages applies to medical malpractice cases only. H.R. 5 extends liability relief to insurance companies, HMOs, nursing homes, medical device manufacturers, and pharmaceutical companies. In some cases, injured persons, for example, an elderly person abused in a nursing home, will only be able to look to their noneconomic damages for relief because they do not have any earnings to recover.

MICRA in California does not limit punitive damages in personal injury cases, but H.R. 5 caps punitive damages at two times economic loss, or \$250,000, whichever is greater.

H.R. 5 would actually preempt California law by precluding tort recovery against nursing homes, HMOs who wrongly make medical decisions, and insurance companies. It would undercut California's elder abuse statutes, as well as undercut new measures that we have fought hard for in California that allow HMOs to be held accountable for their decision-making when that decision-making disrupts the doctor-patient relationship.

So whatever one thinks about MICRA in California, examine carefully H.R. 5, because it is not MICRA; it is putting the doctors in front of the insurance companies. But the big beneficiaries are the HMOs, the pharmaceutical companies, and the insurance companies and nursing homes.

I think this is not what our country should be doing to preempt California's elder abuse statutes and our new effort to hold HMOs accountable for the practice of medicine through insurance.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, one of the biggest problems facing our health care system today does not start in the doctor's office or in the operating room; it starts in the courtroom. We have a problem in America. There are too many frivolous lawsuits against good doctors, and patients are paying the price. It costs money to fight a frivolous lawsuit and oftentimes, in order to avoid litigation, doctors and insurance companies settle cases, even though they have not committed a medical error.

So it pays to sue. One can file lawsuit after lawsuit and eventually the legal system begins to look like a lottery. With the trial lawyers taking as much

as 40 percent, it is clear who is winning.

We want our legal system to benefit patients, not trial lawyers. Anyone who has been harmed at the hands of a doctor should have their day in court. They should be able to recover the full cost of their care, and they should be able to recover reasonable noneconomic damages.

But we know the insurance companies raise the cost of medical malpractice coverage when faced with the risk of unlimited noneconomic damages. Doctors cannot afford to pay their insurance premiums and end up raising rates or leaving their homes for States with reformed medical litigation systems. That means that the health care is no longer affordable and accessible to many of our citizens. When doctors cannot pay the premiums and stop practicing medicine, everyone loses.

Mr. Speaker, this culture of litigation has to end. No one has ever been cured by a frivolous lawsuit.

So I support the reasonable limits on noneconomic damages. I believe it is time to pass medical liability reform that benefits patients, not trial lawyers. I urge the House to pass H.R. 5, the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a physician and an advocate for good health care for all Americans. We thank her very much for her leadership.

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

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing, pretending to help doctors and patients, but really only helping the large health care corporations and doing nothing to help lift the malpractice burdens from doctors and other providers, or to ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, good ones, many who have never been sued, struggling to keep malpractice coverage and just to keep their offices open under the press of high premiums.

It is truly unfortunate that many of the organizations representing us are mistakenly supporting H.R. 5, because I think they think this is the best they can get. H.R. 5 is not. As a matter of fact, it is no help at all. Doctors are but pawns in what is clearly special interest legislation.

Mr. Speaker, H.R. 5 is an assault on the poor and minorities as well, because regardless of their injury and needs, the awards would be capped at low levels. For everyone, this bill sets values on human life and suffering that none of us can measure.

I say to my colleagues, defeat this bad bill that does a disservice to all of

us, and join with our colleagues, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) and others, to pass a far better bill, a bill that will bring relief to HMOs, health professionals, and the patients who depend on their services and who need to be made whole.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

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

Mrs. BLACKBURN. Mr. Speaker, I rise today to support the HEALTH Act of 2003, because I know what runaway health costs and a broken health care system look like.

In Tennessee we are battling to fix our own system, a statewide, nearly-universal health care service run by the government called TennCare.

H.R. 5 means doctors in your neighborhood, not 50, 100, or 500 miles away in a metropolitan area. H.R. 5 means lower insurance premiums for working families and for small businesses.

This bill will not take away anyone's right to compensation. What it will do is prevent our community doctors, our community doctors from being targeted by profiteering lawyers.

I encourage all of my colleagues to join in supporting the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds.

I beg to differ with the gentlewoman from Tennessee. I wish her remarks were accurate, in noting from the American Insurance Association a comment that says, "Insurers never promised that tort reform," which is what medical malpractice, what H.R. 5 is, "would achieve specific premium savings." So in fact, the doctors will not be helped from this legislation, H.R. 5. The only persons that will be helped will be the insurance companies.

Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentleman from Missouri (Mr. CLAY), a fighter for the rights of many and an advocate for good health care for all Americans.

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

Mr. Speaker, I rise in opposition to H.R. 5. The bill does a disservice to the medical liability insurance problem. It fails to provide the necessary solutions which are needed to have a win/win situation for all concerned parties.

Proposed legislative relief in the form of damage caps such as H.R. 5 may be construed as only a small portion of the remedy. Caps alone will not result in an immediate decrease in premiums. Malpractice suits take 3 to 8 years to come to trial. Current pending or filed suits will not be resolved for years. New caps on damages may not retroactively cover current suits. Therefore, premiums will not go down.

This bill is silent on the issue of the insurance industry and the failed investments policies of that industry's

past. The choice is simple: enact H.R. 5 and have a system that has a tremendous overhead and continues to cause a disservice, or have a true reform plan that gives an immediate reduction in cost.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GERLACH).

Mr. GERLACH. Mr. Speaker, physicians in Pennsylvania face skyrocketing liability insurance rates. This is forcing them to leave their practices, retire early, or stop performing certain procedures.

□ 1300

That threatens access to care for patients in Pennsylvania and across this country. In my district alone, hospital services have been curtailed and advanced life support services have been terminated at an alarming rate. Without passage of medical liability reform at the Federal level, this situation will continue to worsen.

From 1977 to 2000 the number of practicing OB/GYNs in southeastern Pennsylvania has declined by 20 percent, and that is before the astronomical increase in doctors' medical liability, doctor insurance rates that took place last year. In Pennsylvania more than 75 hospital services have been closed or curtailed in the past year alone. The most severely affected specialty services are obstetrics, orthopedics, general surgery and neurosurgery.

Mr. Speaker, my constituents need real, meaningful medical liability reform and they need it now. We cannot allow the continuation of a system that is threatening and has in fact cut off patients' access to their doctor or hospital of choice. Let us put the patients above litigation and let us pass this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 15 seconds.

The playbook is being said over and over again. Victor Schwartz on tort reform says that many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I have never said that in 30 years.

Mr. Speaker, I will not vote for H.R. 5, because as it is, it does nothing to decrease the premiums our Nation's physicians are burdened with. It does nothing to decrease the number of frivolous lawsuits. It does nothing to decrease the amount of malpractice being inflicted upon the American people, by bad doctors who are jeopardizing the lives of their patients, and driving up the insurance costs of their colleagues. And it does nothing to protect the rights of those suffering in the wake of an act of medical negligence.

I have doctors in my district, who are struggling with high malpractice insurance premiums. In some regions, for some specialties, those premiums can be outrageous. If this bill becomes law, the caps on claims from injured patients will put a lot of money into the coffers of insurance companies. I offered an amendment yesterday in the Rules Committee that would have forced insurance companies to pass at least half of that money down to physicians in the form of reduced premiums. That

just makes sense, if this bill is really intended to decrease premiums. But that amendment will not receive a vote today. That fact lays bare the claim that this bill is anything more than a gift to the insurance industry.

This bill has many troubling aspects and omissions. For example, noneconomic and punitive damages are capped at \$250,000 and there is no provision to have this arbitrary number rise over time with inflation. So, we know that the value of the dollar will go down over time. Do we also feel the value of a human life, or of a child's pain and suffering will also go down over time? I surely do not. This could have easily been changed, but it was not.

Another aspect of this bill that I feel is morally repugnant, is in its valuing of rich people's lives more than poor people's, or children's, or stay-at-home mothers'. In the case of truly heinous acts of negligence, a judge and jury can award a damaged person with punitive damages. Punitive damages, as the name implies, are meant to punish egregious wrong-doers. This bill caps punitive damages at \$250,000 or twice the economic damages, whichever is higher. So if a CEO with a high salary is injured and can't go back to work, his economic damages could be in the millions, and therefore through punitive damages—the perpetrator would be punished severely. On the other hand, if the injured is a child or a stay-at-home mother, the economic damages would be low, and the punitive damages would be capped at \$250,000. Why would the U.S. Government, dedicated to the idea that every person should be treated as equal, say that doctors who hurt rich people should be punished more than those who hurt poor people—that the value of a poor person's life is less—that it is OK to take bigger risks in treating poor people? This is absolutely morally bankrupt.

And the bill does nothing to stem the tide of frivolous lawsuits. This bill, by definition, cuts awards to those people who a jury decided were not frivolous. This is short-circuiting our judicial process.

What in the name of God and country are we doing giving a gift to insurance companies, while people are suffering and access to medical care is threatened? I will vote against H.R. 5 and urge my colleagues to do the same.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BERMAN), a distinguished senior member of the Committee on the Judiciary who knows about California medical malpractice law firsthand.

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

Mr. Speaker, two points: In California we had much of the same issue that the country is now facing, rapidly escalating medical malpractice premiums, concerns that the health care system was broken, and we weighed the two approaches we had. One is the accountability for bad medical practices through the tort system versus a compromise that used a combination of tort reform, enhanced regulation of the medical profession and hospitals in terms of ensuring that bad practice would not be allowed to go unpunished and to continue, and insurance industry regulation legislation.

Now, we have this crisis in many other States of the Nation. Without

getting into the issue to the extent to which tort reform played a role in reducing medical malpractice premiums and without getting into the debate about why we would need to federalize the entire system rather than letting the States work this through the same way California did, I just wanted to draw the attention of the body to the fact that what you are being told is not true. This is not an effort to take the California law as passed in 1975, known as MICRA, and to pass it and federalize it and to have it apply to the country as a whole.

This is a bald faced effort to cherry-pick certain provisions of that law, add many different people to the coverage of that law that were never included in that law, add additional tort reform provisions to that law that were not included in that law and then claim that we are doing MICRA.

In MICRA we enacted a series of very serious tort reforms, including the cap of \$250,000, which I opposed vociferously then and do now. But we also massively enhanced both the level of insurance industry regulation and the authority of the boards of medical quality assurance, the disciplinary boards, to discipline those few physicians who were truly bad doctors, whose record of malpractice was astounding. If there was not going to be the full accountability from the tort system for the conduct of those physicians, then their status, their licenses would be in jeopardy.

We provided immunity to other physicians so that they would testify about the bad practices of those few doctors. We set up peer review committees in every area of this State. We significantly enhanced the powers of the boards of medical quality assurance. None of that, absolutely none of that appears here. This is a one-sided effort appealed to by certain interests, decrying other interests, to pretend they are taking the balanced approach of California when they are cherry-picking it to only limit its impact on one issue, the ability of injured patients to recover because of the negligence of another.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

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

Mr. Speaker, I rise today in support of H.R. 5, the HEALTH Act. Before coming to Congress I served as a doctor in north Texas for over 25 years. Over that time I delivered over 3,000 babies and handled my fair share of high-risk births. Because of the nature of my profession, I was not immune to being named in a lawsuit. Even though these claims were eventually dropped, my patients could not get back my time or the benefit of the care that they lost because I was away from my practice defending my livelihood.

The current legal environment reduced the access my patients had to my services, and that is a situation

that I find unconscionable. Thousands of doctors share a similar story and millions of patients are affected in the same way by the current system.

The legal environment in which doctors must work is lopsided to favor a very narrow special interest group, that of the plaintiffs' bar. Because of this patients are losing access to specialized care they need because doctors are being driven out of business or taking time away from their practices to defend against frivolous claims. I urge passage of H.R. 5.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PASCRELL), one who has been a fighter for physicians and first responders.

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

Mr. Speaker, I read section 12 of this legislation and it says that this is going to go into effect on the enactment of this bill, it becomes law. There is no grant program to help health care professionals. There is no end of frivolous lawsuits that has been discussed anywhere in this legislation. There is no attempt to pass on the savings to the very doctors who you have conned into believing that their rates are going to go down.

The insurance industry has said time and time again, not to the doctors, that there is no guarantee that the premiums will go down if this is enacted. And what you are going to do to us in New Jersey and 10 other States where we have strong legislation dealing with HMOs that rule the roost, you are going to let them all off the hook and you are going to protect bad doctors, bad hospitals and you are certainly going to protect bad insurance companies. And I say to you, you have created a great injustice here by putting forth this legislation without even allowing us to consider trying to solve the problem. Our bill does that.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the distinguished chairman for yielding me time and will answer my colleague that you cannot con doctors into anything. Doctors are not only trained professionals who can diagnosis what is wrong with you, they can diagnose what is wrong with our country.

I rise in support of H.R. 5. Without this bill health care in my State of Illinois will change for the worse. I am standing here representing Dr. Gina Wehrmann, who after paying her malpractice bill made less than the office manager in her practice and is now a pharmacist at Walgreens. I also stand with Dr. Scott Hansfield, head of obstetrics at Highland Park Hospital, who recently notified 2,500 of my constituents that he is leaving the practice of medicine and moving to a tort reform State.

The AMA has just put Illinois on the crisis list of liability watch for their

practice. And in testimony before the Committee on Small Business, we learned that 85 percent of neurosurgeons have been sued in my State. Asked if this is too many, the plaintiffs' association said, no, 85 percent of neurosurgeons in Illinois were bad doctors.

I am worried about the plaintiffs' bar and its unintended war on women, forcing OB/GYNs out of my State of Illinois.

This is needed legislation. We need to pass it now. I commend the chairman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield the gentleman from New Jersey (Mr. PASCRELL) 10 seconds to respond.

Mr. PASCRELL. Mr. Speaker, is this gentleman letting us know today that he is guaranteeing a reduction in the premiums if this bill is passed? Is that what the gentleman is saying? I would like him to say for the record.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 3 minutes to myself.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to answer and I thank the distinguished speaker.

Mr. Speaker, I am going to ask the young lady just to come closer. We have the personal touch here this afternoon.

I want to answer the question that has been raised. This is over and over again about whose problems we are solving. Can I give my friends the real facts?

Sixty-one percent of the cases are dropped. That means as you go into the courthouse, and those of you who have been injured, you have your cases dismissed 61 percent. Plaintiffs only get 1 percent of the verdicts across the Nation. Defense verdicts. That means they rule on behalf of the HMOs, the doctors, the hospitals, 6 percent, and settlements are 32 percent.

H.R. 5 is a bill that does not harm the doctors and the physicians, which we do not want to harm, but it literally destroys the victims. What it does is when the verdicts come it injures the victims because you tell them that they cannot get a recovery.

There is no crisis in medical malpractice insurance. What the crisis is is the insurance companies who refuse to reduce the payments.

So let me show you who will be hurt by H.R. 5. Nathaniel will be hurt by H.R. 5. This is the face of H.R. 5. Why? Because Nathaniel was 6 weeks old when Nathaniel became brain damaged because he was not diagnosed with jaundice. In the Democratic substitute we eliminate cutting off Nathaniel's damages. We take the caps off the non-economic damages. Is it not interesting that physicians who want to have their rates reduced do not get any relief directly from the insurance payoff because this is not access to medical care. This is insurance payoff day.

What we do for Nathaniel in the Democratic substitute is we say to the

doctors, if you are good doctors, we want the savings that have been given to those to be reduced. I had an amendment that said reduce it by 50 percent. Put 50 percent of the savings and reduce the premiums of the doctors. This is real medical malpractice response. This puts the doctors in the rural communities in New Jersey, in Mississippi, in Texas and New York in the innercity. This helps the babies like Nathaniel.

And then to my dear friends, what about the States rights? What about the States that want to make their own determinations to protect their own citizens, to ensure that Nathaniel does not lay languishing with brain damage, and because he was only 6 weeks old, the noneconomic damages that would provide for him for the rest of his life were cut off, the pain and suffering damages were cut off at \$250,000 in today's time? So besides cutting us off from having amendments, besides denying us a substitute—a legitimate way to discuss a reasonable response—this is what we have today: A false bill that addresses a false issue and Nathaniel languishing in brain damage. Our bill would have provided Nathaniel for getting his day in court, providing for his mother and father the pain and suffering they are experiencing while he languishes without hope.

Payoff day for insurance companies. I stand against it. Vote against H.R. 5.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) displayed a chart that indicated that 61 percent of the malpractice cases were either settled or dropped, and she insinuated that that was for free. It is not for free. It costs money to defend those suits, to go to court, to file answers, to do whatever discovery is necessary in order to convince the plaintiff that they do not have a case, and those costs get folded into the liability premiums that the physicians have to pay.

Who gets off free? It is the plaintiff that gets off free because the plaintiff is on a contingency fee and if there is no recovery then the plaintiff does not have any lawyer fees at all.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds to respond.

The Republicans have represented that H.R. 5 is to reduce the premiums of physicians. Let it be perfectly clear, and I stand by my document, 61 percent are dismissed, but let it be perfectly clear that nowhere will the physicians have premiums reduced and more doctors be able to practice because we pass H.R. 5, which is a payout to the insurance companies. I maintain that position and it is accurate.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. HOFFEL), who experiences firsthand what happens with a

crisis in his State. He is a leader on these issues.

□ 1315

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

I agree with her concern because Pennsylvania doctors have a tremendous problem with medical malpractice premiums doubling and tripling, but they have been sold a bill of goods. This bill will not bring down their premiums. We should try to help those doctors, but not by punishing the most severely injured victims of medical malpractice.

We need insurance reform. The law in California did not work to bring down premiums. When they put a \$250,000 cap on damages, the premiums continued to rise until they passed insurance reform in 1988 and mandated a reduction in premiums. That is what we need to be doing here.

At a minimum, we have got to put flexibility into these hard and inflexible caps. We ought to allow the trial judge at a minimum to allow something above the caps if circumstances on a case-by-case basis require that, but this House will not allow that to happen.

Let us look at the sad case of Linda McDougal, who was diagnosed with breast cancer and had both breasts removed because of the lab report. It turned out the lab was wrong. The good news for Linda McDougal is that she does not have breast cancer. The bad news is she does not have breasts anymore.

What is that worth? The proponents of this legislation would say that a woman's breasts are worth no more than \$250,000. I do not want my colleagues to make that decision. I want a jury to make that decision. I want to defeat this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

We have heard an awful lot about the impact on insurance premiums, and I just want to read from the CBO estimate, the cost of this bill. The CBO estimates that under this bill premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent lower than what they would be under the current law. However, other factors noted above may affect future premiums, possibly obscuring the anticipated effect of the legislation.

The effect of H.R. 5 would vary substantially across States, depending upon the extent to which a State already limits malpractice litigation. There would be almost no effect in malpractice premiums at about one-fifth of the States, while reductions in premiums would be substantially larger than the overall average at about one-third of the States.

What this means is that the reduction in premiums will be much greater in the States where there is a crisis, and what this bill does is that it provides access to medical care in States

where high risk specialists are closing their practices because they cannot make enough money to support themselves and to pay their liability insurance premiums.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 10 seconds.

The real point is that the insurance companies have specifically said they will not reduce premiums with the passage of H.R. 5.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS), who knows hospitals because they are in his district, an advocate for good health care for all Americans.

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

Mr. DAVIS of Illinois. Mr. Speaker, in Chicago, an electrocardiogram is misread and the patient dies of a heart attack. A rare heart disorder is mistaken for a back strain and kidney stone. The patient dies. Both of these cases are about real people and real pain. In both cases, the families were awarded decent sums of money by juries, but I can tell my colleagues, no sum of money will ever replace the loss and suffering of people's lives. Yes, there is a crisis in health care, but this one-size-fits-all \$250,000 cap on medical malpractice payoffs will not solve the problem.

I have a profound respect for doctors, nurses, hospitals and other health care professionals who provide services, some 25 of them in my Congressional district, five medical schools, but I am not prepared to leave to chance a \$250,000 cap on consumers.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

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

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 5, of which I am an original cosponsor. I cosponsored this bill because I believe that it will help ensure the availability of vital health services for patients in this country.

Listening to the debate today, the average citizen would assume that it is necessary to choose sides. Either one is for the docs and other health care providers or they are for the patients. I simply reject that premise and assert another, which is this. We must have a system where good doctors can practice good medicine if we are going to have healthy patients.

Does creating a good system mean that no doctor will ever fail again? No patient will ever again be injured through negligence or poor practice patterns? Of course not. But when those injuries occur through clearly bad behavior on the part of a health care team, I want the health care professionals to be responsible for their action.

I sympathize with the case examples brought to the floor by my colleagues

on my own side of the aisle. There are a great many tragedies which occur when health care is poorly delivered. I have no interest in removing appropriate avenues of redress for those injured people and their families, but I do not believe these cases have much, if anything, to do with the bill before us today because it retains a great deal of legal redress for plaintiffs.

No one can claim that the system we have now is good for the doctors or the patients when doctors must pursue expensive defensive medicine rather than doing what they think is right. No one can think it is good for places to have doctors leaving the profession in droves because of the financial and physiological strains of caring for people under current malpractice realities.

The bottom line is that the failure of the medical liability system is compromising patient access to care. More than half of Texas physicians say that they are considering early retirement due to skyrocketing insurance premium, and nearly one-third are reducing the kind of services they provide.

Spiraling medical liability insurance premiums are forcing many hospitals to consider difficult decisions from cutting services to closing clinics. Some hospitals find it difficult to appropriately staff emergency departments, recruit and retain physicians in high-risk specialties. Where is the victory for patients in that scenario?

This situation is further magnified in rural communities where there are fewer hospitals and health care professionals. These hospitals and clinics already operate on narrow profit margins, and skyrocketing medical liability insurance push them closer to the brink of closure.

Ignoring the litigation problems we have now is a recipe for disaster. Many States, like my own, are already on the precipice of disaster, especially in fields like obstetrics.

It is for these reasons I join my fellow colleagues as original cosponsor of the HEALTH Act of 2003. The bill is not perfect. It can be improved but it will not be improved if it is defeated today.

I urge my colleagues, especially those who represent rural America, to support H.R. 5, which will have a chance of stabilizing our Nation's shaky medical liability system.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. LANGEVIN), who has faced many issues that deal with the needs of hospitals and his own constituents and good health care, and I thank him for his leadership.

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

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

Today, I rise in strong opposition to H.R. 5, the HEALTH Act, because this unhealthy act would severely limit the ability of patients to bring suits and



seek appropriate damage awards while failing to require insurers to lower their rates once the so-called reforms are in place. This misguided measure would unfairly impact women, low income families and children or have absolutely no impact on the affordability of malpractice insurance coverage.

Proponents of this legislation claim that it contains the right cure for the medical malpractice liability crisis. This elixir is nothing more than a placebo that will not lead to safer medicine, but rather protect egregious medical malpractice behavior.

Though not a victim of medical malpractice, the \$250,000 cap in this legislation could never compensate me for what I lost when I became paralyzed.

For these reasons, I would strongly urge my colleagues to oppose the underlying bill and to support the Democratic alternative, which would allow patients to seek redress while providing relief to physicians and hospitals in need while holding insurance companies more accountable.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I thank the gentleman very much for yielding that time.

I am very delighted to stand before a distinguished House of Representatives to make this plea.

I support this measure. I come from Georgia and represent a new Congressional district that represents one of the fastest growing areas in this country. It is the 13th Congressional District. I am here because of that growth, and I am also here to tell my colleagues that there is no greater pressing issue facing my district and the people of Georgia than this health care crisis that we are faced with today in medical liability insurance.

Our doctors are suffering immensely, not only in terms of having to cut back on the quality of services that they have to offer but also in our medical schools, where they are preparing our doctors for the future. Many of the medical schools in my State are saying now that many of the students are having second thoughts about even coming into the medical profession; 17.8 of the 2,800 physicians in Georgia are already reporting that they are contemplating, contemplating cutting back in their critical services for at-risk procedures, and nearly 2 percent have even indicated that if things do not change they are moving out of the State of Georgia.

I think we all know that Georgia is one of 18 States that has the highest, most significant medical malpractice insurance premium costs, and it is costing our State dearly. I am here to speak for those doctors and the dentists and the hospitals in that 11-county area that I represent around the City of Atlanta that is faced with this crisis, and I hope that this Congress will hear us as we cry out in Georgia on behalf of our physicians, our dentists,

all of our health care providers, give us some relief.

I know this H.R. 5 before us is not a perfect bill. Nothing is perfect. Who amongst us or what amongst us is perfect? But it is a start. It is a beginning, and it is not incumbent upon us to complete the task, but neither are we free to desist from doing all we possibly can. That is what the American people are expecting of us.

Take this first step. Let us move this process forward. When it gets to the Senate we can work to perfect it even better. I urge my colleagues' vote on this very important matter, and let us bring better health care to our people of Georgia and the Nation.

I am here representing the patients, doctors, hospitals, and health care providers in the 13th Congressional District in Georgia. This is a new district, which encompasses parts of eleven counties due to the tremendous growth in this part of the state. It is also a diverse district, including county, regional, and private hospitals, several health care facilities, and hundreds, if not thousands of physicians and dentists, and other health care professionals. Georgia has been designated as one of 18 states facing a medical liability crisis and since Georgia's health care industry is being threatened by this crisis, I have decided to support the patients . . . and the doctors . . . and the hospitals . . . by supporting H.R. 5.

Earlier this year, the Georgia Board for Physician Workforce, the state agency responsible for advising the Governor and the Georgia General Assembly on physician workforce and medical education policy and issues, released a study showing the effects of the medical liability crisis on access to health care for Georgia's patients. For example, the study shows that 17.8 percent of physicians, more than 2,800 physicians in Georgia, are expected to limit the scope of their practices which is by far the largest effect of the medical liability insurance crisis on access to medical care. These physicians are expected to stop providing high risk procedures in their practices during the next year in order to limit their liability risk. Nearly 1 in 3 obstetrician/gynecologists and 1 in 5 family practitioners reported plans to stop providing high-risk procedures, indicating that access to obstetrical care may be significantly reduce during the next year as a result of the medical liability insurance crisis.

In addition, nearly 11 percent or 1,750 physicians reported that they have stopped or plan to stop providing emergency room services. 630 physicians plan to stop practicing medicine altogether or leave the state because of high medical malpractice insurance rates. About 13 percent of doctors reported that they had difficulty finding malpractice insurance coverage. In fact, at one particular Georgia hospital, the hospital could not give credentials to a surgeon and add that physician to its staff because the surgeon could not afford to buy medical malpractice insurance. In another instance, an obstetrician-gynecologist had to close his Georgia practice and work for a health care agency because he could not afford to buy medical malpractice insurance. What happens to the patients that his hospital could have treated but now it cannot because it does not have the surgeons that it needs? What happens to the mothers who need a

doctor to provide pre- and post-natal health care but cannot find one because doctors are leaving the profession due to the high cost of medical malpractice care?

I support H.R. 5 because doctors, hospitals, and the health care industry are caught in the middle between insurance companies and lawyers. Doctors are being squeezed by their medical malpractice insurance premiums and by the high amounts being awarded to injured patients. Doctors need to see results; they need to know that if this bill becomes law that their insurance premiums will go down. The message must reach the insurance companies that premiums have to go down so that the medical profession can survive and access to health care is improved. The health care industry must have relief and this bill, although not the final answer is the first step in addressing the problems that affect doctors and the health care industry.

We have to address the issue of medical malpractice insurance and the extremely high cost of health care. We have to do something. This bill is not the complete answer. It is not the final answer. It is not the best answer but it is a start. We do have to do something and we have to do it now. In 2000, Georgia physicians paid more than \$92 million to cover jury awards. That amount was the 11th highest in the nation despite the fact that Georgia ranks 38th in total number of physicians in the United States. Forty percent of the state's hospitals faced premium increases of 50% or more in 2002. St. Paul, the state's second largest insurance carrier, stopped selling medical liability insurance last year. Remaining insurers have reportedly raised rates for some specialties by 70 percent or greater. Some emergency room physicians, OB-GYNs and radiologists have not yet found a new carrier.

In addition, Georgia is heavily dependent on other states to train physicians. Approximately 70% of participating physicians in Georgia completed training in another state. High costs of medical malpractice liability insurance may reduce the attractiveness of Georgia as a location for medical practice. High professional liability insurance costs are a significant financial problem for teaching hospitals, reducing the already limited funding available for faculty, residents, and other medical education costs. The high cost of medical malpractice insurance for doctors and hospitals harms mostly those communities who serve minorities and low income patients. The physicians and hospitals who depend on Medicare reimbursements and who serve the 44 million uninsured Americans everyday cannot afford to pay higher insurance premiums. We need to ensure that these communities have access to quality health care and the best physicians or the health disparity that currently exists will continue to deepen and create a 2 tier health care system. We must do something now. We must support the patients who cannot speak for themselves. We must support our doctors and hospitals and we must pass relief for them today.

It is important for the House to pass a bill that can go to the Senate for consideration. I hope to perfect the bill even more as it moves through the legislative process. It would be a mistaken not to do anything. In fact, I have never seen a problem solved by doing nothing.

We must help doctors, physicians and dentists, hospitals, other health care providers,



and American patients who are suffering in untold ways. Immeasurable damage is occurring in our nation's health care delivery system because of the high cost of medical malpractice insurance. With the passage of this bill, we are sending a clear and salient message to the insurance industry, which sets the premium rates for medical malpractice insurance and that message is: Bring Down the Cost of Medical Malpractice Insurance for Physicians and Hospitals.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY), an individual who has stood firm on the rights of patients, the rights of victims.

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman for the time, and with due respect to our colleagues that have spoken on the other side of this issue, I want to say that we all understand the issues that are here and we understand the impact that premiums have on doctors, but it is a shame that we have to choose a vehicle in this bill that pits doctors against victims of malpractice.

The doctors that come into my office understand that if there is an error made they want the patient to be compensated. There is no offer in this bill to give us a system better than the jury system. There is an arbitrary amount set that even doctors, when they look at it, understand that there is not nearly enough to fully compensate people.

This is simply an insurance company bill, an HMO bill, a prescription drug manufacturing bill that will limit their liability, and in order to try to push it through, pits doctors, well-intended doctors, against patients, victims.

The fact of the matter is this legislation should be looking at ways to weed out undeserving suits so that doctors are not exposed to them, while making sure that we preserve a way for people that are injured to get their full compensation in a fair manner. We have to also add into that premium control because the insurance companies simply are not a well-run organization, and that is where the answer is for doctors, improve that with insurance reform.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the Help Efficient, Accessible, Low-cost, Timely Healthcare Act of 2003.

As I rise today, in the midst of a contentious debate, Mr. Speaker, I think of my family and my parents. I think of the good health that God has so mercifully given our family over the years. I think about this great country of ours and the cutting-edge research of universities and our hospitals, like those in Muncie and Anderson and Richmond, Indiana, that I serve here in Washington.

□ 1330

We undoubtedly have the best health care system in the world, the envy of

other nations. Yet, Mr. Speaker, the costs of health care are rising so much so, to the point where constituents of mine, like Gary Miller of Portland, Indiana, are in fear of losing access to health care due to its affordability. Gary Miller just called my office this morning as we began the debate on this bill to register his concern about the rising cost of health care in America. Well, I am here today, Mr. Speaker, to tell people like Gary Miller that help is on the way.

Physicians in this country are some of the finest people you will ever meet. It takes a special heart of compassion to help people that are hurting physically day in and day out. And no well-meaning compassionate physician, Mr. Speaker, should be forced to close the door of his or her practice just because they cannot afford to pay health care premiums caused by frivolous litigation. Even the most well-meaning trial lawyers in the country are filing litigation that is driving health care premiums through the roof.

The Good Book tells us: "You shall not muzzle the ox while it treads out the grain." And today I say to my colleagues, it is time to take the muzzle off physicians in this country and allow them to practice medicine and continue to heal our land. It is time to free doctors from the fear of bankruptcy and potential limitless litigation that currently hurts patients by causing doctors to engage in defensive medicine.

Mr. Speaker, I urge my colleagues to vote "yes" on this bill so people like Gary Miller do not have to live in fear of losing access to health care again. I urge a "yes" vote so we can get this country back on the road to affordable and available health care for all Americans.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE), who knows what it is like to have victims denied economic damages under this legislation.

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

Mr. INSLEE. Mr. Speaker, I think it is fair to say that this bill itself is a case of legislative malpractice. It is legislative malpractice because it will not deliver the goods to doctors in a reduction of their premiums because there is an outright total and utter failure to deal with insurance reform, which the evidence has shown is necessary to get a reduction in premiums.

We ought to listen to the story of a 23-year-old lady named Jennifer, a newlywed in Washington, who went in for a simple medical test and was told she had a rare form of cancer. She had an extended period of chemotherapy, she had a hysterectomy, and they then took out part of her lungs. She went through years of medical procedures and the test was faulty. She never had cancer.

Now, I do not know what the right dollar figure is for a woman's loss of

the ability to bear children, but I know it is not \$250,000. I know it is not what Ken Lay earned in about 2½ weeks, and I know that that decision should be made by 12 citizens sitting in a jury box rather than people answering to special interests in the United States Congress.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think there is a little bit of confusion around about the non-economic damage limit. There is a specific provision in H.R. 5 that says no provision of this act shall be construed to preempt any State law whether effective before, on, or after the date of enactment of this act that specifies a particular amount of compensatory or punitive damages or the total amount of damages in a health care lawsuit, regardless of whether or not such monetary amount is greater or lesser than that that is provided under this act.

Now, every one of the 50 States is free to adjust the \$250,000 limit on non-economic damages upwards or downwards by enactment of the State legislature. My State limits it at \$350,000. This is not touched by the HEALTH Act whatsoever. So if anybody thinks that this act is a straitjacket, the legislature is free to change it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this legislation.

Yesterday, on this House floor, we passed legislation that will reduce medical errors by enabling hospitals and other providers to develop systems that identify and present errors. In addition, it will enable us to build an interoperable system of technology that will, for example, eliminate mistakes in filling prescriptions. So yesterday we took a giant step forward toward reforming the very systems that will improve the quality of care we deliver to the people of America and, at the same time, reduce costs of health care.

Today, we need to pass this malpractice reform bill because, again, it will reduce costs by eliminating millions of defensive practices that have developed in our system simply for the purpose of enabling a physician to defend himself in court. By eliminating those defensive actions, we not only reduce costs but we will improve the quality of care patients have available to them.

It is ironic that when we are in a period of rapid change in medicine, where medical science is moving us toward ever-more sophisticated ways of diagnosing and treating illness, we are also reducing access to care through a liability system that cannot distinguish between error in a complex era and malpractice. So we are at the same time improving the quality of health people can get and denying them access to that care.

Ask any woman who has a high-risk pregnancy how hard it is to find an obstetrician who will take a woman with a high-risk pregnancy because of the cost of malpractice insurance. Talk to those doctors who are leaving practice or who are choosing to no longer do certain high-risk operations and procedures in order to keep their malpractice costs within some kind of reasonable bounds. Talk to those people out there in the real world who cannot see enough new patients to pay their gigantic malpractice premium increases, and you cannot help but conclude that malpractice costs have gotten so out of control, they are now denying access to people in America to advanced health care.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish this bill would help cure that problem.

Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), one of our newest Members, and a new member on the Committee on the Judiciary, who we are very proud to have because she has been a real fighter for patients' rights.

Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts (Mr. DELAHUNT) be allowed to manage the balance of the time on the minority size.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas? There was no objection.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I thank the gentlewoman from Texas for yielding me this time, and today I rise in opposition to H.R. 5.

There is no doubt that most Americans have real problems accessing affordable health care in this country, and we need to find a solution. However, H.R. 5 is a deplorable bill. It is the most simplistic method for addressing problems that we are experiencing with our medical community. It is akin to trying to put out a forest fire with a squirt gun.

Placing a cap on a victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will not keep specialists from practicing in their areas. H.R. 5 simply restricts injured patients' access to justice. It is modeled after a California law affectionately known as MICRA.

As a representative from California, I happen to know a lot about MICRA. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my State, but rather it took Prop 103, an insurance reform initiative, to stabilize the rates there.

H.R. 5 without insurance reform is meaningless, and I urge a "no" vote.

Mr. DELAHUNT. Mr. Speaker, would the Chair indicate how much time is remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. DELAHUNT) has 3 minutes remaining,

and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. DELAHUNT. Mr. Speaker, it pleases me to yield 1 minute to the gentleman from Ohio (Mr. RYAN), a new Member and someone we are particularly proud of.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we know that the premiums are high, and we know the doctors are suffering; but this bill is not going to address the problem. And I would like to just take a minute, Mr. Speaker, to point out some of the inconsistencies from the majority party, the party that says we need to give all the power to the States. In this bill they are taking power away from the States. This is the party that says we are for individual responsibility, unless that individual is in the jury box, then we do not want to give it to them. This is the party that is for less government and less regulation, but at the same time they are putting price controls on attorneys. That is not free market.

Like a leading malpractice insurer in California said, I do not like to hear insurance company executives say it is the tort system. It is self-inflicted. That, in this bill, is not going to address that problem.

Mr. Speaker, I am afraid that all the faces and the names have turned to numbers in Washington, DC. This is not the answer. Real people are going to get hurt. We would like to welcome everybody back to the era of caveat emptor, or buyer beware.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), the chief deputy whip of the Democratic Caucus.

Mr. SANDLIN. Mr. Speaker, somebody in this Chamber needs to stand up for the doctors and somebody needs to stand up for the hospitals. Malpractice premiums are choking America's physicians, and H.R. 5 is nothing but a sham because H.R. 5 does not mention one time, from front to back, soup to nuts, does not ever even mention malpractice premiums. We need to do something about those premiums for the doctors. We need to do it now. We need to do it today. H.R. 5 will not do it.

And how about frivolous lawsuits? Frivolous lawsuits need to be ended. If a suit is filed with no basis in law or in fact, it should be dismissed at the cost of the plaintiff and the plaintiff should be sanctioned. But what does H.R. 5 say about frivolous lawsuits? It does not say one thing. That is a shame. That is outrageous.

We are only talking about benefits for insurance companies. We are talking about caps. The only people protected are insurance carriers. The only people celebrating today are executives in tall buildings owned by insurance companies.

This is not good for doctors, it is not good for hospitals, it is not good for pa-

tients. Let us stand up for them. Let us do the right thing.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute, the balance of my time, to the gentleman from New York (Mr. NADLER), who serves admirably on the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, one thing that has not been remarked upon is that the cap of \$250,000 for pain and suffering, whether a baby is killed, a person is paralyzed for life, an old person is killed, regardless, aside from economic damages, they can only get \$250,000. But that cap is not inflated. When that was first written in 1975 in California, \$250,000 was worth what today is worth \$1.6 million. The \$250,000 now is worth what was then worth less than \$39,000.

If there is no inflater put into this bill, and the Republicans in committee voted against it, except a couple of them, and they would not let me bring it onto the floor, then what we are really saying is people should get no recovery at all for pain and suffering and lifelong anguish and death and dismemberment. None. Only for lost wages, if they are workers, or for medical bills. Because eventually that is what this \$250,000 will be worth, next to nothing.

Finally, on frivolous lawsuits. On contingency fees you cannot bring frivolous lawsuits, which is why this bill does not mention it and why talking about it is so dishonest.

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

Mr. Speaker, I have been listening intently to this debate. Many of my friends on the other side of the aisle apparently have not been listening at all to the debate, and I just want to rebut a couple of their points.

First, they say this will not reduce insurance premiums. They were right in that it will not reduce insurance premiums by law, but the CBO says that overall insurance premiums will be reduced by 25 to 30 percent and more in States where there is a greater problem. That is the market working. That is the economics working on it. But those premiums are not going to be reduced if the current law stays where it is.

Then we have heard time and time again about \$250,000 in noneconomic damages. This bill gives each State the right to adjust that amount to a greater or a lesser amount. So the State legislatures can make a determination on whether \$250,000 is proper or not. If they fail to do so, then the \$250,000 in the HEALTH Act is the law for that State.

□ 1345

Finally, we have heard "Physician, heal thyself," and that a small number of physicians are responsible for the vast majority of malpractice claims. Let me say that the current tort liability system provides a huge disincentive for doctors to talk about problems

amongst themselves and to get the collective benefit of a number of doctors' opinions on how to treat a patient.

There has been a study that asked, "Generally speaking, how much do you think the fear of liability discourages medical professionals from openly discussing and thinking about ways to reduce medical errors?" Mr. Speaker, 59 percent of the physicians replied, "A lot."

If we pass this law, we will be seeing more collectively doctors' brains put together to deal with difficult cases, to talk about mistakes and make sure they do not happen again. This bill should be passed. I urge an aye vote on the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Ohio (Mr. BROWN) will control the time for the gentleman from Michigan (Mr. DINGELL).

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

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

Mr. Speaker, I rise today in strong support of H.R. 5. I am joined by every major medical association representing the doctors of America across this country and across the very specialty organizations that are so deeply affected by the rising cost of medical malpractice insurance that many of them are leaving the practice that they were trained to do.

I thank the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from California (Mr. COX) for drafting this legislation. I certainly thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the staff of the Committee on the Judiciary for working so closely with the staff of the Committee on Energy and Commerce to advance the cause of this very important bill.

We will hear many stories today about the victims and how they are harmed in the health care system. And, of course, we cannot dispute the fact that many doctors make human errors. In fact, yesterday we indicated that the To Err Is Human report encouraged us to pass a medical errors bill, which we passed yesterday on the floor, which is designed to begin sharing information to reduce the number of those errors and to make sure that doctors are not hauled into court every time they help one another when trying to reduce the number of errors in the system.

We know there are victims of medical errors, but we do not often hear about the victims of the medical malpractice system gone awry. They are the victims who get denied access to health care in very critical moments because some doctor could not get his insurance renewed because premiums were too high, some doctor left the practice, some medical clinic, some institute closed down in the community, the stories we heard from victims yesterday here in Washington, D.C.

One wife and children were here talking about how the husband and father was in a horrible automobile accident and went to the hospital, only to find out the neurosurgeon who should have been there to help him had lost coverage 4 days earlier and was no longer at the hospital to service them. That gentleman suffers massive brain disabilities as a result of not having someone there to serve him.

Many pregnant women look forward to a natural childbirth, only to find out that doctors are increasingly recommending C-sections, and doctors who deliver babies are getting out of the business because they cannot afford the skyrocketing liability coverage policies that they need.

60 Minutes did a piece on one of those doctors who gave his whole life, his career to delivering babies. He cannot do it any more. He is doing prenatal work now because he cannot afford the awful cost of liability coverage.

So not only are these doctors harmed because they cannot practice the professions they love and worked so hard to learn, but the patients that come to them are increasingly being harmed. Doctors are moving from one community to another, moving to States that have liability protection because they have learned that they cannot afford the liability coverage in the community they were raised and educated in. They have to move from Mississippi to Louisiana, for example, and Mississippi loses the availability of those good physicians.

Those hidden victims, patients who cannot get care, who suffer from a lack of access to health care, are just as real, just as injured as any victim who has been injured by medical error or malpractice in this country. We have to do something about this. It is a broken system. When the health care system breaks down, it is our responsibility to make sure that we fix it, and we fix it so it does not just work in California or Louisiana, it works across America.

Our families are spread all over. My children are living in all kinds of States. I want them to be able to walk into a hospital and find somebody ready to serve them. I do not want them to walk into a hospital in Mississippi and find out a needed doctor is not there. That is the task we have before us today. As we move this legislation forward, we will complete the task we started yesterday, on the one hand beginning to cure that awful problem of medical errors within the system, errors which produce injury, and recovery is possible under our legal laws; and, secondly, to make sure that the legal liability system is fixed.

What are we doing here? We are recommending to the Congress and to the Nation nothing more, nothing less than the experience of the great State of California, which in 1975 adopted the law upon which H.R. 5 is based, a law which has kept liability premiums in California at one-third the increase

level which has been experienced across the country. The other side of the aisle have been debating whether this will reduce insurance premiums. I tell them, go to CBO. CBO has estimated a 25 to 30 percent reduction in insurance costs across America if we pass H.R. 5.

Mr. Speaker, guess what, my State will not get that benefit. We already have the benefit of lower premiums because of reforms like this. Those premium reductions will go to States that do not have the benefit of a State law like California and Louisiana. Therefore, the reductions in premiums are likely to be higher in those States where there are no caps on liabilities.

One final thought. For those Members that are arguing that we are somehow capping the entire liability award, we are doing what California did with a Democratic governor and a Democratic legislature: We are only capping the noneconomic damages. That is the only thing we are capping. We are capping it at \$250,000, but we are telling California and Massachusetts and Louisiana, or any other State in the Nation, if they do not like that cap, they can adopt their own cap. They can adopt a higher or lower cap. This legislation preserves for the States the right to adopt the cap that works for them.

But this legislation for the first time will say to everyone in this country, we are all entitled to have a health care professional available to us when we need it who otherwise would not be here because of a liability system that is so broken that it drives decent health care workers out of business and out of their professions at our loss.

Mr. Speaker, this legislation has to get passed and has to get passed soon. I urge Members to adopt this legislation today.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want Members on both sides of the aisle to be aware of three unanswered questions about H.R. 5. First, if the authors of this bill are sure that it will reduce and stabilize medical malpractice premiums, why are insurers accountable for producing that result?

During the medical malpractice debate in Ohio, insurers said they do not know whether premiums would come down. During a recent hearing in Pennsylvania, the actuary witness said he could not say whether premiums would come down. Even Sherman Joyce, President of the American Tort Reform Association said, "We cannot tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

We are voting on a bill that overrides State law and undercuts compensation for victims of medical malpractice, yet we do not know whether medical malpractice premiums will come down. California passed tort reform in 1975. Medical malpractice premiums continued to go up. Not until California 13

years later demanded a reduction in premiums with insurance reform did the situation improve. Yet insurers have zero, no obligation under this bill.

We are supposed to take it on faith and trust the insurance companies that they will pass along the savings. Apparently we cannot trust patients, cannot trust juries, cannot trust lawyers, but we can trust the insurance industry.

My second question is: Why is there no single insurance reform in this bill? The authors of H.R. 5 refer again and again to MICRA. The gentleman from Louisiana (Mr. TAUZIN) did, other Members will. MICRA is the California law that sets a quarter-million-dollar liability cap. Members know it was not MICRA that brought down premiums in California, it was insurance reforms 13 years later. Malpractice insurance premiums rose 450 percent after MICRA went into effect, and only when California established a prereview of rate increases and automatic rollback of excessive premiums did the doctors get any relief, yet this bill has no insurance reforms, no premium rollback. Why? The insurance industry does not like it.

The third question is if H.R. 5 is a response to spiking medical malpractice insurance premiums, something we want to do something about and our substitute bill does, why does this bill shield HMOs, shield drug companies, shield medical device manufacturers, and shield insurance companies from liability? It might have something to do with the fact that those industries have given tens and tens and tens of millions of dollars to Republican candidates. The majority bristles at the notion that the curious omissions from this bill have something to do with helping their friends, the drug companies, the insurance industry, the HMOs and the medical device industry.

Mr. Speaker, if the majority wants Democrats and the American public to stop accusing them of catering to their corporate friends, then maybe the majority should stop catering to their corporate friends. Then we could write a bill that will help doctors, then we could write a bill that will help patients. This bill simply is not it.

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

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

Mr. Speaker, we would not help this debate by arguing that the other side is catering to trial lawyers. That is not going to help this debate. Let us argue on the facts for a debate.

The gentleman from Ohio (Mr. BROWN) may not agree with what happened in California, but this is what Senator FEINSTEIN said. "I believe MICRA is the reason rates have gone down." That is a California Senator talking about her State.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I am pleased to see this bill on the floor

today. We will hear many reasons today why this is a problem that needs to be dealt with but some reason about why is not the time. Now is the time to deal with this issue. Now is the time to put patients first, to see that our delivery system begins to function again. There are a dozen States that are in crisis mode and a dozen others that are about to get there.

The gentleman from Louisiana (Mr. TAUZIN) mentioned the people we had in town yesterday to talk about the importance of this bill, the two families that were here talking about what had happened to their families, not because they were in some isolated spot where one would assume care would not be available, but care was not available because we do not have this situation under control.

We had one family, a mother, a wife, two teenage children whose husband and father is no longer able to care for that family because instead of care being available, as it would have been just months ago minutes from the accident, care was now available 6 hours later because that person had to be moved.

We had one person talk about her dad in Las Vegas, Nevada, one of the fastest growing communities in the country, was in a car accident and could not get care because the trauma center had just closed because of this problem. That family's father is gone.

Mr. Speaker, any of us who vote on this legislation today could find ourselves, no matter how urban and concentrated the area we are traveling to in the next few days would be, in the situation of those families.

□ 1400

Or we can see those we love and care about, no matter how we think they would be in imminent contact with health care, find that health care was not available because we have not dealt with this problem. Today we have a chance to do that. Chairman GREENWOOD and Chairman TAUZIN and our friends on the Committee on the Judiciary brought this bill to the floor. It is a bill we need to pass today. I am pleased we have this opportunity.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. STUPAK), who cares about patients and physicians.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time. The majority of our doctors are hardworking and professional and serve their patients with the utmost ability. Only a few doctors are bad actors who act in negligent or irresponsible ways. But the reality is that this bill will do nothing to help doctors. It does not address the high insurance rates or the plight of doctors. H.R. 5 is totally misguided. It does not address insurance costs for doctors. Instead, it caps meritorious lawsuits where a judge or jury has found for the victim.

H.R. 5 puts a cap of \$250,000 on non-economic damages. Many dismiss non-

economic damages as pain and suffering and imply that they are less important than economic damages. The true definition of noneconomic damages are those damages that are real, permanent harms that cannot easily be quantified or measured in terms of money, such as blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility, loss of life, or loss of a child. These are horrific losses; and under this bill, they are capped at \$250,000.

I offered an amendment to remove the antitrust exemption for insurance companies. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain a single provision about insurance? The insurance industry is the last industry left in the United States that is not subject to antitrust laws. If we really want to bring insurance rates down well, we must make insurance companies subject to government regulation and competition and subject to our antitrust laws.

Everyone in this House of Representatives believes that something needs to be done about the skyrocketing costs of medical malpractice insurance.

The majority of our Nation's doctors are hard working and professional, and serve their patients to the utmost of their ability. Only a few—a small minority—of doctors are bad actors, who act in negligent or irresponsible ways.

But the reality is that this bill will not help our nation's responsible and hard-working doctors. It does not address the high insurance rates or the plight of our doctors. Only the Conyers-Dingell motion to recommit will accomplish these goals. I believe that the Conyers-Dingell bill is a targeted and positive measure to address malpractice insurance in this country.

H.R. 5, on the other hand, is a boon to HMOs, to drug companies, and to medical device manufacturers, who receive the bill's protection from damages without any justification. I cannot understand why a bill that is supposedly designed to help our Nation's doctors would include these other groups—except to provide them with an unjustified windfall.

H.R. 5 is totally misguided—it does not address insurance costs for doctors—instead it caps those meritorious lawsuits where a judge or a jury has found for the victim.

H.R. 5 puts a cap of \$250,000 on non-economic damages. Many dismiss non-economic damages as being pain and suffering, and imply that these are less important than economic damages.

The true definition of noneconomic damages are those real, permanent harms that cannot be easily quantified or measured in terms of money.

Noneconomic damages include blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility and the loss of a child. These are horrific losses—and under this bill they are capped at \$250,000.

And not only are they capped at this amount, but because this bill does not even allow an annual adjustment for inflation, each year that \$250,000 will lose more and more of its value, and be worth less and less.

I offered an amendment at the Rules Committee to allow an adjustment for the rate of

inflation, but my amendment was not made in order. I cannot believe that even this small and reasonable adjustment to help victims was denied.

I also offered an amendment to remove the antitrust exemption for insurance companies—that too was denied. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain one single provision about insurance rates for doctors?

Democrats offered an amendment to require that insurance companies should pass on 50 percent of the amounts that they save as a result of this bill to doctors in the form of lower premiums. This would be a true way to ensure relief to doctors. Of course, this amendment was denied.

Medical insurers are the only industry left in America that is not barred from getting together and setting rates. If we really want to bring insurance rates down, we must make insurance companies subject to government regulation, to competition, and to antitrust law.

This bill will do nothing to help our doctors. Statistics have shown that even where caps exist, premiums are still inflated.

For example, my own state of Michigan has a cap in medical malpractice cases of \$280,000 on noneconomic damages, with some limited exceptions.

Neighboring Illinois has no cap on noneconomic damages in these cases. Yet, the average liability premium in internal medicine is 1/3 higher in Michigan than the premium is in Illinois.

I support our Nation's doctors and I want to help them in the crisis they are facing. But voting for H.R. 5 and its misdirected caps will not provide that help, and I cannot support this bill.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Florida (Mr. STEARNS), chairman of the Subcommittee on Commerce, Trade and Consumer Protection of the Committee on Energy and Commerce.

Mr. STEARNS. Mr. Speaker, I am here to give a clear example from my home congressional district, a Dr. Joseph Hildner, a board-certified family-practice specialist in Belleview, Florida. He had a patient that was overweight and smoked too much. He never followed the doctor's advice, missed many appointments all the time, and failed to take blood pressure prescriptions. Suddenly the patient gets a heart attack, right? Then he sues because he was not cared for. The trial attorney simply identified anything that could have been done, declaring that no standard care was done for this patient by Dr. Hildner.

Obviously, Dr. Hildner tried to settle this thing because the doctor felt that he would go through long litigation. As it turns out, the lawyer was suing well above the amount of money that the insurance company had for his patient. This is just an example. So what happens to Dr. Hildner? His premiums go from \$30,000 to \$70,000. How does he pay? How do the doctors in this country pay? They start to hustle through more patients and more patients. They practice what is called defensive medi-

cine; they have all these tests, just simply to protect themselves. He admits he is hustling through all these patients like cattle. He cannot give them the attention they need. So now he is giving unnecessary tests.

In the end, we need this bill. That is why I am an original cosponsor of H.R. 5.

I rise as an original cosponsor of, and in support of H.R. 5. This bill would help curb some of explosive noneconomic damage awards in medical liability cases, and resultant soaring malpractice insurance rates that lawsuits have been spurring.

Physicians in my home state of Florida, among other states, are already in a state of crisis, as evidenced by the "walk-out" earlier this year.

Dr. W. Herman Sessions of the Family Practice Associates in Orange Park, FL, wrote to me recently that his practice is considering exiting. He wrote,

I am telling my female patients to get their mammograms this year because I feel that we are not going to be having mammograms read in the state of Florida next year. A radiology friend told me that it was at the last minute that they were able to obtain insurance to read mammograms. He told me that he is not certain that when their policy expires in one year that they will be reading mammograms without some sort of resolution to the liability crisis.

We have had difficulty recruiting physicians to our hospital because nobody wants to practice in the state of Florida with our liability problem. These physicians are surgeons and surgical subspecialists. Our local neurosurgeon obtained liability insurance on the very last day of the year and he is able to practice for the calendar year of 2003. I asked him what his plans are for 2004. He told me that he will either retire, do strictly office consultation and no surgery, or move to another state.

And my constituent Johnny Beach from Bell, Florida, a young, married University of Florida senior worries about his wife's access to OB/GYNs.

Importantly, this legislation rightly does not cap economic damages, so that the tort system can continue to protect patients from malpractice as intended. I am pleased to cosponsor this bill, and urge its passage.

Joseph Hildner, M.D., a board-certified Family Practice specialist in Belleview, FL, writes: "We had a patient who is an obese smoker. Never followed our advice, missed many appointments, failed to fill blood pressure prescriptions. Patients suffered a heart attack, then sued for failure to arrange a stress test." The trial attorney simply identified anything that might have been done, declared that to be the "standard of care", threatened to sue for higher than the doctor's coverage limits, then settled for less. Even with a 90 percent chance of winning, a physician can't take the chance of going to trial and losing: the "excess verdict" would allow for seizure of his own personal assets. So the doctor settles. Actual negligence need not occur; an attorney only has to do is allege negligence.

But citizens of Belleview lose. Dr. Hildner is known for excellent clinical outcomes at controlled costs. He says,

I've always enjoyed the art of medicine in which I get to practice clinical judgment. As a primary care physician, I am a shepherd, getting those who need it expensive high

tech care, and protecting those who don't from unnecessary interventions. I'm also known for taking time to listen and explain. I don't have my hand on the doorknob while a patient is trying to talk.

Last year his insurance premium increased from \$30,000 to \$70,000. How does he pay? Now has to see more patients, and spend less time. "I'm now having to talk patients into "defensive medicine" tests they don't need, just so I can protect myself. I am beginning to hustle my patients through like cattle, to see enough to pay the bills. So this friendly country doctor known for using clinical judgment, and providing efficient, cost-contained, appropriate care, and known for taking time, is now talking patients into unnecessary tests (which is running up costs), and hustling them through."

Pass H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I just want to explain how this bill helps HMOs and hurts those patients that are victims of HMOs. Many of us for the last 4 years on a bipartisan basis tried to push a patients' bill of rights that basically would say that if you are denied care by your HMO, you can go to an outside maybe administrative agency and then finally can go to court and sue because of the denial of care and what the consequences of that were and actually get damages from a jury or a judge. This bill would kill that.

In many States, as well as in some Federal courts right now, patients have been given the right to sue an HMO, which is exactly what we were trying to do here in Congress when we supported a patients' bill of rights. But this bill says, no, you are not going to be able to do that anymore because it limits your ability to recover noneconomic damages as well as punitive damages against an HMO or another private insurance company.

I think there is a great deal of hypocrisy here. There are Members on the Republican side of the aisle that have said for years that they want to expand victims rights if they have been denied care or hurt in some way by an HMO, but they turn around today and they pass this bill which they are going to pass which basically limits those victims and their ability to sue an HMO even though the State courts and even though a lot of the Federal courts are now expanding victims' rights to sue.

What we are doing here is preempting the State law. If a State says, as mine in New Jersey says, that you can sue an HMO, this bill comes in and says, well, you can do it only under very limited circumstances. You cannot come here and say that you care about the victims. You do not care about the victims not only because you are putting a cap on them of \$250,000 but you are not even going to let them sue the HMO in a fair way.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), chairman of the Subcommittee on

Health of the Committee on Energy and Commerce, who has done such great work on this bill.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time. I, of course, rise in support of H.R. 5. I believe that the sensible reforms contained in this bill will go a long way toward alleviating the medical liability insurance crisis many States are facing and will also help prevent future crises from occurring.

On Tuesday of last week, the Energy and Commerce Subcommittee on Health, which I chair, approved H.R. 5, which was subsequently approved by the full committee on Thursday. In both cases, approval was by voice vote. The severity of the current crisis has necessitated that we act now. I would note that our committee has held numerous hearings over the past year to explore this issue and consider potential solutions.

That is why I continue to be disappointed with the rhetoric surrounding this debate. As chairman, I had wanted to focus a good deal of our last subcommittee hearing on how the insurance industry sets medical liability insurance premiums. In fact, the majority invited both the American Academy of Actuaries and the Physician Insurers Association of America to come testify at our hearing. Unfortunately, in spite of all the rhetoric on insurance, unfortunately the minority did not invite any insurance witnesses. Instead, they once again played politics, including inviting a witness to discuss something called Proposition 103, which he claimed is the real reason why California has been largely insulated from the current crisis. That struck me as somewhat odd, considering that the organizations working to defeat H.R. 5 never mentioned this ballot initiative during our debate on H.R. 4600 in the last Congress, even though this initiative passed in 1988.

What this tells me is that many people would rather play politics than work towards a real solution. I respect that some Members may feel that it is never appropriate to place any limit on subjective, unquantifiable, non-economic damages regardless of the cost to the health care system. However, I do not respect those who will do or say anything to derail this process. I am voting for this bill because by doing so I am moving us one step closer to a solution. The medical community and the patients they serve demand it.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. DOYLE), who has stood up for patients and doctors alike.

Mr. DOYLE. Mr. Speaker, I represent Pittsburgh, Pennsylvania; and in the great State of Pennsylvania, doctors are paying way, way too much for malpractice insurance. It is a crisis, and they need some immediate relief. Unfortunately, the bill we have before us today will do nothing to give any doctor in my State any immediate relief.

It will not do a single thing to reduce frivolous lawsuits. There is nothing in this bill that will reduce frivolous lawsuits.

So, Mr. Speaker, what should we do to address this situation? In Pennsylvania, we have just recently last year passed three laws that I believe are going a long way to address the problem. Number one, Pennsylvania has prohibited venue shopping for oversympathetic jury pools. We have established tough sanctions against lawyers who filed frivolous suits. We have reformed joint and several liability provisions to ensure all liable parties are truly responsible for their fair share of the judgment. We have established strict new standards for expert witnesses. We have allowed courts to reduce verdict amounts if the award will adversely impact access to health care. We have imposed a 7-year statute of limitations on filing of claims, and we have required insurers to offer patients safety discounts to medical facilities with good track records.

These are the types of reforms that will help deal with the situation. Putting a \$250,000 cap on noneconomic damages disproportionately hurts poor people. These damage awards, they are not the cause of the problem. Two-thirds of patients who file claims receive nothing. Only 7 percent of these cases go to court. Let us not cap damages on people who can least afford it. Let us let States like Pennsylvania enact meaningful reforms like we have already done.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD), chairman of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce and the author of this legislation.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me this time. I would like to respond to some of the arguments made by the opponents. First off, there has been this constant drumbeat of accusations that somehow this legislation does not provide the care and the coverage for those who are harmed. Let us say it for the 15th time: this bill allows anyone who is injured by a doctor or a hospital or any other health care entity the ability to recover every single penny of economic damages, all their medical care, all their lost wages, lifetimes of lost wages. There are cases over and over again in the State of California that has this legislation in place where there are awards of \$50 million, \$80 million, et cetera. Plenty of money for the victims to cover their needs.

Secondly, there is this drumbeat that this is really about the insurance industry. Why are we not regulating the insurance industry? Listen carefully. Sixty percent of the physicians in this country buy their medical liability insurance from physician-owned companies. Those companies exist for one purpose, and that is to keep the price of medical liability insurance low.

They do not gouge their customers; they do not collude with one another, because they are the doctors. They are not doing anything to raise rates or to hold rates up high. They are doing everything to push rates down. Guess what? They cannot offer lower premium prices than commercial insurers. So if your whole thesis here is, oh, those insurance companies, they are overcharging, they are gouging, they are colluding, explain to me, I beg you, stand up and explain to me why it is that the physician-owned companies are in the same boat and are not able to provide affordable coverage?

The gentleman from New Jersey (Mr. PALLONE) talked about shielding pharmaceutical companies, shielding HMOs, device companies from lawsuits. This bill does nothing of the kind. If a pharmaceutical company is guilty of making bad medicine or overcharging medicine, they will be liable for millions of dollars, untold millions of dollars for economic damages. There is no shield whatsoever.

Then finally let me say this. We have heard over and over again from the opponents of this legislation, it does not really help doctors. Let us see who supports it: the American Medical Association, the American Association of Neurological Surgeons, the American Association of Nurse Anesthetists, the American Association of Orthopedic Surgeons, the American Association of Thoracic Surgery, the American Association for Vascular Surgery, the American College of Cardiology, the College of Chest Physicians, the College of Emergency Physicians, the College of Nurse Midwives, the College of Nurse Practitioners, the California Medical Association. Every doctors' group in America supports this legislation.

So do not stand up with a straight face, opponents of this legislation, and tell us that the doctors are not smart enough to figure out that this is exactly the prescription that they need.

Mr. BROWN of Ohio. Mr. Speaker, understand that physician-owned companies are still companies that practice business the way other businessmen and women do.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the full Committee on Energy and Commerce.

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

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

Mr. Speaker, we are witnessing a sorry spectacle today. Not only are we denied opportunity to properly debate but also to properly amend. And the doctors are being herded along in front of the HMOs and the insurance companies, because those insurance companies and HMOs are the beneficiaries of this legislation, not the doctors.

The Republican bill does nothing to limit frivolous lawsuits. It does, however, limit responsible lawsuits. The



Republicans would restrict the rights of doctors by protecting HMOs, not by assuring that HMOs are subject to the discipline of the court.

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Republicans limit awards for meritorious claims. Republicans impose hurdles on aggrieved patients.

This is an outrageous piece of legislation. It is brought to the floor under outrageous proceedings. Thirty-one Members have asked for opportunities to offer amendments. They were denied. We are not even given a chance to offer a substitute to this legislation.

I can understand how my Republican colleagues are all looking sheepish and why they are thoroughly embarrassed. I would be embarrassed if I were engaged in this kind of practice myself, because, quite honestly, it is shameful, and it is totally inconsistent with the practices, rules and traditions of the House of Representatives. It is, indeed, a blow to the heart of the legislative process and responsible legislating. It is also a bite on the throat of the right to free debate and the right to amend and perfect legislation.

One of the important responsibilities of this body is to be able to amend legislation, for the House to work its will, for us to represent our people, for them to hear not only responsible debate, but to know that their will is heard and that their concerns are met, not only by debate, but by proper use of the amendment process. That is denied to us today, and I say to my Republican colleagues, shame on you. You have brought shame upon the House of Representatives. You have embarrassed me. I hope you have embarrassed yourselves.

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

Mr. Speaker, I only want to point out to the House that the substitute offered by the gentleman from Michigan (Mr. DINGELL) in subcommittee and full committee was defeated on a bipartisan vote in full committee of 30 noes to 20 yeas.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. COX).

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

We are here today because patients are losing, many have lost, access to care. People are dying as a result of not being able to see doctors in emergency rooms. Doctors who have never been sued are quitting the practice of medicine, and talented young men and women are not seeking careers in medicine because of what is happening.

Today there are billionaire lawyers. There is no such thing as a billionaire doctor. All of these billionaire lawyers have made their money in health care lawsuits.

The opponents of this legislation would have us believe that the phenomenon of billionaire lawyers is a reflection of social justice, but it is not. This money is coming out of our health

care system. It is taking doctors out of emergency rooms. It is preventing women who are trying to deliver babies from having OB/GYNs available. There are not enough neurosurgeons to provide emergency care.

In Florida, the Orlando Regional Medical Center, which serves 33 counties, is planning to close its Level 1 trauma unit this month. Patients with serious head and neck injuries will have to be diverted to other hospitals. But in Florida those other hospitals in Tampa and Jacksonville, those trauma units are already overcrowded. The reason patients, particularly poor patients in Medicaid and in emergency rooms, cannot get care is the liability crisis caused by runaway lawsuits.

Doctors and hospitals now spend more on liability insurance than on medical equipment. The Chicago Tribune reports that in Illinois liability insurance premiums are rising 100 percent or more for high risk specialties. Our intention is that no more patients are denied the care that they need because the doctors who wish to serve them cannot afford liability insurance.

The solution, H.R. 5, the HEALTH Act, which I have introduced in this Congress since 1993 and am now co-authoring with the gentleman from Pennsylvania (Mr. GREENWOOD), is based on California's law, written by a Democratic legislature and signed by Jerry Brown, a Democratic Governor.

We have these reforms in our State, and they work. California's medical liability insurance premiums in constant dollars have fallen by more than 40 percent, while the rest of the country is in crisis. Injured patients in my State of California receive compensation more quickly than in the U.S. as a whole. Injured patients receive a greater share of the recoveries in lawsuits. California no longer suffers from the flight of doctors and needed services that we have seen in so many other parts of the country.

By passing this legislation, we will bring these California reforms nationwide, making health care more accessible for patients who are today denied care. I urge this House to pass the HEALTH Act, H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY), a member of the committee and an advocate for patients.

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Speaker I rise in opposition to H.R. 5 and in favor of the motion to recommit.

Mr. Speaker, I rise today in opposition to H.R. 5, a measure which restricts the rights of legitimately injured patients harmed by medical malpractice, restricts the rights of doctors in favor of insurance companies and does nothing to curtail frivolous law suits nor restrains insurance rates.

In addition to trampling on patient rights, this bill tramples on state's rights. H.R. 5 takes the

constitutional concept of federalism to the extreme by severely limiting the traditional rights of plaintiffs seeking damages, a matter that should not be decided by Congress because it proposes tort reforms that are traditionally, and possibly constitutionally, areas to be decided by state legislatures and state courts.

Twenty-five states including Missouri cap non-economic damages to victims. The average Missouri award is \$81,000 well below the \$250,000 cap presented in H.R. 5, as well as Missouri state law. Twenty states courts have ruled that caps on damages are unconstitutional. H.R. 5 enacts a statute of limitations which 18 state courts have ruled unconstitutional. It is inappropriate for Congress to limit the rights of individuals when state courts have ruled that their rights are protected under state constitutions.

Missourians Jay and Sue Stratman have a son, Daniel Lee Stratman, who is only 11 years old. In July of 1996 Daniel was checked into the hospital for "minor" outpatient hernia repair surgery. Daniel was set to be released that same evening. Daniel was not released until November 8 of that year and nothing has been the same for either Daniel or his family.

Daniel is permanently disabled due to severe brain damage, which was a result of multiple repeated anesthetic errors during the supposedly routine surgery for inguinal hernia repair. As a result of the medical errors, Daniel has suffered profound neurological damage including severe cognitive deficits, a decreased level of awareness, diminished bowel and bladder control, and severe gross and fine motor skill injury. He is cortically blind due to the lack of oxygen and perfusion to his brain during surgery. His comprehension level and communication capability have been severely diminished. Daniel requires 24-hour vigilance and this will be true for all of his remaining 70-year life expectancy.

The cap in H.R. 5 unjustly penalizes those individuals without income, like Daniel. Others that fall into that category include: stay-at-home moms and the elderly. When a stay-at-home mom dies, or a child dies, or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income.

By capping punitive damages, H.R. 5 limits protection for injured patients like Daniel. Instead the bill before us protects HMOs and big insurance companies from legal responsibility. HMOs and big health insurers, who are also big campaign contributors, should not receive special treatment under the law.

Further, H.R. 5 does nothing to reduce insurance premiums for doctors—the very thing Congress needs to address. Currently, medical malpractice insurance rates are rising because insurance companies are squeezing doctors to make up for investment losses over the last few years, investment loses most citizens have also experienced. Instead of penalizing doctors, hospitals and patients Congress should make major reforms to the insurance industry.

I support the Conyers-Dingell motion to recommit because it rightly focuses on giving Americans quality healthcare and weeding out frivolous lawsuits while maintaining the rights of patients with legitimate claims, and respect for the humanitarian doctor's perform.

I urge my colleagues to oppose H.R. 5 and support the motion to recommit to include patient's rights and state's rights.



Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN), who has pointed out in USA Today that the malpractice premiums are only 3 percent of revenue, actually less than the rent that physicians pay.

Mr. ALLEN. Mr. Speaker, this bill will not reduce health care spending significantly. If you add up all the malpractice premiums in this country, they represent one-half of 1 percent of the \$1.4 trillion we spent on health care last year.

Now, some States have problems. Maine does not impose caps on non-economic damages, yet we have comparatively low insurance premiums. Maine has a mandatory pre-litigation screening panel for every medical malpractice case. The panel consists of one attorney, one doctor and one retired judge. This panel process weeds out the frivolous lawsuits and encourages legitimate cases to come to a fairly quick resolution. Sixteen other States have similar screening panels.

States with screening panels should be exempt from the cap on non-economic damages. There is no reason to impose this law on States which have figured out how to deal with this problem on their own. But this bill imposes a one-size-fits-all Federal rule in a traditional area of State jurisdiction.

And this bill does something else. This bill sticks individual plaintiffs, particularly those who are children or unemployed or elderly, with perhaps a huge lifetime cost because of severe injuries, instead of sharing those costs through our insurance system. So, once again, the Republican majority is basically saying it is better to stick the loss on those who suffer it than to share that loss broadly through insurance.

A \$250,000 cap does not mean \$250,000 will ever go to a plaintiff, because they always have expenses and attorney's fees and all of that. It seems to me that this cap is unbelievably low, it is imposed arbitrarily on States which have figured out another way to deal with this problem, it is bad policy, and I urge my colleagues to vote down H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, if H.R. 5 passes, we will be committing legislative malpractice, in my view. Listen to my constituents. If you were on a jury, you just might feel they deserve more than \$250,000 for the pain and suffering they have suffered and will suffer. H.R. 5 would take that right away from you and other citizens.

"On May 19, 2000," writes my constituent, "I went for an outpatient surgery. During the surgery, the oxygen ignited, unbeknownst to the surgeon, the anesthesiologist and three to four other highly-trained medical personnel in the room. While the surgery continued, my entire face was burned.

"After a year of failed treatment to deal with the scarring, essentially I lost my entire upper lip, the front of my nose, the floor of the nose and immediate interior of my nose. I was referred to a specialist in Boston for reconstructive treatment. For these past three years I have been in a mask covering my face and I have nasal tubes to stent open my nose for 23 hours a day. With my mask on, I can only drink through a straw. My breathing was entirely cut off for almost 2 years, and is still not stable due to the scarring inside my nose. I have to travel to Boston monthly. I have been through eight surgeries and have two to four more pending, plus oral surgery and orthodontics.

"My claim is not frivolous, in spite of the rhetoric of the medical insurance and political spokespersons favoring legislation to cap awards for pain and suffering at \$250,000.

"Legislation to cap damages fundamentally punishes again the victims of these horrendous medical mistakes. It is astonishing that federally proposed legislation would first target the victims of these errors before addressing the errors themselves."

The other one is from a grieving father of Rabbi Josef Yitzchak Lefkowitz, 28-years-old, who went into the hospital for an adjustment to his bite. In the recovery, the breathing tube fell out of his nose, but his jaw was wired shut and they could not find wire cutters to open his mouth. He died an agonizing and painful death.

These are not lottery winners. These are not people who won the jackpot. They deserve better than H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I believe we can all acknowledge that rising medical malpractice premiums are hurting doctors and patients. But I heard earlier from the other side that trauma centers are closing, and they are closing in Los Angeles. But it is not because of frivolous lawsuits, it is because we have not provided adequate reimbursement for Medicaid for those poor hospitals. That is why, and we are not even addressing that.

I have to say, with all due respect, that the bill will not lower insurance premiums. Caps in California did not lower premiums. Insurance reform did, Proposition 103, and only slightly, because we are still above many other States in the country.

We need to bring insurance providers to the table and we need to have that kind of discussion, not one that talks back and forth here on the floor.

Caps on noneconomic damages unfairly penalize children, retirees and stay-at-home moms. And you know why? Because they do not make an income.

Mr. Ed Whiddon, a retired lieutenant colonel in the Air Force, was a victim of malpractice at the hands of an anesthesiologist who left him a paraplegic.

His compensation was almost entirely for pain and suffering damages because he was retired, no income, did not qualify for lost wages.

The bill would unfairly limit damages for retirees like this former member of our Armed Forces and others who earn no wages, like poor moms and children.

Let us protect patients' rights. Let us help those poor people. Let us open up those trauma centers by really addressing the issue adequately. This way is the wrong way. I urge my colleagues to oppose H.R. 5 and to support the Conyers-Dingell alternative.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Houston (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, my Ohio colleague could not say Texas. He just wanted to say Houston.

Mr. Speaker, I rise in opposition to H.R. 5, and I am frustrated like a lot of Members, one because we do not have an opportunity to have additional amendments. I thank our chairman for allowing us to let democracy work its will in our committee. We had a long hearing all day. But here on the floor we do not have that option. The same thing happened last year on prescription drugs. It is frustrating.

We are fighting for democracy all over the world, but we do not get to have a voice here on the floor of the House with an alternative.

I have a district in Texas, and we have a medical malpractice crisis. Of course, we have gone in and out of this for the last 30 years, but it has been dealt with by our State legislature in Texas, and literally as we stand here today, there is legislation that is out of the committee on the floor of the House for consideration that will solve our problem in Texas where it should be dealt with.

Thirty-seven States, including my home State of Texas, are considering legislation that would address the malpractice situation. We do not need Congress to tell us what to do. We can deal with it.

If Congress makes a mistake with H.R. 5, and I consider it a mistake, it is one-size-fits-all. Washington-knows-best for all 50 States, instead of letting the States deal with it.

The California experience that my colleagues on the Republican side talk about so successful, it was California, as hard as it is for a Texan to say they did something good, but it works. We do not need to tell California or Texas or any other State what they can do. They can deal with it, instead of us dealing with it here.

But let me talk about H.R. 5 just a little bit. It does not deal with medical errors, we have separate legislation on that; it does not stem the tide of frivolous lawsuits; and it does not help us deal with physician shortages. That is why it should be voted down.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

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

Mr. WAXMAN. Mr. Speaker, I am going to put a longer statement in the RECORD, but I want to say this, that this bill is a flawed approach. It has a one-size-fits-all approach to every State, and it ought to be up to the States to decide how to deal with these issues.

California has a law that California's legislature adopted. But California and other States have jurisdiction over liability laws and licensure of medical professionals and disciplining those who are conducting malpractice. We ought not to take this whole thing over here in Washington. States ought to be able to adopt their own laws.

Secondly, the tort laws are to serve two purposes. First, to make people whole who are injured. By putting a cap on damages, it denies individuals the ability to be made whole through the court system.

Secondly, the idea of the tort law is to deter future malpractice, and I am afraid we are not going to deter future malpractice by this legislation.

I want to lastly point out, this bill goes beyond California law. It gives special treatment to HMOs, to pharmaceutical manufacturers and medical device manufacturers in a way that is completely inappropriate through an FDA approval process that then insulates them from liability for punitive damages, which I think is way out of line and wrong.

Mr. Speaker, I rise in opposition to this bill because it is fundamentally flawed and will do far more harm than good. It imposes a one-size fits all solution on every state. It imposes arbitrary caps on liability that defeat the purpose of compensatory and punitive damages. It gives legal protections that go far beyond the legitimate needs of doctors, benefiting profitable pharmaceuticals, HMOs, and insurance companies. And to add insult to injury, all of this comes at the expense of the injured victims of medical malpractice.

States have traditionally handled every aspect of the medical malpractice insurance problem, and are better equipped than the federal government to respond to skyrocketing insurance premiums in some areas of the country. States establish the applicable standards of care for health care professionals and are responsible for their licensure. States are responsible for boards of discipline and criminal laws to deter and punish professional misconduct. States are responsible for the rules governing lawsuits and the functioning of their civil justice system. And states are responsible for the regulation of the insurance industry. Like the State of California, which the supporters of this legislation hold up as a model for the country, other states are perfectly capable of enacting appropriate liability and insurance reform.

This bill, however, establishes a one-size-fits-all solution on the entire country and overrides state laws. For example, if this bill is enacted, states cannot elect to have a longer statute of limitations. States cannot opt out of liability caps. States cannot choose to inform injuries of caps on liability or impose the tradi-

tional rule of joint and several liability. States cannot allow punitive damages in cases involving drugs and medical devices approved by the FDA.

H.R. 5 also takes the wrong approach to tort damages, which are designed to make victims of medical malpractice whole and punish those who have engaged in egregious misconduct. H.R. 5 allows unlimited recovery for objectively quantifiable damages, such as lost wages or medical bills, but it caps non-economic damages at \$250,000. Non-economic damages are difficult to quantify, but they nonetheless compensate victims for real injuries such pain and suffering, the loss of the child, the loss of a limb, or permanent disfigurement. This bill's cap of \$250,000 is clearly not enough to make victims whole in every case. H.R. 5 also takes the wrong approach to punitive damages, which are capped at two times the amount of economic damages or \$250,000. Many wrongdoers protected by this bill—including HMOs, insurance companies, and pharmaceuticals—could absorb such a penalty with absolutely no impact on their bottom line. This defeats the very purpose of punitive damages in our system of justice, which is to punish wrongdoers and deter future misconduct.

In addition to these problems, this bill is a blatant give-away to special interests. It conspicuously ignores the business practices of insurance companies, which are certainly a cause—if not the primary cause—of the medical malpractice insurance crisis. And the bill gives special liability protection to large, profitable corporations such as MHOs and the manufacturers, suppliers, and distributors of drugs and medical devices. While these corporations have been major contributors to the Republican party, they have done little else to make a case for the protections they've won in H.R. 5.

I urge my colleagues to oppose the bill.

□ 1430

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Ohio (Mr. BROWN) has 2½ minutes remaining; the gentleman from Louisiana (Mr. TAUZIN) has 1½ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I have only one additional speaker to close, so I would urge my friend to use up the balance of his time.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman. We have two more speakers.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL). (Mr. ENGEL asked and was given permission to revise and extend his remarks.)

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

Mr. Speaker, let me say up front that I think we need to help doctors with unconscionable medical malpractice rates. I mean this most sincerely, and I pledge to do everything I can to help them; but this bill is not the way to go. It will adversely impact patients who are injured. These are people whose lives are irreparably harmed and this legislation, in my opinion, punishes them even further.

We can find a balance, but the majority is ramming this legislation through

the House without regard to how it will hurt victims of negligent practices.

A \$250,000 cap on economic damages disproportionately affects those who do not earn a lot of money. Someone with a minimum-wage job or a stay-at-home mom or dad cannot place a value on their work, but a corporate executive will walk away with millions in economic damages. This is not what we should be advocating in the House.

Further, the legislation limits the statute of limitations to 3 years from the day the injury occurred or 1 year from the day the injury is discovered. This is not fair. I had an amendment which I tried to put forward in the Committee on Rules in the hope that they would allow us an up-or-down vote on the floor. It was turned down. There are some injuries, for instance, HIV/AIDS or blood transfusions, where people do not find out about their injuries for more than 3 years.

So I believe this bill is not the way to go. It should be voted down, and I hope we can come back with good compromise legislation that helps doctors with malpractice rates.

Mr. BROWN of Ohio. Mr. Speaker, I would point out that we will have a motion to recommit, since the majority would not allow us any other amendments of the 31 requested.

Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this bill has one huge flaw that even its proponents concede: that the benefits, if any, flow directly to the insurance companies, not to the doctors. Therefore, I tried to perfect this bill. During the Committee on Energy and Commerce markup, I offered an amendment to ensure that the savings from the bill's caps on damages for patients' pain and suffering would be passed along to the doctors in the form of reductions in their liability insurance premiums. Every Republican voted no. They each voted with the insurance industry.

This bill deserves to be defeated, as long as there is no effective guarantee that savings from the bill's caps on damage will go not to doctors, but to the insurance industry.

This bill claims to be a cure for the high cost of insurance premiums paid by doctors, but it is really just insurance for insurance companies. It is a public policy placebo that only offers the illusion of relief from sky-high insurance premiums, while pumping cash into the bottom line of insurance companies.

Capping damages may save insurance companies money when their policyholders are sued, but the bill does not require insurers to pass along one cent of savings to the doctors so that they can stay practicing in local communities across this country.

We can all agree that health care liability insurance is a critical issue that has significant impact on patients, on doctors, on insurance; but

this bill leaves out one critical link: the doctors who will not receive the benefits of the lower premiums that have been promised.

Vote "no" on this gag bill that does not allow for a full debate on the House floor.

Mr. TAUZIN. Mr. Speaker, I want to quickly point out, our own Congressional Budget Office estimates a 25 to 30 percent reduction in malpractice insurance costs and a savings to the U.S. Government alone of \$18.1 billion if this bill passes.

Mr. Speaker, I yield the balance of our time for closing to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, congratulations to the chairman for all of his good work on this bill.

I rise in strong support of this legislation. I am proud to be a cosponsor, and I am pleased that today we finally move forward with meaningful, structural reforms that will have a tremendous impact on the medical liability crisis looming before our country.

Over the past few months I have seen health care providers, doctors, hospitals, nursing homes, all of our caregivers, curtail services to the community and to people in need. Why? They have done so because of the fear of frivolous lawsuits and these lawsuits which have caused insurance costs to skyrocket.

What amazes me is the misinformation that is out there on this issue and that has recklessly entered this debate. In fact, there is so much misinformation that some individuals in this body, I think, have forgotten what it is that we are trying to accomplish here.

Just the other day, I read an article claiming that medical liability reforms that we are going to pass with this bill will make it more difficult for patients to find lawyers. That is right. Is that the crisis that we are facing today? Not enough lawyers? Of course not. That is not what we are here for.

We are here because of patients, because we want to preserve patient access to care. All patients, whether a senior or a newborn baby, deserve the highest quality of care. But at the current rate, we cannot keep this promise.

My family has personally experienced the effects of this liability crisis in New Jersey with the recent birth of our third child. My wife's doctor lost her partner. The other OB whom she practices with had to leave the State because her insurance costs were too high. Our doctor was there for us, but I fear for other moms and dads, fathers and mothers, and loved ones in the future.

Frivolous lawsuits have never healed anyone. I have never met a trial lawyer who was developing a new treatment for AIDS. I have never seen a frivolous lawsuit treat someone with diabetes. I have never heard of a multimillion dollar jackpot reward that served a disabled veteran in a wheelchair. What they have done is driven patients away from their doctors.

Mr. Speaker, these are reasonable reforms. It is time that we ensure that our health care system serves patients and not trial lawyers. Vote "yes" on the HEALTH Act.

Ms. LEE. Mr. Speaker, for a nation that boasts about being the wealthiest in the world, claiming liberty and justice for all, the fact that there are over 40 million people without health insurance is a contradiction and a shame. And instead of addressing this crisis head on, this Administration and House Republican leadership continues to talk about health care and do nothing.

The bulk of the uninsured are low-income and minorities. These are the Americans who too often are ignored. The uninsured have lived a campaign of survival, and deserve a voice today and every day on this floor.

As I stand before you on this floor, I would like to introduce you to these voiceless constituents. They are the men and women who have jobs in our stagnant economy. Most Americans receive health insurance through their employers, but millions lack coverage because their employers do not offer insurance or simply cannot afford to pay for it.

Many of these working Americans qualify for Medicaid. Medicaid covers 40 million low-income people and their families, but millions more do not meet its limiting income and eligibility requirements because of savage welfare reform restrictions crafted by the Republicans, leaving the most vulnerable uninsured.

The numbers speak volumes. Fifty-six percent of the uninsured population are low-income and nearly one in five of the uninsured are low-income children. Although minorities comprise only 34 percent of the population, over half of the nation's uninsured are minorities. Twenty percent of these uninsured are African American and 34 percent are Hispanic.

Minorities and the underserved bear a disproportionate burden of mortality and morbidity across a wide range of health conditions. Mortality is a crude indicator of health status and demonstrates how critical these disparities are for minorities. For African Americans and Latinos, these disparities begin early in life and persist. African American infant mortality rates are more than double those of whites, 14 percent vs 16 percent, and the rate for Latinos is 9 percent compared to 6 percent for whites. The death rate for African Americans is 55 percent higher than for whites, with AIDS being the 6th leading cause of death for African American males. I could go on with a multitude of statistics that clearly illustrate the stark disparities in health care that exist for minorities. Yet the point remains that these disparities are a result of lack of insurance and lack of access to health care.

Health insurance is important because it impacts health outcomes. Nearly 40 percent of the uninsured have no regular source of health care and use emergency care more due to avoiding high cost regular visits. This situation creates an ongoing cycle of adults and children skipping routine check-ups for common conditions, recommended tests, and treatments because of the financial burden, resulting in serious illnesses that are more costly. The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided.

The message we must send is that universal health care that provides high quality health care should be provided without dis-

crimination. That is why today I am introducing H.R. 3000, the U.S. Universal Health Service Act (U.S. UHSA). This proposal challenges us as Americans to take another look at the fundamental role government will have to play if we are ever to achieve an equitable and rational health care system.

Universal health care is the only way we can provide equal access and fairness to our health care system. The uninsured are suffering; if we don't acknowledge health care as a basic human right soon, it will be too late for some, and our society's most vulnerable will continue to suffer. Our nation is the only industrialized nation that does not have a health insurance program for everyone, and our health care system is failing. Make health care accessible! Make health care affordable! Make health care a guarantee! I encourage all of my colleagues to cosponsor H.R. 3000 and support health care for all.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong opposition to H.R. 5, the "Medical Malpractice and Insurance Reform Act of 2003." Furthermore, I fervently object to the House Rules Committee's prohibition of amendments to this controversial measure, a decision that does not allow for open objective debate or consideration of any worthy alternatives. The rule governing this measure smacks of partisan politics, favors the corporate insurance industry over the health and well-being of the American population, and effectively subverts our great nation's democratic process. Denying us the opportunity to discuss this openly is absolutely unacceptable and exposes what this legislation is all about.

H.R. 5 is purportedly designed to lower the high costs of physicians' medical malpractice insurance rates. We all agree that skyrocketing insurance premiums for medical malpractice are spiraling out of control and demand immediate attention. This bill, however, will not guarantee lower rates for doctors. Instead, it will severely limit victims' ability to recover compensation for damages caused by medical negligence, defective products and irresponsible insurance providers. In other words, H.R. 5 does not fix the problems plaguing the nation's health care system: it rewards insurance companies for bad investment decisions, offers minimal deterrence to doctors practicing bad medicine, and seriously restricts the rights of injured patients to be compensated for their injuries caused by such practices.

It is clear that the House leadership is not really trying to help doctors, but rather their friends in the insurance industry. H.R. 5 would usurp the role of the jury by empowering the Congress to determine the rate of compensation due to malpractice victims. The insurance industry often ridicules the rare million-dollar "windfall" jury awards given, asserting that the victim must feel like they have won the lottery. Do you suppose the parents of the 17-year-old transplant patient who died after being given the wrong blood type, or the Wisconsin woman who had a double mastectomy, only to discover after the operation that the lab had made a mistake and she did not have cancer after all, feel as if the jury-awarded compensation has enriched their lives? I think not. It is doubtful that any person or family that loses a loved one, or suffers years of pain and suffering because of a medicinal mistake or oversight, feels like celebrating, especially after fighting their way through the court system and finally receiving compensation.

The insurance industry continually asserts that recent hikes in malpractice premiums are caused by excessive jury awards, and that the only remedy is to cap damage awards in malpractice lawsuits at \$250,000—no matter how egregious or irresponsible the case. Capping damage awards will not lower insurance rates nor address the real problems in the medical liability system primarily for two reasons—First, the cyclical nature of the insurance industry, that is, raising premiums to recoup losses due to bad investments in the stock market, and second, the number of medical errors made by the medical profession.

Instead of enabling insurers, we should reject the one-size-fits-all cap that will restrict the ability of those most severely affected by a medical mistake—Americans who struggle daily to make ends meet—to be properly compensated.

I am sympathetic to those good doctors and care givers who must pay soaring insurance bills or be forced to shut down their practices because of the exorbitant cost of liability insurance. Currently, malpractice premiums in my state of New Mexico are relatively low in comparison to those in some other states. However, due to increased concern over other economic and health related issues, we are already feeling the effect of our best physicians leaving the area to work elsewhere. Accordingly, I am extremely sensitive to the impact that increased premiums would present to this already delicate situation.

The vast majority of doctors serve the public well. Instead of a real solution for these reputable doctors, the Leadership's plan punishes the innocent victims of medical malpractice, and does not reduce the premiums for good doctors. To reduce the malpractice premiums physicians pay, reforming the insurance industry and implementing programs to reduce medical errors and cracking down on negligent doctors would be a better solution than the liability caps and tort reform initiatives the Leadership supports today, legislation that directly and adversely affects the victims of medical malpractice and their loved ones.

As our nation's lawmakers, I firmly believe that we must pledge to continue to work with doctors and patients to find equitable solutions for the numerous problems that plague access to quality health care in this country. We must act now to ensure that our good doctors are not unjustly punished for the malfeasance of others, and that everyone who deserves just compensation for wrongful acts or omissions receives adequate remedy.

Regrettably, the Leadership denies us today the opportunity to openly debate the issue or offer alternatives to H.R. 5 on the House floor. Accordingly, I reiterate my opposition to H.R. 5, and state my intent to support a motion to recommit the issue for further consideration.

Mr. FLAKE. Mr. Speaker, today I voted "no" on final passage of H.R. 5, the Help Efficient, Accessible, Low-cost, and Timely Healthcare (HEALTH) Act. My vote was a difficult one, but I am not convinced that the federal government should preempt state law in this area.

Those supporting this bill have made some compelling arguments as to why Congress should step in and institute these reforms. They cite the national nature of insurance plans, whereby a doctor in Arizona might have to pay more for malpractice insurance due to an over-the-top jury award in Texas. They also note that, as doctors close up shop or stop

providing high-risk care in specialties such as emergency medicine and obstetrics and gynecology, patients are forced to cross state lines in order to seek out treatment. We have all watched with dismay as hospitals have been forced to shut their doors and doctors have opted to treat patients without malpractice insurance due to the high costs of premiums. Certainly, the trial attorneys who line their pockets with egregious fees aren't suffering as a result of the mess they've made with unscrupulous lawsuits. These arguments only underscore an already evident need for the states to pursue medical malpractice reforms. However, as one who believes firmly in federalism, I am unwilling to support legislation that would, in effect, preempt the constitution of the state of Arizona, which prohibits caps on damages.

The natural evolution of health care delivery suggests that a federal solution such as H.R. 5 may one day be necessary. Even today, we need tort reform badly. It's up to the states to begin that process, and I plan to be part of those efforts. The states should follow California's example, which has been an undeniable success over the past 25 years.

Mr. CUMMINGS. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act.

Each year tens of thousands of people die or suffer needless pain and deformity from preventable medical errors. I believe, as I am sure many of my colleagues believe that these Americans, whose families suffer tremendously as a result of these injuries and deaths are entitled to compensation. This compensation should not be decided by Congress but rather by a jury or judge in the prevailing jurisdiction which has made a decision based on the merits and facts of those cases.

Mr. Speaker, I think we need to focus on what's at stake here. We are talking about limiting meritorious claims. Claims of those like the little girl in North Carolina who received the improper blood type during her transplant and died shortly thereafter. Claims from innocent victims in my district and districts around the country who have received improper treatment or care and will suffer immeasurably as a result.

Mr. Speaker, for every \$100 spent on health care in America, only \$.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors, this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Mr. Speaker, we are not talking about frivolous claims as the Republicans would have us believe. In fact, this bill will not limit any frivolous claims nor will it lower insurance premiums. Instead it is a band-aid approach to a huge problem. The Conyers-Dingell bill would have implemented the type of reform necessary to lower medical liability premiums for doctors through imposing anti-trust regulations on the insurance industry, but unfortunately the American people will not ever hear of this comprehensive plan. Again, the Republican-led House Rules Committee has muzzled the voice of the people.

Mr. Speaker, I have heard many members speak of the California plan—also known as MICRA plan. However, the results of California are mixed at best. It is reported that in fact after passing MICRA, the actual premiums of California doctors are 8 percent higher than in

states without caps and health care costs continue to rise. In fact the state of California subsequent to MICRA had to pass insurance reform to stop skyrocketing premiums that helped only fatten the pockets of the insurance companies. That is exactly what H.R. 5 will do, fatten the pockets of the insurance companies, who are trying to compensate for the investment losses made in the stock market.

Finally Mr. Speaker, H.R. 5 will also preempt state law—which sets its caps or sets no caps based on the input of its people. I would like to point out that in my own State of Maryland which as a cap on non-economic damages, over three times higher than that in H.R. 5 I might add, that the medical insurance premiums are still higher than those in the adjacent District of Columbia which has no caps. This is the shell game that the insurance companies are playing—and the American people are the losers.

It is for these reasons that I will vote against H.R. 5, and I urge my colleagues to vote against H.R. 5.

Ms. HARMAN. Mr. Speaker, I support California's MICRA, but H.R. 5 is not MICRA and I rise with some reluctance to oppose it.

As the daughter and sister of medical doctors, I understand better than most the chilling effect unlimited medical liability awards have on the practice of medicine.

Indeed, my father, who had a practice in Culver City, California, retired from practicing medicine in the mid-1970s because of the alarming increase in premiums. Only after his retirement did California enact its Medical Injury Compensation Reform Act—or MICRA.

MICRA is an experiment in limiting non-economic and punitive medical liability damage awards—and it has succeeded. For medical doctors, MICRA has provided stability in insurance premiums. For patients, it reduced meritless claims and accelerated the time in which settlements can be reached.

I strongly support MICRA, although before extending it to the entire nation, I would propose adjusting the \$250,000 cap on punitive and non-economic awards, first enacted in 1975, to reflect its current value.

Though H.R. 5 adopts the structure of MICRA, it is weighted down by dubious procedural and substantive roadblocks for a variety of causes of action against HMO's, nursing homes, and insurance companies—areas where the California legislature has enacted significant protections for patients. California's medical professionals oppose the inclusion of these provisions under H.R. 5's MICRA-like caps and procedures.

Last year, I voted for H.R. 5—with the hope and expectation that improvements would be made in conference with the Senate to narrow its egregious provisions. This did not happen, and constructive amendments offered in the Energy and Commerce Committee were opposed on near-party line votes.

The closed process by which we are considering this important bill today belies any desire by the majority to make the improvements I believe are necessary.

I cannot support the bill again in its present form. Hopefully, changes will be made in the Senate to align it more closely with California's MICRA, with the modification of the caps I noted earlier. If this happens, I will support the conference report.

Medical professionals should be able to practice in a climate of certainty, and patients

should be charged reasonable rates for quality care. This is what I support for every community in the country. This is not what H.R. 5, in its present form, delivers.

Mr. OXLEY. Mr. Speaker, medical malpractice lawsuits are increasingly being used to enrich lawyers at the expense of patients and doctors. We would never close the doors of our legal system to people who have legitimately suffered. But the abuse of the system is threatening the quality of care delivered by our doctors and hospitals. According to the Ohio State Medical Association, 76 percent of Ohio doctors say insurance costs have affected their willingness to perform high-risk procedures. I've met with doctors in my district who say these high costs might force them to retire. My rural district cannot afford to lose quality physicians.

This is clearly an issue of tort reform, not insurance regulation. State insurance commissioners strictly regulate liability insurers. Companies are not permitted to raise their premiums to make up for past losses. Malpractice insurance premiums are skyrocketing because over the last decade there has been an explosion in the number of lawsuits and particularly large awards, some reaching lottery proportions. That's something the market will reflect.

Reasonable limits on non-economic damages are a sensible way to make sure that malpractice lawsuit awards address actual damages. They work, without compromising legal rights or physician vigilance. Ohio is a case in point. When my state placed caps on these awards in 1975, insurance premiums dropped. When this cap was overturned, lawsuits . . . and therefore, costs . . . went up almost immediately. What changed was the behavior of lawyers, not doctors.

H.R. 5, the HEALTH Act, is a surgical solution to a crisis that spans from the operating room to the court room. I urge its adoption.

Mrs. BIGGERT. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act.

Frivolous malpractice lawsuits are spiraling out of control. Too many doctors are settling cases even though they have not committed a medical error. And good doctors are ordering excessive tests, procedures and treatments out of fear.

Those were the primary issues a panel of experts highlighted at a medical malpractice forum I hosted last summer in my congressional district.

At this forum, the doctors, hospital administrators, and other medical personnel that deal with these issues on a daily basis said these cracks in our medical system are driving physicians and hospitals out of business. They simply cannot afford the exorbitant malpractice insurance rates that result from these frivolous lawsuits. As a result, they are forced to close their doors, limiting patients' access to care.

Even if doctors can afford to stay in business, they cannot make decisions based solely on their patient's best interest. With the threat of malpractice suits constantly hanging over their heads, they must act in ways to protect themselves from being sued.

Take for example, the case of a five-year-old boy in my district who was hit by a car and sustained a broken leg, along with a minor skull fracture. Usually, in these sorts of cases, a neurosurgeon would monitor the patient, to make sure his brain injury remained stable. Because of malpractice concerns and excessive insurance premiums, no neurosurgeons

at that hospital or in the area could afford to treat patients under the age of 18. In Illinois, a staggering 85 percent of neurosurgeons are sued for malpractice at least once in their careers.

Without a neurosurgeon to follow the patient, the child had to be transferred to another hospital and undergo an ambulance ride with a broken leg. Once he reached the other hospital, there was no pediatric neurosurgeon available, so the orthopedic trauma surgeon had the child placed in traction. This involved inserting a pin into the patient's leg just above his knee to hang the weights that pulled on the leg, and keeping him in traction for a few weeks.

After two days, his parents wanted their child to be transferred back to the original hospital closer to home. This meant that the child had to endure another ambulance ride in vulnerable condition.

My point here is not that frivolous lawsuits hurt doctors; it's that they end up hurting patients—in this case, a five-year-old.

Are some malpractice lawsuits necessary? Absolutely. Patients must have access to justice and restitution. But it is wrong when trial lawyers can exploit the system through frivolous or unlimited suits. And it is wrong to jeopardize patients' access to healthcare.

Mr. Speaker, Congress has twice before had the opportunity to fix the malpractice system and I have supported these attempts. The good news is that we have another chance today to take a big step toward preserving the long-term viability of the medical system in Illinois and around the country.

I urge my colleagues to join me in supporting H.R. 5. It is time for Congress to enact common sense liability reforms that safeguard patients' access to care.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 5, legislation that would undermine the right of patients and their families to seek appropriate compensation and penalties when they, or a loved one, are harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is designed to protect bad doctors, HMOs, and other health care providers from being held accountable for their actions. Either way, this bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought forth a bill that favors their special interests at the expense of patients and quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. Unfortunately, this bill attempts to achieve that goal solely on the backs of American's patients. I said, "attempts to achieve that goal" intentionally.

Despite the rhetoric from the other side, there is absolutely nothing in H.R. 5 that guarantees a reduction in medical malpractice premiums. There is not one line to require that the medical malpractice insurance industry—in exchange for capping their liability—return those savings to doctors and other providers they insure through lower malpractice premiums. To quote one of many economists on this matter, Frank A. Sloan, an economics professor from Duke, recently said, "If anyone thinks caps on pain and suffering are going to work miracles overnight, they're wrong." In

fact, the outcome of this bill could have zero impact on lowering malpractice premiums and instead go into the pocketbooks of the for-profit medical malpractice industry. Of course, the bill's proponents avoid mentioning that very real possibility.

Proponents of this bill like to say that they are taking California's successful medical malpractice laws and putting them into effect for the nation. This is also hyperbole. California did not simply institute a \$250,000 cap on medical malpractice awards. The much more important thing that California did was to institute unprecedented regulation of the medical malpractice insurance industry. This regulation limits annual increases in premiums and provides the Insurance Commissioner with the power and the tools to disapprove increases proposed by the insurance industry. It is this insurance regulation that has maintained lower medical malpractice premiums. Yet the bill before us does absolutely nothing to regulate the insurance industry at all.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every \$100 spent on medical care in 2000, only 56 cents can be attributed to medical malpractice costs—that's one half of one percent. So, supporters are spreading false hope that capping medical malpractice awards will reduce the cost of health care in our country by any measurable amount. It won't.

What supporters of this bill really do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe reasonably compensate victims for the harm that has been done to them.

H.R. 5 caps non-economic damages. By setting an arbitrary \$250,000 cap on this portion of an award, the table is tilted against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one's future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But, by capping non-economic damages, this bill would artificially and arbitrarily lower awards for those without tremendous earning potential. This means that a housewife or a senior would get less than a young, successful businessman for identical injuries. Is that fair? I don't think so.

The limits on punitive damages are severe. Punitive damages are seldom awarded in malpractice cases, but their threat is an important deterrent. And, in cases of reckless conduct that cause severe harm, it is irresponsible to forbid such awards.

Republicans claim to be advocates for states rights. Yet, this bill directly overrides the abilities of states to create and enforce medical malpractice laws that meet the needs of their residents.

This Congress has been unable to pass a Patients' Bill of Rights to protect the rights of patients enrolled in managed care plans. Thankfully states have not been similarly immobile. They have moved ahead and enacted numerous laws to hold HMOs and other health plans accountable for the care they provide to patients—and any harm they may cause in that process. My home state of California has enacted strong legislation in this regard. If H.R. 5 becomes law, those laws will be overridden. It is not just consumer advocates who

are concerned about this. Steven Thompson, lobbyist for the California Medical Association, was recently quoted in the Sacramento Bee as saying, "The California law we supported was intended to protect doctors and hospitals—people who deliver care, but the health plans would benefit from the way the House bill is laid out." In other words, this bill is anti-Patients' Bill of Rights. Despite years of fighting in Congress to hold health plans accountable for their abuses, this bill actually protects them! I will not support any bill that precludes states from moving ahead to protect consumers—especially when Congress has proved incapable of addressing their needs.

The issue of rising malpractice insurance costs is a real concern. I support efforts by Congress to address that problem. That's why I would have voted for the Democratic alternative legislation that Representatives CONYERS and DINGELL brought to the Rules Committee last night. Unlike H.R. 5, the Dingell-Conyers alternative would not benefit the malpractice insurance industry at the expense of America's patients. Instead, it addresses the need for medical malpractice insurance reform—learning from the experience of California—to rein in increasing medical malpractice premiums. Rather than enforcing an arbitrary \$250,000 cap, the bill makes reasonable tort reforms that address the problems in the malpractice arena—penalties for frivolous lawsuits and enacting mandatory mediation to attempt to resolve cases before they go to court. It also requires the insurance industry to project the savings from these reforms and to dedicate these savings to reduced medical malpractice premiums for providers. The Dingell-Conyers bill (H.R. 1219) is a real medical malpractice reform bill that works for doctors and patients alike.

The Democratic alternative bill is such a good bill that the Republican leadership refused to let it be considered on the House floor today. They were afraid that if Members were given a choice between these two bills, they would have voted for the Democratic bill. Once again the House Republican leadership has used their power to control the rules to stymie democratic debate.

Medical malpractice costs are an easy target. My Republican colleagues like to simplify it as a fight between America's doctors and our nation's trial lawyers. That is a false portrayal. Our medical malpractice system provides vital patient protection.

The bill before us drastically weakens the effectiveness of our nation's medical malpractice laws. I urge my colleagues to join me in voting against this wrong-headed and harmful approach to reducing the cost of malpractice premiums. It's the wrong solution for America's patients and their families.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong opposition to H.R. 5, the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, because this unhealthy act would severely limit patients' rights to sue for medical injuries while having virtually no impact on the affordability of malpractice insurance coverage. Because there is no provision in this measure requiring insurers to lower their rates once these so-called reforms are in place, it would leave countless patients deprived of relief while failing completely to help our struggling health providers.

Like many of my colleagues, I am deeply troubled by the rising cost of malpractice in-

surance. Doctors across the country are being adversely affected by an increase in medical liability insurance premiums. These increases are making it more costly for physicians to practice, and rising insurance rates could eventually mean that patients no longer will have easy access to medical care. Doctors completing residencies in expensive areas are seeking better rates elsewhere, and physicians already in the market are leaving.

There is wide agreement that something must be done to ensure reasonable rates and protect access to health care. Unfortunately, nothing in this legislation would decrease premium costs or increase the availability of medical malpractice insurance. Instead, it would make detrimental changes to the health care liability system that would extend beyond malpractice and compromise the ability of patients and other health care consumers to hold pharmaceutical companies, HMO's and health care and medical products providers accountable.

For example, the three-year statute of limitations on malpractice suits contained in this legislation is more restrictive than most state laws, and could cut off legitimate claims involving diseases with long incubation periods. Thus, a person who contracted HIV through a negligent transfusion but learned of the disease more than three years after the procedure would be barred from filing a claim.

In addition, H.R. 5 would arbitrarily limit non-economic damages to \$250,000 in the aggregate, regardless of the number of parties against whom the action is brought. This cap would hurt patients like Linda McDougal, whose breasts were needlessly amputated due to a doctor's carelessness, and Jessica Santillan, who died after her doctor transplanted organs with an incorrect blood type into her body. It would disproportionately impact women, children, elderly and disabled individuals and others who may not have significant economic losses from lost wages or other factors but are still suffering very real injuries, such as the loss of a limb, pain and disfigurement, the loss of hearing or sight, or the loss of mobility or fertility. Surely, the impact of these injuries on their lives cannot be quantified at less than \$250,000.

As an individual who was paralyzed at the age of sixteen when a police officer's gun accidentally discharged and severed my spine, I find this provision particularly offensive and callous. After my accident, my medical expenses were outrageously high, and amounted to more than most people make in a year. Although there is no amount of money that can ever return what was taken from me, I was awarded non-economic damages in the lawsuit my family filed shortly after my accident. Granted, my condition was not the result of medical malpractice, but had the non-economic damages in my case been capped, my life would have been profoundly affected because I would not have been fully compensated for my future health care needs. Likewise, I would not have been afforded the opportunity to attend college or had the hope of beginning a new life. While our civil justice system has determined that it is the injured party who deserves the greatest measure of protection, I find it a great disappointment that attempts to limit remuneration to victims of malpractice still persist.

In 1976, California enacted the Medical Injury Compensation Reform Act, MICRA, which limits non-economic damages to \$250,000,

and is similar to the cap being proposed in this legislation. However, in the twelve years following the enactment of MICRA, California's medical malpractice liability premiums actually increased by 190 percent. It took enactment of insurance reform in 1988 that mandated a 20 percent rate rollback to finally lower and stabilize malpractice premium rates. It is important to note, however, that California's rates are no lower than the national average. Moreover, California's 1976 cap on non-economic damages is now worth only \$40,389, in 2002 dollars. As a result, a patient would need to recover \$1,547,461 in 2002 for the equivalent medical purchasing power of \$250,000 in 1976.

Further, H.R. 5 would completely eliminate joint liability for economic and non-economic loss, preventing many injured patients from being compensated fully. Joint liability enables an individual to bring one lawsuit against multiple entities responsible for practicing unsafe medicine or manufacturing a dangerous, defective product and have the defendants apportion fault among them, if the jury finds for the plaintiff.

Rather, our top priority in reforming America's health-care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year—the equivalent of three fatal plane crashes every two days. In fact, only five percent of doctors account for 54 percent of malpractice payments. Earlier this year, the New England Journal of Medicine reported that surgical teams leave clamps, sponges and other tools inside about 1,500 patients nationwide each year. Making it more difficult for these victims to seek compensation will not lead to safer medicine; it will only protect egregious medical malpractice behavior.

Moreover, there is no evidence that the tort reforms proposed in H.R. 5 would guarantee a decrease in insurance rates. In fact, the average liability premium for both internal medicine and general surgery in 2001 was actually higher in states with caps on damages than in states without caps. The proponents of this measure claim that limiting "frivolous lawsuits" will lower premiums. However, a study that appeared in the New England Journal of Medicine in 1991 concluded that only about 2 percent of those injured by physicians' negligence ever seek compensation through a lawsuit. Recent studies show that this figure remains unchanged. That means that even completely eliminating medical liability would have virtually no impact on the cost of health care. Do we need to find a way to lower insurance and health care costs? Absolutely. Is H.R. 5 the way to do it? Absolutely not.

Instead, I plan to support the Democratic motion to recommit, which would allow patients to seek redress and provide assistance to physicians and hospitals in need. Specifically, this alternative would end frivolous lawsuits by requiring affidavits to be filed by qualified specialists certifying that the case is meritorious. It would also establish an independent advisory commission to explore the impact of malpractice insurance rates, particularly in areas where health care providers are lacking. Again, I would urge my colleagues to oppose the underlying bill, and to support the Democratic alternative.

Mr. EVANS. Mr. Speaker, in my tenure in Congress, I have been dedicated to reforming many aspects of the health care system to



promote the highest quality health care benefiting the greatest number of Americans. Mr. Speaker, I do not believe that the HEALTH Act would contribute to this goal.

This legislation blatantly advances the political agenda of the insurance companies. It does nothing to address the looming health care crisis we face where over 40 million Americans are without health insurance, access to quality care, or an ability to afford even basic screenings and medicines. This legislation would place a \$250,000 limit on non-economic damages in malpractice suites brought against medical professionals. I cannot support limiting non-economic damages awards because I do not believe we have the authority to place an arbitrary dollar amount on the value of a person's health or life.

These payments compensate patients for very egregious injuries, such as the loss of a limb, vision impairment, and infertility. The loss of a child or spouse can also fall under the limiting category of non-economic damages. These damages are so wide and varying that a one-size-fits-all approach just will not suffice. Further, limiting payments would disproportionately affect women, children, the elderly, the disabled and others that may have endured indescribable suffering, yet cannot claim a loss of wages or salary. To limit payments on meritorious cases involving legitimately injured patients is a step in the wrong direction for both the best interests of patients and for the discussion on truly lowering malpractice insurance costs.

I do not believe that this legislation is particularly effective. These severe limitations would do little to lower insurance rates. For example, California, which has an equivalent cap on non-economic damages, has medical malpractice rates that are 19 percent higher than the countrywide average. It is crucial that a number of factors must be addressed to find an acceptable, working solution to this problem.

I support the alternative bill on which the Republican Congress refused to allow us to deliberate. That we are not allowed to debate on the Democratic alternative erodes the democratic process of which our government was founded and of which rules this House.

The Conyers-Dingell substitute would repeal the federal anti-trust exemption for medical malpractice insurance. This would increase competition and lower premium costs. The bill I support reduces the amount of frivolous lawsuits filed by providing severe penalties to lawyers who submit cases either without certification of merit or with a false certification of merit. I find the mandatory mediation provision in the Democratic substitute to be especially pertinent and of tantamount importance in approaching a viable solution to this complex problem. Mediation and the establishment of an alternative dispute resolution system will allow both defendants to reduce their litigation costs and victims to gain fair compensation.

I urge my colleagues to vote down H.R. 5 and demonstrate their support for a Democratic alternative which will truly begin to curtail ghastly expensive medical malpractice insurance costs.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing pretending to help doctors and patients, but really only helping the large healthcare corporations while doing nothing to help lift the malpractice burden from doctors and other providers or to

ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, excellent ones, many who have never been sued, struggling to keep their offices open under the pressure of outrageously high malpractice insurance premiums. Physicians are desperate for relief from their premiums. Unfortunately, the organizations representing physicians have been strongly supporting H.R. 5 possibly thinking that it is the best they can get, but it is not.

It is truly a disservice to all of us that the Conyers-Dingell bill was not allowed consideration and debate. H.R. 5 does not even compare and is a poor attempt at a solution to this complicated problem.

In fact, H.R. 5 is not of any help at all as has been proven in several states. This is politics and special interest legislation pure and simple, and our patients and us should not be the pawns in this game.

This bill is another assault on the poor and minorities as well because regardless of their needs their awards will be capped at low levels. The cornerstone of H.R. 5 is a \$250,000 cap on non-economic damages modeled after the arbitrary \$250,000 cap instituted in MICRA. Compensation for economic damages for minorities is often much less than those awarded to white males, and \$250,000 in 1975 is the equivalent of \$855,018 in 2003. H.R. 5 puts values on human life and suffering that none of us can measure. H.R. 5's severely restricted the statute of limitations would further hurt minorities because they often have less exposure or access to medical care which causes them to often discover their injuries later.

What my physician colleagues and all health providers need is real reform. We need to address all of the factors that cause the rise in premiums. We need to create legislation that includes the measures which have worked in the states that have successfully addressed this issue and brought relief to their health providers. H.R. 5 doesn't do any of this.

I call on my colleagues to defeat this bill, and then join with our colleagues JOHN CONYERS and JOHN DINGELL to pass a bill that incorporates the measures that will most effectively reduce premiums, and bring relief not to HMO's, but to those who really need it, the health professionals and the patients who depend on their services.

Mr. BLUMENAUER. Mr. Speaker, I am convinced action is needed to stabilize the delivery of health care, particularly for small communities and for medical specialties plagued by extraordinarily high premium rates. It is unacceptable to have prices spiraling so out of control that care is prohibitive for many doctors and patients. I am open to a range of alternatives to provide a long-term solution. This bill focuses only on capping damages to lower premiums, citing California's MICRA legislation as its model. Unfortunately, it ignores the other methods used in California, which may have had more impact over the long-term. The cap is eroding patients' rights by failing to provide for inflation and H.R. 5 suffers the same flaw.

The Republican alternative is simply an attempt to provide a partisan political response, rather than a serious effort at bipartisan legislative action. This bill is being rushed through the legislative process without an opportunity

for amendment and with little relationship to the proposal that is likely to emerge from the Senate. Last fall, I voted against the same bill when it came to the floor. Unfortunately, the Republican proposal is still just a bargaining position, not a legislative solution.

It's very unlikely that this bill will be enacted into law, and if it was, it would be highly unfair to the people that I represent. I will continue to work with physicians and others in the health care community, and those who are involved and interested in patients' rights. We've missed an opportunity to advance more carefully crafted bipartisan solutions at this juncture, but there will be a time to do so in the future, and I look forward to participating in that fashion.

Mrs. BONO. Mr. Speaker, I rise today in support of H.R. 5 and the physicians that work tirelessly to care for the sick and injured.

I have witnessed first-hand the crux of the issue about which we debate today. My father worked as an ENT surgeon for 19 years in Southern California, both before and after California's MICRA law was enacted. He has also helped me to better understand the issues that those in private practice face and we both have an appreciation for the problems our doctors face. Living in Southern California my entire life has also allowed me to witness the changes that have taken place with regard to medical liability reform.

Numerous doctors from Southern California have contacted me about the benefit that they have seen from the liability laws that exist in our state and realize how much it has affected their ability to treat more patients effectively. Still, other states are witnessing a serious reduction in care, particularly in vital specialties including those that affect expectant mothers.

We face a vote today on an issue that centers on the ability of our doctors to practice the science that saves lives daily in our country. Currently physicians in many states face the reality of not being able to keep their practice running. Our problems cannot be solved by the trend of defensive medicine, as they can only lead to higher costs to the patient, the insurer, and the doctor. The ultimate price is paid when a defensive procedure costs not only money but the life of a patient.

It is unfortunate that many frame this debate in terms of political ideology. How can we continue to demoralize our doctors from working in the field that they love and providing care for those who are suffering? H.R. 5 is about tempering skyrocketing insurance premiums across the country. H.R. 5 is about providing real access to care and the continued ability for our health care system to run effectively in times of state and national budget deficits.

But, most importantly, Mr. Speaker, H.R. 5 is about allowing our doctors to help millions of people every year in the practice that they know better than any trial lawyer or bureaucrat in Washington, DC.

Mr. Speaker, I encourage my colleagues to support H.R. 5.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. I would also like to thank Chairman TAUZIN for his excellent work on this vital subject.

Mr. Speaker, it is unfortunate that we have to take this action today. I am a firm believer that everyone should have their day in court if they feel they have been wronged. However,



inherent in this right is the assumption, if not the obligation, that this course of action will be used judiciously. However, that is not what has occurred. Medical malpractice litigation has become an industry in and of itself, with trial lawyers seeking out sympathetic courtrooms and juries where frivolous claims will be given undue credence. The courts should be forums to redress wrongs, not lotteries.

We are now reaping the results of this litigious behavior, and the main result is that patients no longer have access to the healthcare they always assumed would be there. Doctors are leaving the communities they have served for decades. Try to get pre-natal care in Las Vegas. Try to see a neurosurgeon in Mississippi. They aren't there anymore. We have seen the doctors in West Virginia and New Jersey actually go on strike to protest the absurd rise in malpractice premiums due to frivolous lawsuits. I have spoken to doctors in my district that simply cannot afford their malpractice premiums anymore, and they are looking to us for help. We can have it one way or the other—we can continue on the current path, where every visit to the doctor is seen as a potential windfall, or we can take these necessary actions to return an element of sanity to the malpractice equation.

I support H.R. 5 because I believe it will ultimately allow many doctors to continue practicing medicine, and thus ensure our constituents continue to have access to the care they need. This legislation does not let anybody off the hook—bad doctors will still be held accountable for their actions and patients injured through negligence will still have fair recourse. It simply prevents the trial bar from completely ruining our health care system. I urge my colleagues to give H.R. 5 their support.

Mr. BACHUS, Mr. Speaker, under Alabama law, punitive damages are the only damages available in wrongful death actions. Therefore, under H.R. 5, absence action by the Alabama Legislature, the maximum recovery for wrongful death (of, say, a 30-year-old father of three) resulting from medical malpractice would be limited to (no more than) \$250,000. In good faith, I could not support such a result.

Mrs. JONES of Ohio, Mr. Speaker, this past December in West Virginia, doctors at four hospitals went on a 30-day strike to protest climbing malpractice insurance rates. Following, in January 2003, Pennsylvania narrowly averted a strike only after a last-minute deal was made between the doctors and then governor-elect Ed Rendell. Similar occurrences in other states have made me shudder about the possibilities of similar events occurring in Northeast Ohio. The Cleveland Clinic, University Hospitals, and their affiliates serve as Ohio's premier medical facilities and I recognize the value that professionals working at those institutions provide to the Greater Cleveland community. Recent editorials in newspapers across the country have highlighted the frustrations experienced by medical professionals. These serve as a sounding call to Congress to readdress tort reform and medical malpractice.

Although I am greatly concerned about the rising costs of insurance premiums, especially for certain high-risk medical procedures, and the subsequent decline in the availability of health care that results from doctors retiring or moving their practices, I am not convinced that tort reform is the panacea to the spiraling increase in medical malpractice premiums.

Studies and anecdotal evidence clearly show an absence of correlation.

In 1995, Texas passed a series of tort law restrictions that advocates claimed would lower the cost of insurance in Texas by \$864 million a year. Legislation was also passed mandating that any savings from such tort law restrictions be passed on to consumers. Despite claims made by proponents of the legislation, overall insurance premium savings in Texas, including any that might be attributed to changes in tort law, have been minimal. Yet since that legislation was passed, insurance company profits have skyrocketed in Texas. This pattern has been evident in several other states that have initiated tort reform legislation.

In March 2002, the American Insurance Association (AIA) commented that lawmakers who enact tort reform should not expect insurance rates to drop further. The AIA is a major trade group of the insurance industry and their comment strengthens my belief that tort reform is not the solution to higher insurance premiums. Furthermore, in a response to a study by the Center for Justice & Democracy, the AIA stated, "the insurance industry never promised that tort reform would achieve specific premium savings."

Although I am troubled by the possibility of insurers not issuing policies to medical practitioners in Ohio, it would be a mistake to simply credit lack of tort reform as the reason. For example, Missouri found itself in a similar situation several years ago and instituted tort reform legislation in the form of caps on non-economic damages for medical malpractice suits. Yet Missouri continues to have fewer insurers offering services to doctors. In addition, insurance companies that issue policies have not lowered premiums and have continued to enjoy hefty profits.

Differences in the price of identical policies between different states can be attributed to factors other than whether that state has enacted tort reform measures. For example, comparable premiums in Ohio are lower in California primarily due to the fact that California has one of the strictest sets of insurance regulations in the nation as a result of Proposition 103.

Tort reform advocates often call for caps on punitive damages and pain and suffering awards as one of their top priorities. These calls are usually accompanied by citing some of the outrageously high verdicts awarded to plaintiffs. But they neglect to cite the fact that judges often exercise their authority to reduce these verdicts or that they are reduced in the appeals process. Further, calls for tort reform are often just a form of scorn toward trial lawyers who may receive fees of between 30 and 40 percent of verdict amounts. But those advocates fail to note that trial lawyers typically take cases knowing that they could lose—and not receive any compensation for their work.

Finally, the tort reform argument often neglects to mention an important party in any malpractice suit—the injured plaintiffs or their families. A recent report by the Institute of Medicine estimates that as many as 98,000 hospitalized Americans die each year as a result of medical errors. This is more than the number of deaths attributable to breast cancer or car accidents. Tort reform advocates, in their zeal to denounce trial lawyers and boost insurance company premiums, are tacitly saying that grievously injured victims of medical errors or their families deserve only minimal

compensation for their injuries. Passage HR 5 will have an arbitrary and cruel effect on legitimate victims of medical malpractice.

Since 1994, the House of Representatives have passed bills limiting malpractice awards. Some of these bills take the further step of removing state malpractice claims into the Federal courts. Each time, however, these bills have failed to get the 60 Senate votes necessary for passage. As expected this issue has arisen with full force in the 108th Congress. Yet the facts remain the same: This legislation neglects plaintiffs' rights, limits state trial court judges' discretion, and fails to show any tangible net benefit to doctors who purchase premiums while simultaneously result in higher profits for insurance companies.

Rather than focusing on implementing malpractice caps legislation that will not solve the problem of rising premium rates, Congress (and doctors and their regulatory boards) should be more vigilant in enforcing laws that cap the numbers of hours worked by residents (fatigue is often cited as a major contributor to medical errors), adopting a uniform system for reporting and analyzing errors nationwide, and coordinating patients records (while taking care to protect privacy) so that doctors can easily gain access to a patient's complete medical history.

But while I cast my vote against H.R. 5, I remain committed to ensuring that the medical practitioners and facilities in this country remain a viable part of their communities' health care system. My alarm at the possibility of a medical practitioner talent drain caused by ever increasing medical malpractice premiums is real but I am committed to the conclusion that federal tort reform is not the solution.

Ms. LINDA SACHEZ of California. Mr. Speaker, I rise in opposition to H.R. 5 and to the rule that cut off any debate on a highly controversial bill with far-reaching consequences. The Majority has refused to permit consideration of any amendments whatsoever, going so far as to deny Democrats the opportunity to offer a substitute to the underlying bill.

There is no doubt that most Americans have a real problem accessing affordable health care. And it is true that we have some serious problems keeping specialists in practice and keeping trauma centers open. However, in seeking to address these problems, my Republican colleagues have come up with H.R. 5, a bill that caps a medical malpractice victim's recovery.

H.R. 5 is a deplorable bill. It is the most simplistic and useless method for addressing very real problems with our medical community. It is a ridiculous piece of legislation that is akin to trying to put out a forest fire with a squirt gun.

Supposedly, the goal of H.R. 5 is to stabilize medical malpractice insurance rates. But contrary to my colleagues' assertions, placing a cap on victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will keep specialists practicing medicine.

H.R. 5 only focuses on restricting injured patients' access to justice. H.R. 5 is modeled after California's Medical Injury Compensation Reform Act, known as "MICRA". My Republican colleagues love to sing the praises of MICRA.

However, as a Representative from California, I happen to know a lot about MICRA.

MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my state. MICRA was signed into law in 1975, but stability in medical malpractice insurance rates did not occur after MICRA was passed. Between 1975 and 1993, in fact, health care costs in California rose 343 percent, nearly twice the rate of inflation. Not only that, but the California costs exceeded the national average each year during that period by an average of 9 percent per year.

Any rate stabilization that has occurred in California is not due to caps, but to Proposition 103, which went into effect in 1990. Proposition 103 was an insurance reform initiative that changed California's insurance laws from a so-called "open competition" to a "prior approval" regulatory system. Prop. 103 requires insurers to obtain approval of rate increases. But even with enactment of Proposition 103, rates in California have stayed close to national premium trends.

Medical malpractice insurance rate hikes are cyclical. They tend to be at their highest when insurance companies' investment income is at its lowest. Tort caps have not and do not eliminate this cyclical pattern.

I'm not the only one who has said that tort caps alone will not lower insurance rates. I would like to quote just a few other individuals who have made similar statements:

"Insurers never promised that tort reform would achieve specific savings."—American Insurance Association

"We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."—Sherman Joyce, president of the American Tort Reform Association

"Many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years."—Victor Schwartz, general counsel to the American Tort Reform Association

Insurance companies are reluctant to look at any role they may play in the increasing liability insurance rates. Yet, their investment practices have made it nearly impossible for them to balance paid claims with premiums. Capping damages for plaintiffs is only one part of the stabilization equation. In order to bring about true stabilization, we must reform the insurance industry.

H.R. 5, without insurance reform is meaningless. H.R. 5 simply re-injures the legitimate victims of medical malpractice.

Had we been given the opportunity, Democrats would have offered a substitute crafted by Representative DINGELL and CONYERS. That substitute takes concrete steps to eliminating frivolous lawsuits. It requires insurance companies to share their savings with doctors and patients. It evaluates the causes of insurance rate increases and proposes solutions. In short, it seeks to deal with the problem of rising medical malpractice insurance rates by addressing all aspects of the problem—insurance companies, doctors, patients, and the tort system. It would have been the comprehensive and fair way of fighting the real problem. This legislation would have prevented the forest fire before it began.

The Members of this House—and the general American public—deserve the opportunity to consider a real proposal to address the medical malpractice insurance rate crisis. I urge a no vote on this rule.

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this legislation.

I do think that high premiums for malpractice insurance are a serious problem for doctors in many states. And I agree with the bill's supporters that this is a problem for those who need medical services, because it tends to make health care less available.

I would like to do something about that problem—but I think that if Congress is going to act, it should do so in a way that is both better balanced and better focused than the bill the House is debating today.

The need for balance and focus is all the greater when Congress considers legislation that would apply everywhere and would override a number of different State laws, including laws related to the relations between Health Maintenance Organizations (HMOs) and individual patients.

Over the years, many of our colleagues—particularly those on the other side of the aisle—have been outspoken about the problems associated with that kind of top-down, one-size fits-all approach to a problem that can be addressed by State legislators who are in a better position to respond to the particular circumstances of their constituents.

I haven't always agreed with those criticisms, but in this case I think they are appropriate.

For example, Colorado law places limits on the amounts that can be awarded in some lawsuits against doctors. I do not think the Colorado law is perfect, but I do think that our legislature is in a better position to judge such matters than the Congress—especially when we are forced to act under the kind of restrictive rules the one that applies to this bill.

I hoped the Republican leadership would let the House consider amendments that could have made this bill more effective and better balanced. However, that did not happen, and now we are forced with a take-it-or-leave-it choice—a "my way or the highway" approach to legislating that is unworthy of this House.

Under those circumstances, and after careful consideration, I have decided I cannot support the bill. I am not persuaded that it will have a significant effect on the premiums doctors have to pay for malpractice insurance—or at least an effect great enough to warrant the reduction in the ability of injured people to win redress of their damages.

We have heard much about "frivolous" lawsuits—and I think there really are some. But not every lawsuit is frivolous—some are well-founded, because sometimes people really are hurt by negligence or other improper conduct. If I were persuaded that this bill struck the right balance, reducing the risks of frivolous lawsuits without unduly affecting the others—and if I were persuaded that as a result escalating insurance premiums would be effectively restrained—I would support it.

But as it is, I am not persuaded of those things and so, given the sole choice of a yes or no vote, I must regretfully vote no.

Mr. PAUL. Mr. Speaker, as an OB-GYN with over 30 years in private practice, I understand better than perhaps any other member of Congress the burden imposed on both medical practitioners and patients by excessive malpractice judgments and the corresponding explosion in malpractice insurance premiums. Malpractice insurance has skyrocketed to the point where doctors are unable to practice in some areas or see certain types of patients because they cannot afford the insurance premiums. This crisis has particularly

hit my area of practice, leaving some pregnant women unable to find a qualified obstetrician in their city. Therefore, I am pleased to see Congress address this problem.

However this bill raises several questions of constitutionality, as well as whether it treats those victimized by large corporations and medical devices fairly. In addition, it places de facto price controls on the amounts injured parties can receive in a lawsuit and rewrites every contingency fee contract in the country. Yet, among all the new assumptions of federal power, this bill does nothing to address the power of insurance companies over the medical profession. Thus, even if the reforms of H.R. 5 become law, there will be nothing to stop the insurance companies from continuing to charge exorbitant rates.

Of course, I am not suggesting Congress place price controls on the insurance industry. Instead, Congress should reexamine those federal laws such as ERISA and the HMO Act of 1973, which have allowed insurers to achieve such a prominent role in the medical profession. As I will detail below, Congress should also take steps to encourage contractual means of resolving malpractice disputes. Such an approach may not be beneficial to the insurance companies or the trial lawyers, but will certainly benefit the patients and physicians, which both sides in this debate claim to represent.

H.R. 5 does contain some positive elements. For example, the language limiting joint and several liabilities to the percentage of damage someone actually caused, is a reform I have long championed. However, Mr. Speaker, H.R. 5 exceeds Congress' constitutional authority by preempting state law. Congressional dissatisfaction with the malpractice laws in some states provides no justification for Congress to impose uniform standards on all 50 states. The 10th amendment does not authorize federal action in areas otherwise reserved to the states simply because some members of Congress are unhappy with the way the states have handled the problem. Ironically, H.R. 5 actually increases the risk of frivolous litigation in some states by lengthening the statute of limitations and changing the definition of comparative negligence!

I am also disturbed by the language that limits liability for those harmed by FDA-approved products. This language, in effect, establishes FDA approval as the gold standard for measuring the safety and soundness of medical devices. However, if FDA approval guaranteed safety, then the FDA would not regularly issue recalls of approved products later found to endanger human health and/or safety.

Mr. Speaker, H.R. 5 also punishes victims of government mandates by limiting the ability of those who have suffered adverse reactions from vaccines to collect damages. Many of those affected by these provisions are children forced by federal mandates to receive vaccines. Oftentimes, parents reluctantly submit to these mandates in order to ensure their children can attend public school. H.R. 5 rubs salt in the wounds of those parents whose children may have been harmed by government policies forcing children to receive unsafe vaccines.

Rather than further expanding unconstitutional mandates and harming those with a legitimate claim to collect compensation, Congress should be looking for ways to encourage

physicians and patients to resolve questions of liability via private, binding contracts. The root cause of the malpractice crisis (and all of the problems with the health care system) is the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, government bureaucrats, and trial lawyers. There is no reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I have introduced the Freedom from Unnecessary Litigation Act (H.R. 1249). H.R. 1249 provides tax incentives to individuals who agree to purchase malpractice insurance, which will automatically provide coverage for any injuries sustained in treatment. This will insure that those harmed by spiraling medical errors receive timely and full compensation. My plan spares both patients and doctors the costs of a lengthy, drawn-out trial and respects Congress' constitutional limitations.

Congress could also help physicians lower insurance rates by passing legislation, such as my Quality Health Care Coalition Act (H.R. 1247), that removes the antitrust restrictions preventing physicians from forming professional organizations for the purpose of negotiating contracts with insurance companies and HMOs. These laws give insurance companies and HMOs, who are often protected from excessive malpractice claims by ERISA, the ability to force doctors to sign contracts exposing them to excessive insurance premiums and limiting their exercise of professional judgment. The lack of a level playing field also enables insurance companies to raise premiums at will. In fact, it seems odd that malpractice premiums have skyrocketed at a time when insurance companies need to find other sources of revenue to compensate for their losses in the stock market.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 5 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 5 exceeds Congress' constitutional limitations and denies full compensation to those harmed by the unintentional effects of federal vaccine mandates. Instead of furthering unconstitutional authority, my colleagues should focus on addressing the root causes of the malpractice crisis by supporting efforts to restore the primacy of contract to the doctor-patient relationships.

Mr. STRICKLAND. Mr. Speaker, I speak on the floor today in opposition to H.R. 5 and in opposition to the closed rule under which we are debating the bill.

I have heard from doctors and hospitals throughout my district that they are struggling with high malpractice rates. I think we all recognize that this is a big problem in many regions of the country, and I believe we must take action to ensure patients can continue to access quality and timely health care. In my rural Ohio district, access to care is a constant problem for many of my constituents. I hear the voices of the family practice physicians who tell me they no longer may be able to afford to deliver babies. In some cases in Ohio, pregnant women must travel long distances for prenatal care and delivery services because there is only one doctor providing these services throughout a county. Something must be done, but I do not think H.R. 5 gets it done.

These are the reasons I have cosponsored H.R. 1124, which has been introduced by Rep. DINGELL. H.R. 1124 would address high malpractice rates through moderate tort reforms, requiring attorneys to submit a certificate of merit declaring a case to be meritorious, and requiring medical malpractice insurance companies to dedicate at least 50 percent of the savings from these tort reforms to reducing the insurance premiums paid by physicians and other health professionals. In addition, H.R. 1124 attempts to look at the broad issues that may have contributed to the high malpractice rates doctors across the country are facing by establishing an independent advisory commission on medical malpractice insurance. I wish Congress had acted quickly and in a bipartisan fashion last year—had we done so, we may already have more answers about why rates are now as high as they are. And finally, H.R. 1124 would create a grants program through the Department of Health and Human Services to ensure that areas affected by high malpractice rates do not suffer a shortage of providers. However, we will not even hear debate about these provisions or others because the Leadership passed a closed rule that limits debate to the base bill. This does a disservice to the American people, to the House, and to the health care providers we want to help.

I believe H.R. 5 will not address the high malpractice rates our doctors are confronting. H.R. 5 fails to address or even acknowledge the complicated nature of this problem: my colleagues who have introduced H.R. 5 haven't considered how the insurance industry may have contributed to the high rates or considered how individual states' systems have affected malpractice rates.

Throughout the Energy and Commerce Committee's consideration of H.R. 5, I spoke about two provisions in H.R. 5 that I strongly oppose.

First, H.R. 5 would limit the liability of HMO's, drug companies, and nursing homes. These companies have never come to me to explain why their liability should be limited; in fact, I strongly believe consumers should have the right to use every tool possible to collect damages if they are injured by a drug or device company whose product is defective. My constituents have access to prescription drugs—the drugs are there in the pharmacy, ready to be purchased, and the drug companies aren't going out of business. Unfortunately, many of my constituents, especially seniors, can't afford to pay the prices these companies are charging. Since the drug companies are doing quite well, I think it's safe to say that they don't need the further protections H.R. 5 would afford them.

Second, I cannot support H.R. 5 because of its \$250,000 limit on noneconomic damages. Noneconomic damages are awarded by a jury to compensate a victim for intangible pain and suffering. These noneconomic damages compensate for real, permanent harms that are not easily measured in terms of money, including blindness, physical disfigurement, loss of fertility, loss of limb, loss of mobility, and the loss of a child.

Noneconomic damages are often very important to low income adults, women, and children who often would not recover a large economic damage award when they are injured. In addition, someone whose injury is purely cosmetic may not have economic damages

because the injury doesn't directly affect his or her ability to work. For example, the facial disfigurement 17-year-old Heather Lewinski has had to live with for the past 9 years because when she was 8 years old a plastic surgeon committed clear malpractice and scarred her for life. The years of pain and suffering Heather has lived with and testified to before the Energy and Commerce Committee two weeks ago are real. Heather's lawsuit against the plastic surgeon who injured her resulted in zero economic damages, but she did receive compensation in the form of noneconomic damages. H.R. 5 would have limited her award to \$250,000. I cannot vote for legislation that would arbitrarily limit the damages that might be so important to the average American who finds themselves injured through medical malpractice. Although proponents of H.R. 5 contend that the bill will limit frivolous lawsuits, I believe it will not do so; instead, this provision would arbitrarily cap meritorious claims of malpractice.

I ask my colleagues: if we trust our jury system to make decisions about life and death, I believe we must be able to trust that jury system to make decisions about money.

The increase in malpractice rates is a huge problem for doctors and hospitals, and that is why I wish this bill had been crafted with input from the leaders of both parties. At the least, I wish we had the benefit of an open rule that would allow real debate here on the floor. I will not support this bill because I think it fails to prevent frivolous lawsuits, fails to address the problems with the insurance industry, and fails to provide direct relief to communities that are struggling with access problems resulting from high malpractice rates.

Mr. SHAYS. Mr. Speaker, I rise in support of the medical malpractice reforms contained in H.R. 5, the HEALTH Act. This legislation will help prevent frivolous litigation and significantly limit the practice of "defensive medicine," which has contributed to spiraling health care costs.

H.R. 5 caps noneconomic at \$250,000, but doesn't place any limit on the economic damages which plaintiffs can recover. Excessive jury awards have driven the cost of health care up for everyone, so in my mind, there has to be a limit on how much juries can award victims in non-economic and punitive damages. The HEALTH Act is critical to retarding the explosion in health costs and making insurance more affordable to the 41 million Americans who lack it.

The dramatic increases in insurance rates which many physicians have experienced over the past year also prevent them from actually practicing medicine. Many physicians I have spoken to are at wits' end trying to figure out how to maintain their practice and pay these exorbitant costs.

On March 4, the American Medical Association added Connecticut to the list of states facing crises in their medical malpractice insurance rates. The organization also cited Connecticut as a state where a large number of physicians have ended their practices because of the high medical malpractice insurance rates.

These malpractice reforms, which are based on a proven California law, will make much-needed changes to the federal civil justice system without denying the legal rights of legitimate plaintiffs. It is imperative we move forward on this reform to discourage abuse of

our legal system and curb the unsustainable growth of medical costs in our country.

Mr. Speaker, I strongly support the HEALTH Act because it will bring meaningful reform to a flawed system. I urge my colleagues to vote for this legislation.

Ms. KILPATRICK. Mr. Speaker, H.R. 5 is the Republican's quick fix to the health care crisis across the nation. They address the problem of increased insurance cost for medical malpractice, but have proposed a contorted theory for fixing it. An in-depth look at H.R. 5 shows that it does absolutely nothing to implement ways to decrease insurance premium costs, and furthermore, it does initiate means to increase the availability of medical malpractice insurance. For the foregoing reasons, I voted "no" on this passage.

H.R. 5 will limit the amount of non-economic damages that a patient can recover in a malpractice suit and it sets a bar for punitive damage recovery that is nearly impossible to reach. Overall, this bill limits the amount of recovery for all patients by providing a one-size-fits-all solution. How can we limit what a jury can award to an individual who has lost her/his right to reproduce because of a doctor's or medical manufacturer's negligence? How can we limit damage awards to an individual who has been paralyzed as a result of their negligence? How can we set a standard that is so difficult to meet that it will reduce the opportunity that plaintiffs will have to punish these defendants for their malicious acts? H.R. 5 is moving away from fixing the crisis in our health care industry and leaning towards making it worse by essentially punishing the victims.

Mr. Speaker, we need a bill that acts fast to help doctors and the medical industry sustain themselves financially. Right now, as we debate H.R. 5, thousands of doctors are leaving their respective states because they cannot afford the high insurance premiums. Doctors are now taking on much heavier loads of patients, much more than some of them can handle. To such as extent, some say that their situation is ripe for potential negligence cases, as they are not able to devote the attention necessary for the patient. They need our help now, Mr. Speaker, and we cannot change their situation by selling unfounded limits on non-economic damages.

Additionally, we must work to curb rogues from bringing fraudulent malpractice claims that flood our courtrooms, which are factored into the issue of high insurance premiums. For example, we should not prohibit a justified victim from receiving \$750,000 in non-economic damages, but rather, we should aim to deter those rogues from each bringing fraudulent claims for non-economic damages worth \$250,000. H.R. 5 does not provide for any differentiation between legitimate claims and the many unwarranted claims that bring a halt to judicial economy every day.

The Democratic substitute is superior because it would have sought and punished rogues for bringing fraudulent cases. It would not have capped non-economic damages or punitive damages. The substitute commissioned a study to assess the medical malpractice issue and determine how we can better address and then eliminate the problem. As for the current crisis, the substitute would authorize the Department of Health and Human Services (HHS) to provide grants to geographic areas that experienced extreme

shortages of health providers due to the high premiums.

Although the Democratic substitute was superior for this crisis situation, the Republicans used their control of the House to prevent the substitute from being brought to the floor for a debate, along with any amendments that Democrats would have offered. This is undemocratic and an irresponsible use of leadership. The House floor is where all members should have the opportunity to discuss various ideas, views or bills from both sides of the aisle. To preclude that possibility is undemocratic. Mr. Speaker, I do not agree with the Republicans' regulation of this very important issue and I also vehemently disagree with H.R. 5.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 5, the HEALTH Act. There is no question that medical liability insurance rates are out of control. These high insurance costs are threatening to put many doctors and other health care professionals out of business and limit access to health care. However, I cannot in good faith support legislation that limits the rights of patients, victims, and their families while protecting the health insurance industry. HMOs and big health insurers should not receive special treatment; they are not above the law and should not be exempt from responsibility through this legislation.

Under H.R. 5, insurance carriers can still raise rates any amount, at anytime. The Republican Leadership refused to allow free and fair debate by not allowing a substitute or any amendments to be debated and voted upon by the House of Representatives. The substitute would reform malpractice insurance carriers, which is essential in solving the medical liability crisis. It would also weed out frivolous lawsuits without restricting the rights of legitimate claims.

H.R. 5 is a one-size-fits-all approach that places caps on non-economic and punitive damages and does not address the issue of frivolous lawsuits. When a stay-at-home mother, child, or senior citizen dies or suffers irreversible harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away the rights of parents who lose children, husbands who lose wives, children who lose parents, and patients who have very real losses that are not easily measured in terms of money. These caps imposed in H.R. 5 unfairly take away the rights of victims of medical malpractice to receive compensation for their injuries.

H.R. 5 is modeled after the state of California's 1975 reform laws; however, my Republican colleagues give a false impression of the ramifications of that law. For more than a decade after California passed the 1975 law limiting damages in medical malpractice lawsuits, doctors' premiums continued to rise faster, overall, than the national rate of inflation. Once voters enacted Proposition 103, a measure to cap all insurance rates in California, premiums leveled off. The ballot initiative curbed the premiums, not the law implementing caps.

Physicians in Illinois and across the country are facing skyrocketing medical liability premiums, and for many providers, medical liability insurance is either unaffordable or completely unavailable. I believe something needs to be done to derail frivolous lawsuits and reform the insurance industry. Insurers' business practices for accounting and pricing have con-

tributed sharply to the current problem. H.R. 5 does not reform the insurance industry, places unfair, restrictive caps on victims, and does not address frivolous lawsuits. For these reasons, I oppose H.R. 5.

Mr. GARRETT of New Jersey. Mr. Speaker, it's always easier to fix blame than to find a solution. That's certainly true when it comes to the health care accessibility crisis we have right now in America.

In state after state, including my home state of New Jersey, doctors are closing down or limiting their practices. Trauma centers are shutting their doors, and overall health care costs are rising dramatically because of medical liability problems. Who suffers? Thousands upon thousands of individual patients who need care—some who need critical care.

Rather than solve this problem, some people want to distort the facts and point fingers to serve a large political agenda. They'd sacrifice access to medical care as part of their effort to prevent tort reform of any kind.

Today, I have heard allegations that the real culprit is the lack of regulation over insurance company investment practices and pricing. As the former chairman of the New Jersey Assembly Insurance Committee, I can assure you that this is simply not the case. Insurance is a highly-regulated industry, where state insurance departments oversee nearly every aspect of the marketplace, including product pricing and insurer investment practices.

To be more specific, state insurance laws do not allow insurance companies to raise rates to make up for past investment losses. As Steve Roddenberry, a top Florida insurance official, said recently, and I quote, "We cannot permit it." Furthermore, the stock market has very little influence on companies who write medical malpractice insurance. In 2001, stock market investments made up just 9 percent of the industry's portfolio. Just 9 percent.

So it's simply not true that the lack of insurance regulation is causing premium increases. But what is causing those increases?

In large part, it's because the insurers are paying out more than they're taking in. That's right—insurance is an income-and-expense business just like any other. And in today's medical malpractice marketplace, companies are being forced to spend more on claims than they can collect in premiums.

The bottom line? The average medical malpractice insurance company is paying out \$1.50 for every dollar it collects. That's not a recipe for success in the business world.

And that's why we have this crisis.

As long as insurance companies, many of which, by the way, are owned directly by their insured doctors, are faced with these losing scenarios, pressures on rates will continue unless something is done about what causes those companies to lose money.

This leads me back to my original point. If the doctors and nurses and hospitals who care for our children, our seniors, and the neediest among us cannot afford to deliver that care, we have a much bigger problem than who's making some money in the stock market. And rather than point fingers, it's time we address the real issue of lawsuit abuse, so we can solve the problem and let the health care system start working again.

Mr. Speaker, patient access to care in jeopardized. Physicians are being forced to limit services and practice defensive medicine and patients are bearing the burden, often being

forced to travel hundreds of miles to the next available doctor in order to receive life-saving care.

I strongly encourage my fellow members to pass the HEALTH Act, providing a much-needed, common sense solution toward reforming America's medical justice crisis. Together, let's ensure that patients get quality care first rather than going to court.

Mr. DEFAZIO. Mr. Speaker, I attempted to offer three of the thirty-one amendments to H.R. 5, the HEALTH Act, last night. Inexplicably, these were disallowed out of hand.

This rule is an abuse of the process. Yes, it might be payback to the Democrats based on some revisionist history, but more importantly, it's a payoff to the Republicans' generous benefactors in the insurance industry, and through this bill, a payoff to the pharmaceutical industry.

The Republicans claim that the underlying bill, H.R. 5, will control insurance costs through so-called "tort reform." This bill won't do that. In fact, in 1999, a senior executive at the American Tort Reform Association conceded that "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

This is the third crisis in medical malpractice in 25 years. Each of these "crises" happens to coincide with recessions, stock market downturns, and insurance industry investment losses.

The insurance industry is an equal opportunity market abuser. They legally can and regularly do collude to raise rates and limit availability of all lines of insurance. If this "crisis" in medical malpractice insurance is due to a malpractice crisis then why also is there a crisis in health insurance, homeowners' insurance, auto insurance, and general liability insurance? Health insurance costs are up 13 percent, homeowners insurance, 8 percent, and auto insurance, 8.5 percent. Maybe it's time the insurance industry was subject to the same laws as other industries.

Mr. Speaker, the solution that will bring relief and improve access to our nation's physicians will start with a repeal of the antitrust exemption of the insurance industry. Legislation like H.R. 5 simply allows the insurance industry to profit off the backs of both doctors and patients.

Mr. KIND. Mr. Speaker, I rise today in opposition to the HEALTH Act, H.R. 5. Although I support the concept of sensible medical malpractice laws, this bill goes too far in defending negligence and not far enough in protecting patients.

In my home state of Wisconsin, we have medical malpractice laws that work. The components of this successful law include a cap on non-economic damages of \$442,000, which is indexed annually for inflation; a requirement that all providers carry malpractice insurance; and a victims' compensation fund.

The victims' compensation fund is a unique entity that has served both patients and health care providers well. The fund operates by collecting contributions from Wisconsin health care providers and paying the victims once an award has been determined. The physicians are liable only for the first \$1 million in an award. If the award exceeds \$1 million, the compensation fund will pay the remainder of the award.

A major problem with H.R. 5 is that it goes beyond medical malpractice law by including

the provisions regarding pharmaceutical and medical devices. The bill completely exempts from liability medical device makers and distributors as well as pharmaceutical companies, as long as the product complies with FDA standards. These provisions would have no effect on medical malpractice insurance rates. Instead, they would leave victims with little recourse and render them unable to hold pharmaceutical companies and the makers of defective medical products accountable for faulty or unsafe products.

Another problem with H.R. 5 is that it overrides some state laws. While the bill would not override Wisconsin's own cap on non-economic damages, it would supersede our state laws regarding statute of limitations, attorneys' fees, and the criteria for punitive damages. This bill is a one-size fits all solution that is not right for Wisconsin.

Although I oppose H.R. 5, I agree that medical malpractice issues must be addressed. Unfortunately, H.R. 5 is modeled after California's law, not Wisconsin's statutes. The successful components of Wisconsin's medical malpractice laws could be the basis for a much better bill. I urge my colleagues to go back to the drawing board to craft a consensus piece of legislation that both protects patients and keeps physicians in business. In Wisconsin, we are proud to have laws that effectively accomplish both of these goals. These laws are threatened, however, by the current proposal. Therefore, I oppose H.R. 5.

Mr. SHAW. Mr. Speaker, I rise today in strong support of H.R. 5, the HEALTH Act. America's doctors are facing a full blown crisis. What's at stake is nothing less than the survival of the profession. What's to blame is astronomical medical liability insurance rates.

Patients have watched helplessly as physicians have had to limit services or close their doors altogether and flee the state in search of more business friendly environments. Even worse, many young people who dreamed of studying medicine are choosing not to, realizing they won't be able to reconcile their dream with the reality of making a living.

In my state of Florida, the situation is among the worst in the nation. The American Medical Association has labeled Florida as one of 19 "in crisis" regarding medical liability which can reach sums of over \$200,000 annually. When it's easier to sue a doctor than to see a doctor, something has to be done.

We know that the reforms in the HEALTH Act will actually lower the overall cost of healthcare. Doctors, laboring under a constant fear of being sued, have a natural tendency to practice defensive medicine—ordering tests that may not be needed or refusing to perform more risky procedures. The direct cost of malpractice insurance and the indirect cost from defensive medicine raise the federal government's health care cost by at least \$28 billion a year.

It is clear that the current system of dispute resolution is not working. The entire industry suffers for the few bad eggs out there. Only 5% of doctors account for more than half of all the money paid out in malpractice suits, but all doctors pay the costs in their premiums. I believe it will take reform on the federal level to get the country's health system back on course and out of the courtroom and I therefore, support the HEALTH Act. I urge a "yes" vote on H.R. 5.

Mr. BISHOP. Mr. Speaker, I rise today to oppose H.R. 5.

Mr. Speaker, this bill is dangerous because it proposes a one-size-fits-all limit, regardless of the circumstances. It supersedes the laws of all fifty states and will not solve the problem of high insurance costs.

The real culprit is the insurance industry. All insurance premiums—including medical malpractice, automobile and homeowner policies—have seen a drastic increase in the past few years. These increases are not unique to medical malpractice. When the stock market returns and interest rates are high, malpractice premiums go down. When investment income goes down insurance companies increase premiums and reduce coverage. This is a fabricated "liability insurance crisis." What we actually have is an "insurance malpractice crisis."

Those who support restrictions on medical malpractice awards must explain these arbitrary limits to the parents of Jessica Santillan, the young girl who died after receiving the wrong organs from a heart and lung transplant operation at Duke University Hospital.

Because of cases like this, Congress must expand, not limit patient's rights.

This bill does not address the high cost of insurance. Instead it limits meritorious cases and valid judgments. An exhaustive study of the court system by the University of Georgia concluded that "there is no evidence of an explosion in tort filings, and there are few signs of run-a-way juries." In contrast, this bill will hurt real people with real losses. I urge my colleagues to vote against this bill and defeat this fraud on the public.

Mr. CROWLEY. Mr. Speaker, a lot of people on the other side have one crucial fact wrong—capping medical malpractice awards does not mean insurance rates will fall.

I have charts here that compare the average insurance premium for states with damage caps versus the average insurance premium for states with no caps.

For OB/GYN doctors, supposedly a group especially hard hit by medical malpractice awards—we find that OB/GYNs in states without caps on damages pay \$44,485 in insurance. OB/GYNs in states with caps on damages pay \$43,010—a "whopping" 3.4 percent difference.

For general surgery doctors, they pay \$26,144 in premiums if they are in a state with no caps on damages. They pay \$602 more—not less—if their state caps malpractice awards.

Look, if we want to decrease medical malpractice insurance costs for doctors, then let's talk about that.

Let's talk about investigating insurance company pricing practices.

Or, if we want to cap something, then let's cap the actual problem, insurance rates.

But to put the blame for rising insurance costs on victims—that's not only cruel, it's completely false.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in strong opposition to H.R. 5, the HEALTH Act. As a nurse, I understand all too well the high cost of malpractice insurance and I recognize the crisis this is creating in our healthcare system, particularly in areas of high-risk procedures. I want a solution to fix this problem, but H.R. 5 is not the solution to helping this crisis.

H.R. 5 will only make this crisis worse. H.R. 5 exempts HMOs, pharmaceutical companies, and the FDA from punitive damage awards.

This means that HMOs will continue to make medical decisions for patients based on what's best for their bottom line and not what is best medicine for the patients they serve. Under this legislation, a pharmaceutical company manufactures a drug or the FDA approves a product that proves to be harmful or deadly, a patient's family is limited in their recourse. After last year's Congressional debate, on the need to hold HMOs accountable for their actions I am shocked that anyone who supported the Patient's Bill of Rights can vote for this legislation.

In addition, by capping the punitive damages to \$250,000, this bill unfairly penalizes children, the elderly, and mothers who stay at home since it is impossible to prove economic damages from lost wages. The only compensation these patients have is non-economic or punitive damages.

Mr. Speaker, I am appalled at the arrogance of the Republican leadership, for prohibiting Members from offering any amendments to improve this legislation in any way shape or form.

Mr. Speaker, had I been allowed to offer an amendment, I would have offered the following to improve this legislation:

**Reducing frivolous lawsuits.**—We need to limit the amount of time during which a patient can file a medical malpractice action to no later than three years from the date of injury, or three years from the date the patient discovers the injury. And require an affidavit by a qualified specialist before any medical malpractice action may be filed. This "Qualified Specialist" would be a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

**Reducing premiums.**—We should require medical malpractice insurance companies to annually project the savings that will result from the anti-price fixing mechanisms required by the Democrat substitute. Insurance companies must also develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay.

**Solving healthcare professionals shortage.**—We need to provide grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health providers as a result of dramatic increases in malpractice insurance premiums.

Mr. Speaker, I urge all my colleagues to vote against H.R. 5.

Mr. WYNN. Mr. Speaker, the issue of high premiums for medical malpractice insurance is an important issue to doctors and patients. It is important that we lower insurance premiums, giving patients greater access to care. However, I am opposed to H.R. 5, the HEALTH Act.

First, tort reform has historically been the province of the States. All but 14 States, have some form of caps on medical malpractice suits. Thus, there is no need for Federal intervention.

However, I am not convinced that medical malpractice litigation alone has caused the increase in medical malpractice premiums. There is convincing evidence that suggests that the rise in medical malpractice liability premiums stems from poor business practices by many insurance companies. Insurance car-

riers in several cases appear to have relied on the investments in the booming stock market of the 1990s to price premiums at levels below the market price. Today's premiums seem designed to offset losses suffered when the market soured.

Meanwhile, it is unclear that even capping noneconomic damages in medical malpractice cases would lower premiums. Since California passed MICRA and capped noneconomic damages in the 1970s, their premiums have risen at rates above inflation.

Lastly, it took the 1985 passage of Proposition 103, which imposed price controls on premiums, to control the rising costs of premiums in California. Even with caps, California premiums are eight percent higher than in States without caps.

When considering this issue, we should not just consider tort reform, but examine the business and accounting practices of medical malpractice insurance carriers.

In committee, I introduced a substitute amendment to the underlying bill. The amendment would have created a medical malpractice commission to study the rising costs of medical malpractice insurance.

Last year, the Health Subcommittee held a hearing on the rising premiums. However, the committee never adequately considered the impact of the business practices employed by carriers on the rising cost of medical malpractice insurance. That is the real issue.

To date, the government has not fully examined all of the possible root causes for the rise in medical malpractice insurance.

My amendment in committee would have stripped the underlying bill and created a Federal bipartisan commission of eight members to study the cause of rising medical malpractice premiums during the last 20 years.

Specifically, the commission would look at the investment, accounting, and pricing practices of carriers, as well as jury awards in medical malpractice cases to determine what is causing the rise in premiums.

We all deserve our day in court; the case for caps on noneconomic damages has not yet been made. Before placing an unreasonably low cap on noneconomic damages in medical malpractice suits, let's sufficiently study the issue and determine the root cause for the rising premiums.

Mr. PITTS. Mr. Speaker, I rise today in support of H.R. 5.

Medical liability reform is one issue on which we cannot afford to waste time. In my home State of Pennsylvania, medical liability is not just a problem; it's a crisis. Medical liability rates are up 81 percent in Pennsylvania, and higher for some specialties. Every year, \$22 billion is sucked out of the American economy due to excessive medical liability claims. In Pennsylvania alone, there are \$1.2 billion in payouts each year. That's \$1,000 for every man, woman, and child in the Commonwealth. As a result, insurance companies are fleeing and many doctors cannot afford—financially nor professionally—to continue to practice medicine in the State.

Last year, Chester County Hospital, in my district, came very close to taking the drastic step of closing its maternity ward when insurance for the obstetricians skyrocketed. The doctors reported that they would have to discontinue offering care at that hospital. Thankfully, the hospital stepped in at the last minute with a temporary solution and actually put

these independent physicians on their payroll in order to provide coverage for them through the hospital captive insurance company. Since Chester County Hospital does twenty-one hundred or so deliveries a year, this load was too big for other providers in the area to pick up. Women would have had to leave Chester County to have their babies.

Lancaster General Hospital, also in my district, had to abandon plans to open a new clinic to serve the poor in Lancaster City when it learned that it would have to pay \$1.5 million more for malpractice insurance. This is unacceptable. We cannot wait any longer to address this crisis.

Pennsylvania is not alone. In fact, most States face this same crisis. Patient access to health care is on the decline. It is alarming. Unless we can reign in the costs of medical liability, men, women, and children across the country will suffer from lack of access to health care. Our health care system cannot support nor afford the big payouts of medical liability lawsuits.

H.R. 5 is not simply an important bill, but a critical one. It will inject predictability and fairness into the medical liability process.

The bottom line is this: If you care about patient access to health care and are concerned about the rampant increase in the cost of health care, vote for this bill that is before us today.

Vote for H.R. 5.

Mr. NEY. Mr. Speaker, I rise today to express my support for H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare Act of 2003. Our healthcare system is currently in a crisis. Medical malpractice insurance rates have risen to epidemic levels in many areas of the country—so much so that it is a national problem, not just a state or local issue. For many physicians, their rates have risen at factors of over four times the level that they experienced when they began practicing medicine.

Mr. Speaker, imagine having to pay upwards of \$130,000 to \$150,000 out of your own pocket to do business. This is what our doctors are experiencing.

Statistics such as these have far reaching implications and effects on our Nation's healthcare system. As insurance rates rise, the costs to do business rise, and the costs to consumers and patients rise. The end result is that hardworking Americans are paying the tab for unwieldy lawsuits. The HEALTH Act will help to lessen the medical liability of healthcare professionals and will thus lower the costs of healthcare to all Americans. It will reduce these lottery style lawsuits and will improve the protections for victims of malpractice.

This bill allocates damages fairly by holding a party liable only for his or her degree of fault. It also requires that a jury be informed of any payments already made, allowing for consideration of payment by other tortfeasors. The act does provide for full compensation of economic damages, such as future medical expenses and loss of future earnings, and it does not limit damages recoverable for physical injuries resulting from a provider's care nor does it cap punitive damages.

Instead, it places reasonable limits on punitive damages. They would be limited to the greater of: Two times a patient's economic damages, or \$250,000. The HEALTH Act does limit unquantifiable, noneconomic damages,

such as pain and suffering, to \$250,000. Patients will also be ensured that there will be funds to cover future medical expenses, and that a damage award will not risk bankrupting the defendants. The bill achieves this by allowing payments for future medical expenses to be made periodically, rather than in a single lump sum.

In conclusion, Mr. Speaker, for the sake of America's patients and healthcare system, I urge my colleagues to put partisanship aside and to pass this important piece of legislation.

Mr. Baca. Mr. Speaker, I come to the floor today in opposition to H.R. 5. I oppose this legislation because it will do nothing to change the current liability rates for doctors and it will punish America's senior, children, and poor people.

People must realize that if this bill is passed, patients will be limited to actual damages only. That means a child or senior citizen who doesn't have income would receive only \$250,000 for their injuries but a CEO with the same injury could be compensated millions simply because his income is higher.

I just don't see the difference. Under this bill if a homemaker or a waitress from my district who works just as hard as a CEO goes into the hospital and is permanently disabled, she would receive \$250,000. But if Bill Gates or Donald Trump goes into the hospital and experiences the same injury, a jury can award them millions.

Why don't the Republicans believe that the waitress or the homemaker deserve just compensation? Why do Republican's believe that a CEO's injury is worth more than our daughter's, son's, parent's, or grandparent's? Once again, we are seeing legislation from the Republicans that benefits only the wealthy.

Insurances companies are currently gouging our Nation's doctors and it needs to stop. But, capping punitive damages at \$250,000 will not help doctors—it will only hurt patients.

I am horrified that my colleagues on the other side of the aisle want to trump the decisions made by juries and tell an injured patient who has just lost their eyesight or a limb due to gross negligence that their injury is worth only \$250,000.

The patient could be in pain for the rest of their life. The Republicans want to take the power to decide away from the jury and tell everyone that their pain and suffering is only worth a mere \$250,000—no matter how painful the injury, no matter how permanent the damage.

And the Republicans think that once medical malpractice claims are capped at \$250,000 that insurances rates will drop. I hate to break it to the Republicans, but we tried that system in California. Over a 12-year-period rates rose 190 percent. It wasn't until we passed sensible insurance reform that doctors experienced relief from staggering insurances rates.

We need to get a grip on insurance rates to help the doctors, but not at the expense of injured patients. H.R. 5 does not make sense, we need to stop further punishing injured patients and pass sensible legislation that really helps doctors.

Mr. MOORE of Kansas. Mr. Speaker, I rise in opposition to H.R. 5.

Last year, when the House approved legislation virtually identical to H.R. 5, I expressed my strong belief that Congress should address the medical malpractice insurance system as a whole. My calls went unheeded.

I believed last year, as I believe now, that a solution to the problem of rapidly rising medical malpractice insurance premiums must address all of the factors that contribute to premium cost. I have spoken with many physicians in my congressional district about this problem, and almost to a person, they agree with my assessment that Congress should look at the entire health care system for a solution to this very complex problem. Neither this legislation nor the hearings held in House committees addressed the pricing and accounting practices of medical malpractice insurance companies. The legislation before us addresses neither the responsibilities of the medical profession, through state medical boards, to police itself, nor the barriers that exist in some states to keep the profession from doing so. This legislation does not provide solutions to address the problem of medical errors nor does it provide one dollar to help hospitals and physicians purchase existing technology that could dramatically reduce those errors. It is also clear that Congress has not clearly thought through the consequences of preempting the traditionally state-regulated and state-monitored field of health care professions.

I truly share the concern of many of my colleagues and those in the medical profession about the rising rate of medical malpractice premiums. Last week, in my office, representatives of the Kansas Medical Society expressed their concern that this legislation is overreaching and a threat to state laws in states like Kansas, where they believe that a delicate balance has been achieved between the interests of injured patients and the medical profession. Notably, many States, including those considered to be in "crisis," have acted or are now acting to get their own houses in order.

Mr. Speaker, I call on my colleagues to reject spurious, ill-conceived and overtly political solutions, and join with me in an effort to attain a comprehensive understanding of our Nation's health care system. Then we can truly find a solution to this very real crisis.

Mr. DELAHUNT. Mr. Speaker, the sponsors of this bill have assured the physicians of America that the bill will lower their insurance premiums. Yet it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year.

It does nothing to weed out the five percent of the medical profession who are responsible for 54 percent of the claims.

It does nothing to regulate the rates that insurance companies charge for their policies.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims—capping jury awards at artificially low levels that are insufficient to meet their needs, and that makes it difficult for them to find a qualified attorney who is willing to take their case.

The cap on non-economic damages is cruelest to the most vulnerable: children and mothers who stay at home. They have no economic damages. No loss of employment. No loss of past and future earnings. No loss of business opportunities. Apart from their medical bills, all of their losses are non-economic—for pain and suffering. Physical impairment. Disfigurement.

It's unconscionable for Congress to deprive these victims of the right to have a jury decide what their pain and suffering is worth.

Stephen Olson was left blind and brain-damaged after an HMO refused to give him an \$800 CAT scan when he was two years old. He'll need round-the-clock supervision for the rest of his life. The jury awarded him \$7.1 million for his pain and suffering. But California has a cap of non-economic damages, so the judge was forced to reduce the award to \$250,000. Is that really all he is owed for the irreversible damage that was done to him?

Linda McDougal receive an unnecessary double mastectomy after doctors mixed up her lab results and erroneously told her that she had breast cancer. Under this bill, would receive a maximum of \$250,000 for her lifetime of pain and disfigurement. Is that really all she is owed? Is that really all the compensation we would wish for our own mothers, sisters, and wives?

The irony is that despite the claims of the bill's supporters, there is no reason to believe that the cap on non-economic damages will have a serious impact on insurance premiums. A report by the New Jersey Medical Society estimated that a state cap of \$250,000 on non-economic damages might result in reductions of, at most, five-to-seven percent. Other studies suggest that insurance rates are affected less by the level of non-economic damages than by the amounts paid out for economic losses.

And in California, whose 1975 Medical Injury Compensation Reform Act, known as MICRA, was the model for many of the provisions of this bill, there is little persuasive evidence that the law has brought about any reduction in premiums. Indeed, a 1995 study concluded that premiums increased dramatically during the decade following enactment of MICRA, and only stabilized once the voters imposed rate regulation under a 1988 ballot measure known as Proposition 103.

The sponsors of the bill are unwilling to take that step. Far be it from them to impose regulation on the insurance industry! Yet when it comes to litigation, these apostles of free markets opt for wage and price controls. They are horrified at the thought that Congress would cap the amount of assets that wealthy bankrupts can shelter from their creditors, but have no compunction about capping the amount that malpractice victims can recover from their injuries.

I suppose it's all a question of priorities. If medical care were really a priority for the majority, we'd be talking about increasing reimbursement rates. Improving the quality of medical training. Providing incentives for doctors to practice in underserved communities. Reducing the paperwork burden that drives dedicated physicians out of the profession. But we can't talk about any of these things. They cost money. And with new tax cuts promised and deficits mounting, investments in the health care system are simply not a priority.

That's why we're debating a bill like this one instead. A bill that does nothing to address the legitimate concerns of physicians, while inflicting further harm on patients who have suffered enough.

Mr. SHUSTER. Mr. Speaker, the rising costs of medical liability insurance in Pennsylvania are among the worst in the country. In fact, Pennsylvania physicians faced a 50 percent increase in insurance costs in 2002, with



an additional 50 percent hike expected this year. Physicians have moved from my district to other States to continue practicing medicine. Recently, one of the most efficient hospitals in my district was literally within an hour of closing its doors when its pathology department could not secure medical liability insurance the 11th hour. The threat of rising medical liability costs to quality patient care in central Pennsylvania is beyond a crisis situation. The time for the House to act is now.

H.R. 5 is common-sense legislation aimed at reducing the skyrocketing medical liability costs that are threatening the availability of quality patient care in Pennsylvania and throughout the country. In addition, H.R. 5 protects the rights of patients with legitimate claims to receive compensation for economic losses, medical costs, and lost wages.

Mr. Speaker, the threat of frivolous medical liability litigation is endangering the ability of physicians in my district to provide quality patient care. Congress must do its part to ensure access to care is not jeopardized at the expense of lining the pockets of trial lawyers.

I urge my colleagues to vote in favor of H.R. 5.

Ms. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 5, the Medical Liability Limitation Act.

I represent many of the nation's premier health care and biomedical research institutions in the nation. As such, I have worked diligently to represent the interests of my district on health matters.

On this issue in particular, I have met with numerous doctors and I agree, they need relief from the high cost of insurance premiums. Rising health costs are not just impacting doctors. High health costs are hurting consumers, hospitals, employers and the economy, in general.

But H.R. 5 is not the right prescription!

Because of the strict caps for pain and suffering, H.R. 5 will especially harm women, children, the elderly and disabled individuals who may not have significant economic losses to recover. Stay-at-home moms and caregivers for children or the elderly, in particular, will be denied the ability to seek adequate compensation for damages inflicted upon them. H.R. 5 also will be especially punitive to women because many kinds of injuries that happen mostly to females—like those that affect the reproductive system, that cause a loss of fertility, or that are inflicted through sexual assault—are largely compensated through pain-and-suffering awards and other non-economic loss damages.

I met recently with a constituent who was a victim both of medical malpractice and pharmaceutical negligence. When she was in her mother's womb, her mother was prescribed DES at a time when reports about its ineffectiveness and its potential harmful effects on the fetus had already been circulated. Almost two decades later, she developed an adenocarcinoma, an aggressive cancer affecting her reproductive organs. Not only was she then misdiagnosed, her doctor prescribed treatments that were contraindicated and that hastened the growth of her cancer. The misdiagnosis resulted in extensive surgery and reconstruction resulting in her infertility and a lifetime of intense emotional and physical suffering. The pharmaceutical negligence, which was not accurately diagnosed for years—long after the statute of limitations would have ex-

pired under the terms of H.R. 5—has resulted in a lifetime of pain and a mountain of bills for follow-up medical care. If H.R. 5 had been the law when her mother had been prescribed DES, she would never have been awarded enough even to pay her extensive medical bills, let alone compensate her for years of pain and suffering.

For several Congresses, we have worked to pass a patient's bill of rights, to make sure that doctors and patients make medical decisions, not bureaucrats. H.R. 5 is an anti-patient's bill of rights.

H.R. 5 is too broad. Beyond the issue of medical malpractice, H.R. 5 includes severe liability limitations for pharmaceutical companies, medical device manufacturers, nursing homes and assisted living facilities, and insurance companies.

Unlike the Conyers/Dingell alternative which I strongly support, H.R. 5 promises no relief from the high malpractice insurance rates paid by doctors and hospitals and serves as nothing more than a bailout for insurance companies who are passing on their investment losses to doctors.

Vote "no" on H.R. 5.

Ms. DEGETTE. Mr. Speaker, I think we all agree that there is a crisis in medical malpractice insurance rates. Unfortunately, this bill does not mention insurance rates or offer solutions for the doctors who are feeling the burden of high premiums.

H.R. 5 relies on the misconception that savings from malpractice litigation reforms will relieve high insurance premiums. However, litigation is not the cause of high malpractice insurance rates. There has been no increase in the rate of malpractice claims filed in recent years and the average payout has remained steady over the past decade. In fact, the one state that proponents of malpractice litigation reform continually cite as a success is California. What they don't say is that California's malpractice insurance rates only stabilized after the state reformed its insurance system.

Despite this evidence, proponents of H.R. 5 have continued to represent this bill as a relief for physicians, rather than what it really is—a bill that will add additional injury to patients who have suffered from medical malpractice.

H.R. 5 would cap non-economic damages at an arbitrary amount of \$250,000 for people who have been injured by malpractice. Non-economic damages compensate people for injuries that are very real, like permanent disfigurement, loss of sight or a limb, loss of fertility, and wrongful death. The cap on non-economic damages is unfair and should not become law.

This bill tells people like Heather Lewinski, a 17 year old girl who suffered permanent facial disfigurement at the hands of a plastic surgeon who lied to her and her family, that the severe pain, trauma, and suffering that she went through is worth \$250,000. The bill tells people like Linda McDougal, whose breasts were amputated after she had been misdiagnosed with cancer, that the loss of her breasts and dignity is only worth \$250,000. And it tells the family of Jessica Santillan, the little girl who died because the hospital failed to ensure that the heart and lungs she was about to receive would be compatible with her blood type, that their little girl's life was only worth \$250,000.

Some advocates of H.R. 5 say that the bill only caps non-economic damages, not eco-

nomical damages and that a person can receive full economic compensation for their injuries. Yet, this is unfair to the millions of Americans who do not work—retirees, stay-at-home moms, children, and seniors because they do not have economic damages. For example, Heather Lewinski, who underwent surgery when she was only 8 years old, did not have any economic damages. Linda McDougal's medical bills were already paid for and her loss would not directly affect her future earning potential. Yet, she suffered emotional trauma and a loss of dignity. Is her loss worth an arbitrary amount that was determined by a group of politicians? I certainly don't think so.

By adopting strict monetary caps on damages, Congress is creating a solution for a problem that does not exist. Medical malpractice claims are not increasing and juries are not making outrageous awards. According to the National Center for State Courts, there was no increase in the volume of medical malpractice claims between 1997 and 2001. Additionally, of the 16,676 medical malpractice cases with awards in 2001, only 5 percent were for \$1 million or more. Clearly, this represents an extraordinarily small number of cases. I do not believe we should be restricting the rights of patients to receive fair and adequate compensation for their losses because of this very small number of large awards.

If we truly want to fix the real crisis that is plaguing our nation's doctors, we need to take a good look at the insurance industry. According to a study using the insurance industry's own data and conducted by Americans for Insurance Reform, while the total amount paid out over the past decade by malpractice insurers directly tracks the rate of medical inflation, the premiums that insurance companies charge doctors increase or decrease depending on the economy. In my state of Colorado, which has certain caps on damages, insurance companies took in over \$119 million in premiums in 2001. Yet, they only paid out \$36 million.

We should be taking a comprehensive approach to this crisis instead of placing unfair burdens on patients. We should be looking at the insurance cycle, how insurers manage investments and reserves, and financial pressures that health care payers place on providers and how that affects the way care is delivered.

Instead, we are considering a bill that is akin to curing a headache by amputating an arm. Arbitrarily limiting patients' rights is not fair and it will not solve the problem.

Stand up for the rights of patients and oppose this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. Tens of thousands of people die each year from preventable medical errors. But rather than reform the medical system to prevent needless deaths and injuries, doctors and big insurance companies are lobbying to limit the rights of injured patients to seek full recovery in the courts. This measure unfairly impacts women and low income patients.

The HEALTH Act (H.R. 5) attempts to address the problem of high insurance costs for doctors by limiting punitive damages in medical malpractice cases to \$250,000 and caps attorneys' fees under the guise of addressing

the rising cost of medical malpractice insurance. H.R. 5 caps non-economic damages in the aggregate—regardless of the number of parties involved in the dispute.

Despite its claim, H.R. 5 does nothing to directly address the problem of rising medical malpractice insurance rates for doctors. Malpractice insurance companies can expect a huge windfall from this legislation because it limits how much they have to pay out in claims, but does not address how much these insurance companies charge in premiums to doctors. The insurance industry has said that there is no guarantee of any specific savings from passage of this type of legislation.

The major malpractice problem facing Texans is the unreliable quality of medical care being delivered, which is a result of frequent medical mistakes and a lack of doctor oversight by the state medical board.

Government data show that “repeat offender” doctors are responsible for the bulk of malpractice payments. Between September 1990 and September 2002, 6.5 percent of Texas’ doctors made two or more malpractice payouts worth a total of more than \$1 billion. These represented 51.3 percent of all payments, according to information obtained from the federal government’s National Practitioner Data Bank. Just 2.2 percent of the doctors made three or more payments, representing about a quarter of all payouts.

For every \$100 spent on health care in America, only \$.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors (a mere six percent of doctors in Texas are responsible for 46 percent of all malpractice), this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Medical errors cause 3,260 to 7,261 preventable deaths in Texas each year. These errors cost families and communities \$1.3 billion to \$2.2 billion annually in lost wages, lost productivity and increased health care costs. In contrast, medical malpractice insurance costs Texas’s doctors less than \$421.2 million annually.

One more time the patient (consumer) gets the lump for being victimized. Vote against this rule and this bill under consideration..

It is for these reasons that I will vote against the rule and the bill, H.R. 5, and I urge my Colleagues to vote against H.R. 5.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 139, the previous question is ordered.

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.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 5 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to

the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Medical Malpractice and Insurance Reform Act of 2003”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS**

Sec. 101. Statute of limitations.

Sec. 102. Health care specialist affidavit.

Sec. 103. Sanctions for frivolous actions and pleadings.

Sec. 104. Mandatory mediation.

Sec. 105. Limitation on punitive damages.

Sec. 106. Use of savings to benefit providers through reduced premiums.

Sec. 107. Definitions.

Sec. 108. Applicability.

**TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE**

Sec. 201. Establishment.

Sec. 202. Duties.

Sec. 203. Report.

Sec. 204. Membership.

Sec. 205. Director and staff; experts and consultants.

Sec. 206. Powers.

Sec. 207. Authorization of appropriations.

**TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS**

**SEC. 101. STATUTE OF LIMITATIONS.**

(a) IN GENERAL.—A medical malpractice action shall be barred unless the complaint is filed within 3 years after the right of action accrues.

(b) ACCRUAL.—A right of action referred to in subsection (a) accrues upon the last to occur of the following dates:

(1) The date of the injury.

(2) The date on which the claimant discovers, or through the use of reasonable diligence should have discovered, the injury.

(3) The date on which the claimant becomes 18 years of age.

(c) APPLICABILITY.—This section shall apply to any injury occurring after the date of the enactment of this Act.

**SEC. 102. HEALTH CARE SPECIALIST AFFIDAVIT.**

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), it is accompanied by the affidavit of a qualified specialist that includes the specialist’s statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice action without submitting an affidavit described in such subsection if, as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual’s attorney) submits the affidavit described in subsection (a) not later than 90 days after obtaining the information described in such paragraph.

(c) QUALIFIED SPECIALIST DEFINED.—In subsection (a), a “qualified specialist” means,

with respect to a medical malpractice action, a health care professional who is reasonably believed by the individual bringing the action (or the individual’s attorney)—

(1) to be knowledgeable in the relevant issues involved in the action;

(2) to practice (or to have practiced) or to teach (or to have taught) in the same area of health care or medicine that is at issue in the action; and

(3) in the case of an action against a physician, to be board certified in a specialty relating to that area of medicine.

(d) CONFIDENTIALITY OF SPECIALIST.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

**SEC. 103. SANCTIONS FOR FRIVOLOUS ACTIONS AND PLEADINGS.**

(a) SIGNATURE REQUIRED.—Every pleading, written motion, and other paper in any medical malpractice action shall be signed by at least 1 attorney of record in the attorney’s individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer’s address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) CERTIFICATE OF MERIT.—(1) A medical malpractice action shall be dismissed unless the attorney or unrepresented party presenting the complaint certifies that, to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

(2) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) MANDATORY SANCTIONS.—

(1) FIRST VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in

violation, or upon both such person and such person's attorney or client (as the case may be).

(2) **SECOND VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) **THIRD VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

#### SEC. 104. MANDATORY MEDIATION.

(a) **IN GENERAL.**—In any medical malpractice action, before such action comes to trial, mediation shall be required. Such mediation shall be conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(b) **REQUIREMENTS.**—Mediation under subsection (a) shall be made available by a State subject to the following requirements:

(1) Participation in such mediation shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(2) Each State shall disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including such mediation.

(3) Each State shall provide that such mediation may begin before or after, at the option of the claimant, the commencement of a medical malpractice action.

(4) The Attorney General, in consultation with the Secretary of Health and Human Services, shall, by regulation, develop requirements with respect to such mediation to ensure that it is carried out in a manner that—

- (A) is affordable for the parties involved;
- (B) encourages timely resolution of claims;
- (C) encourages the consistent and fair resolution of claims; and
- (D) provides for reasonably convenient access to dispute resolution.

(c) **FURTHER REDRESS AND ADMISSIBILITY.**—Any party dissatisfied with a determination

reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications made during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

#### SEC. 105. LIMITATION ON PUNITIVE DAMAGES.

(a) **IN GENERAL.**—Punitive damages may not be awarded in a medical malpractice action, except upon proof of—

- (1) gross negligence;
- (2) reckless indifference to life; or
- (3) an intentional act, such as voluntary intoxication or impairment by a physician, sexual abuse or misconduct, assault and battery, or falsification of records.

(b) **ALLOCATION.**—In such a case, the award of punitive damages shall be allocated 50 percent to the claimant and 50 percent to a trustee appointed by the court, to be used by such trustee in the manner specified in subsection (d). The court shall appoint the Secretary of Health and Human Services as such trustee.

(c) **EXCEPTION.**—This section shall not apply with respect to an action if the applicable State law provides (or has been construed to provide) for damages in such an action that are only punitive or exemplary in nature.

(d) **TRUST FUND.**—

(1) **IN GENERAL.**—This subsection applies to amounts allocated to the Secretary of Health and Human Services as trustee under subsection (b).

(2) **AVAILABILITY.**—Such amounts shall, to the extent provided in advance in appropriations Acts, be available for use by the Secretary of Health and Human Services under paragraph (3) and shall remain so available until expended.

(3) **USE.**—

(A) Subject to subparagraph (B), the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall use the amounts to which this subsection applies for activities to reduce medical errors and improve patient safety.

(B) The Secretary of Health and Human Services may not use any part of such amounts to establish or maintain any system that requires mandatory reporting of medical errors.

(C) The Secretary of Health and Human Services shall promulgate regulations to establish programs and procedures for carrying out this paragraph.

(4) **INVESTMENT.**—

(A) The Secretary of Health and Human Services shall invest the amounts to which this subsection applies in such amounts as such Secretary determines are not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Secretary in such Secretary's capacity as trustee of such amounts may be sold by the Secretary at the market price.

#### SEC. 106. USE OF SAVINGS TO BENEFIT PROVIDERS THROUGH REDUCED PREMIUMS.

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, a provision of this title may be applied by a court to the benefit of a party insured by a medical malpractice liability insurance company only if the court—

(1) determines the amount of savings realized by the company as a result; and

(2) requires the company to pay an amount equal to the amount of such savings to a trustee appointed by the court, to be distributed by such trustee in a manner that has the effect of benefiting health care providers insured by the company through reduced premiums for medical malpractice liability insurance.

(b) **DEFINITION.**—For purposes of this section, the term "medical malpractice liability insurance company" means an entity in the business of providing an insurance policy under which the entity makes payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim.

#### SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) **ALTERNATIVE DISPUTE RESOLUTION METHOD.**—The term "alternative dispute resolution method" means a method that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice actions.

(2) **CLAIMANT.**—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) **HEALTH CARE PROFESSIONAL.**—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) **HEALTH CARE PROVIDER.**—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) **INJURY.**—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice action or a medical malpractice claim.

(6) **MANDATORY.**—The term "mandatory" means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(7) **MEDIATION.**—The term "mediation" means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(8) **MEDICAL MALPRACTICE ACTION.**—The term "medical malpractice action" means an action in any State or Federal court against a physician, or other health professional, who is licensed in accordance with the requirements of the State involved that—

(A) arises under the law of the State involved;

(B) alleges the failure of such physician or other health professional to adhere to the relevant professional standard of care for the service and specialty involved;

(C) alleges death or injury proximately caused by such failure; and

(D) seeks monetary damages, whether compensatory or punitive, as relief for such death or injury.

(9) **MEDICAL MALPRACTICE CLAIM.**—The term "medical malpractice claim" means a claim forming the basis of a medical malpractice action.

(10) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and any other territory or possession of the United States.

#### SEC. 108. APPLICABILITY.

(a) IN GENERAL.—Except as provided in section 104, this title shall apply with respect to any medical malpractice action brought on or after the date of the enactment of this Act.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice actions on the basis of section 1331 or 1337 of title 28, United States Code.

### TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

#### SEC. 201. ESTABLISHMENT.

(a) FINDINGS.—The Congress finds as follows:

(1) The sudden rise in medical malpractice premiums in regions of the United States can threaten patient access to doctors and other health providers.

(2) Improving patient access to doctors and other health providers is a national priority.

(b) ESTABLISHMENT.—There is established a national commission to be known as the "Independent Advisory Commission on Medical Malpractice Insurance" (in this title referred to as the "Commission").

#### SEC. 202. DUTIES.

(a) IN GENERAL.—(1) The Commission shall evaluate the effectiveness of health care liability reforms in achieving the purposes specified in paragraph (2) in comparison to the effectiveness of other legislative proposals to achieve the same purposes.

(2) The purposes referred to in paragraph (1) are to—

(A) improve the availability of health care services;

(B) reduce the incidence of "defensive medicine";

(C) lower the cost of health care liability insurance;

(D) ensure that persons with meritorious health care injury claims receive fair and adequate compensation; and

(E) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

(b) CONSIDERATIONS.—In formulating proposals on the effectiveness of health care liability reform in comparison to these alternatives, the Commission shall, at a minimum, consider the following:

(1) Alternatives to the current medical malpractice tort system that would ensure adequate compensation for patients, preserve access to providers, and improve health care safety and quality.

(2) Modifications of, and alternatives to, the existing State and Federal regulations and oversight that affect, or could affect, medical malpractice lines of insurance.

(3) State and Federal reforms that would distribute the risk of medical malpractice more equitably among health care providers.

(4) State and Federal reforms that would more evenly distribute the risk of medical malpractice across various categories of providers.

(5) The effect of a Federal medical malpractice reinsurance program administered by the Department of Health and Human Services.

(6) The effect of a Federal medical malpractice insurance program, administered by the Department of Health and Human Services, to provide medical malpractice insurance based on customary coverage terms and liability amounts in States where such in-

surance is unavailable or is unavailable at reasonable and customary terms.

(7) Programs that would reduce medical errors and increase patient safety, including new innovations in technology and management.

(8) The effect of State policies under which—

(A) any health care professional licensed by the State has standing in any State administrative proceeding to challenge a proposed rate increase in medical malpractice insurance; and

(B) a provider of medical malpractice insurance in the State may not implement a rate increase in such insurance unless the provider, at minimum, first submits to the appropriate State agency a description of the rate increase and a substantial justification for the rate increase.

(9) The effect of reforming antitrust law to prohibit anticompetitive activities by medical malpractice insurers.

(10) Programs to facilitate price comparison of medical malpractice insurance by enabling any health care provider to obtain a quote from each medical malpractice insurer to write the type of coverage sought by the provider.

(11) The effect of providing Federal grants for geographic areas that have a shortage of one or more types of health providers as a result of the providers making the decision to cease or curtail providing health services in the geographic areas because of the costs of maintaining malpractice insurance.

#### SEC. 203. REPORT.

(a) IN GENERAL.—The Commission shall transmit to Congress—

(1) an initial report not later than 180 days after the date of the initial meeting of the Commission; and

(2) a report not less than each year thereafter until the Commission terminates.

(b) CONTENTS.—Each report transmitted under this section shall contain a detailed statement of the findings and conclusions of the Commission.

(c) VOTING AND REPORTING REQUIREMENTS.—With respect to each proposal or recommendation contained in the report submitted under subsection (a), each member of the Commission shall vote on the proposal or recommendation, and the Commission shall include, by member, the results of that vote in the report.

#### SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

(2) INCLUSION.—The membership of the Commission shall include the following:

(A) Two individuals with expertise in health finance and economics, including one with expertise in consumer protections in the area of health finance and economics.

(B) Two individuals with expertise in medical malpractice insurance, representing both commercial insurance carriers and physician-sponsored insurance carriers.

(C) An individual with expertise in State insurance regulation and State insurance markets.

(D) An individual representing physicians.

(E) An individual with expertise in issues affecting hospitals, nursing homes, nurses, and other providers.

(F) Two individuals representing patient interests.

(G) Two individuals with expertise in health care law or health care policy.

(H) An individual with expertise in representing patients in malpractice lawsuits.

(3) MAJORITY.—The total number of individuals who are directly involved with the provision or management of malpractice insurance, representing physicians or other providers, or representing physicians or other providers in malpractice lawsuits, shall not constitute a majority of the membership of the Commission.

(4) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of the Commission of financial or other potential conflicts of interest relating to such members.

(c) TERMS.—

(1) IN GENERAL.—The terms of the members of the Commission shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(2) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) COMPENSATION.—Members of the Commission shall be compensated in accordance with section 1805(c)(4) of the Social Security Act.

(4) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate at the time of appointment a member of the Commission as Chairman and a member as Vice Chairman. In the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

(5) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairman.

(B) INITIAL MEETING.—The Commission shall hold an initial meeting not later than the date that is 1 year after the date of the enactment of this title, or the date that is 3 months after the appointment of all the members of the Commission, whichever occurs earlier.

#### SEC. 205. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of the Commission, the Commission may—

(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties;

(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

(4) make advance, progress, and other payments which relate to the work of the Commission;

(5) provide transportation and subsistence for persons serving without compensation; and

(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

#### SEC. 206. POWERS.

(a) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

(b) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

(1) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

(2) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

(3) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

(c) ACCESS OF GENERAL ACCOUNTING OFFICE TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and non-proprietary data of the Commission, immediately upon request.

(d) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General of the United States.

#### SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 2004 through 2008.

(b) REQUESTS FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

Amend the title so as to read: "A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes."

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, this is the Conyers-Dingell motion to recommit. It started out originally as the Conyers-Dingell substitute motion which, in the wisdom of the Committee on Rules and the chair of the Committee on Energy and Commerce, was determined not to be necessary. We did not need to waste this much time worrying or going over the same matter twice. So let us just have a 5-minute discussion on each side about a multi-billion-dollar measure that affects every man, woman, and child in the United States of America. So I will

take a couple of minutes and ask the dean of the House to spend the rest of the time making sure that we all understand what it does.

First of all, we do something about the problem that has been complained of grievously by every Member that has taken to the floor today. We do something about it. That is, we limit frivolous lawsuits by requiring that there is mandatory mediation for every malpractice lawsuit filed in the United States of America and that we require that attorneys' certificates of merit and mandatory sanctions occur. We require that affidavits of merit be provided from qualified medical specialists. We attempt to, in short, weed out frivolous lawsuits that will not restrict the rights of those with legitimate claims. Of course, finally, it is very important to realize that we reexamine the antitrust exemption that has been enjoyed by the insurance industry all of these years.

Mr. Speaker, I am delighted now to yield the balance of the time to the dean of the House, the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, the bill before us is a bad bill. The motion to recommit is forced upon us by the recalcitrance of the Republican leadership which has not permitted us to offer a substitute. This is the package that we could go home and talk with pride of to our people and to our doctors. It weeds out frivolous lawsuits. It does not restrict the rights of legitimate claimants. It establishes an equitable, 3-year statute of limitation that protects children, the aged, the poor.

It requires affidavits of merit from qualified medical specialists and attorneys' certificates of merit with mandatory sanctions. It requires mandatory mediation. It also allows health care providers to challenge malpractice premium increases. It provides direct assistance to physicians in crisis areas through Federal grants, and it provides direct assistance to medical centers in danger of closing. It repeals the antitrust exemption for malpractice insurance, and it establishes Federal malpractice insurance and a reinsurance program. This is a program that will work.

Under a House in which we had a decent opportunity to debate and amend, Members of this body would understand that this is the package for which they want to vote. They would understand that this is a package which their people wish them to vote for, and I include in that the health care providers. It is a bill, or rather an amendment, which would assure that health care providers would receive the help that they need while, at the same time, not providing unnecessary shelters for HMOs and other undeserving persons who have contrived to leap aboard a vehicle which they think is going out and a situation which per-

mits the doctors to be used as frontmen for a bunch of iniquitous rascals who do not deserve relief.

Mr. CONYERS. Mr. Speaker, we yield back any time that may be remaining.

The SPEAKER pro tempore. Does the gentleman from Louisiana (Mr. TAUZIN) seek time in opposition to the motion?

Mr. TAUZIN. I do, Mr. Speaker.

I first yield to the gentleman from Nevada (Mr. GIBBONS) for a colloquy.

Mr. GIBBONS. Mr. Speaker, I would like to ask the gentleman from Louisiana (Mr. TAUZIN) a question which concerns the relationship of Nevada law and H.R. 5.

In my State of Nevada, we have recently passed a law that sets forth a \$350,000 cap for noneconomic damages, but it has some exceptions. I would like to know how this legislation applies in this circumstance.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman. Subparagraph 11(c)(1) says: "Any State law, whether effective before, on, or after the dates of the enactment of this Act that specifies a particular monetary amount of compensatory or punitive damages, or the total amount of damages, that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided under this Act."

Nevada's \$350,000 cap generally fits the terms of this subparagraph and would generally apply. The handling of the exceptions is not specifically stated in the legislation. I would be prepared to work with the gentleman to discuss these exceptions as we move further in the process of this legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for his response, and I look forward to working with him on this matter.

Mr. TAUZIN. Mr. Speaker, the Dingell motion offers us a different solution than H.R. 5. Interestingly enough, not a single one of the 175 health care organizations and associations, doctors across America, endorses that solution.

□ 1445

But they have all endorsed H.R. 5. And let me explain to you why the doctors and the health care organizations have not endorsed the Dingell solution and have endorsed H.R. 5. By the way, the Committee on Energy and Commerce took a vote on the general substance of this motion to recommit and voted 30 to 20 against it and it was not a party line vote. Let me tell you why it was defeated, why so many organizations opposed it. Because what it generally offers is not insurance reform but a Federal commission, another bureaucracy to study the problem and to make recommendations one day to us.

We have studied this problem ad infinitum. We have held numerous hearings. The States have experienced this problem going back 25 years and they

have offered us a solution. We are following their lead after 25 years of experience. Do we really need another Federal commission? No insurance reform, just a commission? And then to solve the problem of high malpractice liability coverage, this is the Dingell motion to recommit solution, not a single limitation at all on recoveries, unlimited recoveries as in current law, not a single cap on any kind of damages. Instead we get an attorney's certificate of merit. An attorney's certificate of merit. We get the trial lawyer to say, I think I have got a good lawsuit, and that is the solution.

Mr. Speaker, when an attorney signs a petition, when he signs the most egregiously incorrect, horribly drafted, when he signs the most inappropriate false petition, when he signs his name on it he is attesting to the validity of that petition. It may be a bad petition. It may be the most horrible lawsuit ever filed. It may get dismissed on the first motion to have it dismissed, but when he signed his name on it, he said it was a good petition.

So what does the Democratic motion to recommit tell us? We are going to solve this problem in America by having the same attorney sign a certificate that he has got a good suit, that he has got a good petition. Wow, that will really solve the problem.

I think you see why now that solution has been rejected by 175 organizations representing the doctors, the nurses, all the organizations across America who are crying to us for relief, who are telling us we are tired of petitions signed by lawyers that have no merit, that drive up medical malpractice suits, that drive us out of business and deprive the citizens of our country needed medical care when their loved ones need it the most. They are crying to us for help and the victims that came to us in our committee room and said, for God's sake, it is horrible when somebody commits a medical error, but it is also terrible when the doctor is not there when my child is sick, when my husband has been horribly mutilated in an automobile accident, when my daughter is trying to deliver her first child and there is no doctor there willing to do it because the cost of liability insurance is too high. They are crying to us to do something today. The motion to recommit tells us, well, let us just trust the lawyers and create a Federal commission. Whoopie-ding.

What do we tell those victims when we said all we did was trust the lawyers and created another Federal commission? I did not come here to create new Federal commissions to tell us what the problems were and what the solutions were. I came here like the rest of you, to figure out what the problems were and to solve them. H.R. 5 solves this program and deserves to be passed. This motion to recommit needs to go down.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the pre-

vious 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.

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 191, nays 234, not voting 9, as follows:

[Roll No. 63]

YEAS—191

Abercrombie	Grijalva	Napolitano
Ackerman	Gutierrez	Neal (MA)
Alexander	Hall	Oberstar
Allen	Harman	Obey
Andrews	Hastings (FL)	Olver
Baca	Hill	Ortiz
Baird	Hinchey	Owens
Baldwin	Hinojosa	Pallone
Ballance	Hoeffel	Pascarella
Becerra	Holden	Pastor
Bell	Holt	Payne
Berman	Honda	Pelosi
Berry	Hooley (OR)	Peterson (MN)
Bishop (GA)	Hoyer	Price (NC)
Bishop (NY)	Inlee	Rahall
Blumenauer	Israel	Rangel
Boswell	Jackson (IL)	Reyes
Boucher	Jackson-Lee	Rodriguez
Boyd	(TX)	Ross
Brady (PA)	Jefferson	Rothman
Brown (OH)	Johnson, E. B.	Roybal-Allard
Brown, Corrine	Jones (OH)	Ruppersberger
Capps	Kanjorski	Rush
Capuano	Kaptur	Ryan (OH)
Cardin	Kennedy (RI)	Sabo
Cardoza	Kildee	Sanchez, Linda
Carson (IN)	Kilpatrick	T.
Carson (OK)	Kind	Sanchez, Loretta
Case	Kleczka	Sanders
Clay	Kucinich	Sandlin
Conyers	Lampson	Schakowsky
Cooper	Langevin	Schiff
Costello	Lantos	Scott (VA)
Cramer	Larsen (WA)	Serrano
Crowley	Lee	Sherman
Cummings	Levin	Skelton
Davis (AL)	Lewis (GA)	Slaughter
Davis (CA)	Lipinski	Smith (WA)
Davis (IL)	Lowe	Solis
Davis (TN)	Lynch	Spratt
DeFazio	Majette	Stark
Delahunt	Maloney	Strickland
DeLauro	Markey	Stupak
Deutsch	Marshall	Tanner
Dicks	Matsui	Tauscher
Dingell	McCarthy (MO)	Thompson (CA)
Doggett	McCarthy (NY)	Thompson (MS)
Dooley (CA)	McCollum	Tierney
Duncan	McDermott	Towns
Edwards	McGovern	Turner (TX)
Emanuel	McIntyre	Udall (CO)
Engel	McNulty	Udall (NM)
Eshoo	Meehan	Van Hollen
Etheridge	Meek (FL)	Velazquez
Evans	Meeks (NY)	Visclosky
Farr	Menendez	Waters
Fattah	Michaud	Watson
Filner	Millender-	Watt
Ford	McDonald	Waxman
Frank (MA)	Miller (NC)	Weiner
Frost	Miller, George	Wexler
Gephardt	Mollohan	Woolsey
Gonzalez	Moore	Wu
Gordon	Moran (VA)	Wynn
Green (TX)	Nadler	

NAYS—234

Aderholt	Gillmor	Oxley
Akin	Gingrey	Paul
Bachus	Goode	Pearce
Baker	Goodlatte	Pence
Ballenger	Goss	Peterson (PA)
Barrett (SC)	Granger	Petri
Bartlett (MD)	Graves	Pickering
Barton (TX)	Green (WI)	Pitts
Bass	Greenwood	Platts
Beauprez	Gutknecht	Pombo
Bereuter	Harris	Pomeroy
Berkley	Hart	Porter
Biggett	Hastings (WA)	Portman
Bilirakis	Hayes	Pryce (OH)
Bishop (UT)	Hayworth	Putnam
Blackburn	Hefley	Quinn
Blunt	Hensarling	Radanovich
Boehler	Herger	Ramstad
Boehner	Hobson	Regula
Bonilla	Hoekstra	Rehberg
Bonner	Hostettler	Renzi
Bono	Houghton	Reynolds
Boozman	Hulshof	Rogers (AL)
Bradley (NH)	Hunter	Rogers (KY)
Brady (TX)	Isakson	Rogers (MI)
Brown (SC)	Issa	Rohrabacher
Brown-Waite,	Janklow	Ros-Lehtinen
Ginny	Jenkins	Royce
Burgess	John	Ryan (WI)
Burns	Johnson (CT)	Ryun (KS)
Burr	Johnson, Sam	Saxton
Burton (IN)	Jones (NC)	Schrock
Buyer	Keller	Scott (GA)
Calvert	Kelly	Sensenbrenner
Camp	Kennedy (MN)	Sessions
Cannon	King (IA)	Shadegg
Cantor	King (NY)	Shaw
Capito	Kingston	Shays
Carter	Kirk	Sherwood
Castle	Kline	Shimkus
Chabot	Knollenberg	Shuster
Chocola	Kolbe	Simmons
Coble	LaHood	Simpson
Cole	Larson (CT)	Smith (MI)
Collins	Latham	Smith (NJ)
Cox	LaTourette	Smith (TX)
Crane	Leach	Souder
Crenshaw	Lewis (CA)	Stearns
Cubin	Lewis (KY)	Stenholm
Culberson	Linder	Sullivan
Cunningham	LoBiondo	Sweeney
Davis (FL)	Lofgren	Tancred
Davis, Jo Ann	Lucas (KY)	Tauzin
Davis, Tom	Lucas (OK)	Taylor (MS)
Deal (GA)	Manzullo	Taylor (NC)
DeLay	Matheson	Terry
DeMint	McCotter	Thomas
Diaz-Balart, L.	McCrery	Thornberry
Diaz-Balart, M.	McHugh	Tiahrt
Doolittle	McInnis	Tiberi
Dreier	McKeon	Toomey
Dunn	Mica	Turner (OH)
Ehlers	Miller (FL)	Upton
Emerson	Miller (MI)	Vitter
English	Miller, Gary	Walden (OR)
Everett	Moran (KS)	Walsh
Feeney	Murphy	Wamp
Ferguson	Murtha	Weldon (FL)
Flake	Musgrave	Weldon (PA)
Fletcher	Myrick	Weller
Foley	Nethercutt	Whitfield
Forbes	Ney	Wicker
Fossella	Northup	Wilson (NM)
Franks (AZ)	Norwood	Wilson (SC)
Frelinghuysen	Nunes	Wolf
Gallegly	Nussle	Young (AK)
Garrett (NJ)	Osborne	Young (FL)
Gerlach	Ose	
Gibbons	Otter	

NOT VOTING—9

Clyburn	Doyle	Istook
Combest	Gilchrest	Johnson (IL)
DeGette	Hyde	Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG) (during the vote). There are 2 minutes left in this vote.

□ 1508

Messrs. MCHUGH, QUINN, BURGESS, HOUGHTON, TANCREDO, BRADY of Texas and SAXTON changed their vote from "yea" to "nay."

So the motion to recommit 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. SIMPSON). 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. CONYERS. 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 229, noes 196, answered “present” 1, not voting 8, as follows:

## [Roll No. 64]

## AYES—229

Aderholt	Ferguson	McHugh
Akin	Fletcher	McInnis
Baker	Foley	McKeon
Ballenger	Forbes	Mica
Barrett (SC)	Fossella	Miller (FL)
Bartlett (MD)	Franks (AZ)	Miller (MI)
Barton (TX)	Frelinghuysen	Miller, Gary
Bass	Galleghy	Moran (KS)
Beauprez	Garrett (NJ)	Murphy
Bereuter	Gerlach	Murtha
Biggett	Gibbons	Musgrave
Bilirakis	Gillmor	Myrick
Bishop (UT)	Gingrey	Nethercutt
Blackburn	Goode	Ney
Blunt	Goodlatte	Northup
Boehrlert	Gordon	Norwood
Boehner	Goss	Nunes
Bonilla	Granger	Nussle
Bonner	Graves	Osborne
Bono	Green (WI)	Ose
Boozman	Greenwood	Otter
Boyd	Gutknecht	Oxley
Bradley (NH)	Hall	Pearce
Brady (TX)	Harris	Pence
Brown (SC)	Hart	Peterson (MN)
Brown-Waite,	Hastings (WA)	Peterson (PA)
Ginny	Hayes	Petri
Burgess	Hayworth	Pickering
Burns	Hefley	Pitts
Burr	Hensarling	Platts
Burton (IN)	Herger	Pombo
Buyer	Hobson	Pomeroy
Calvert	Hoekstra	Porter
Camp	Holden	Portman
Cannon	Hostettler	Pryce (OH)
Cantor	Houghton	Putnam
Capito	Hulshof	Quinn
Cardoza	Hunter	Radanovich
Carter	Isakson	Ramstad
Castle	Issa	Regula
Chabot	Janklow	Rehberg
Chocola	Johnson (CT)	Renzi
Cole	Johnson, Sam	Reynolds
Collins	Jones (NC)	Rogers (AL)
Cox	Keller	Rogers (KY)
Cramer	Kelly	Rogers (MI)
Crane	Kennedy (MN)	Rohrabacher
Crenshaw	King (IA)	Ros-Lehtinen
Cubin	Kingston	Royce
Culberson	Kirk	Ryan (WI)
Cunningham	Kline	Ryun (KS)
Davis (TN)	Knollenberg	Saxton
Davis, Jo Ann	Kolbe	Schrock
Davis, Tom	LaHood	Scott (GA)
Deal (GA)	Latham	Sensenbrenner
DeLay	LaTourette	Sessions
DeMint	Leach	Shadegg
Diaz-Balart, M.	Lewis (CA)	Shaw
Dooley (CA)	Lewis (KY)	Shays
Dreier	Linder	Sherwood
Duncan	LoBiondo	Shimkus
Dunn	Lucas (KY)	Simmons
Ehlers	Lucas (OK)	Simpson
Emerson	Manzullo	Smith (MI)
English	Matheson	Smith (NJ)
Everett	McCotter	Smith (TX)
Feeney	McCrery	Souder

Stearns  
Stenholm  
Sullivan  
Sweeney  
Tancredo  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thornberry

Tiahrt  
Tiberi  
Toomey  
Turner (OH)  
Upton  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Weldon (FL)

Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

## NOES—196

Abercrombie  
Ackerman  
Alexander  
Allen  
Andrews  
Baca  
Baird  
Baldwin  
Ballance  
Becerra  
Bell  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boswell  
Boucher  
Brady (PA)  
Brown (OH)  
Brown, Corrine  
Capps  
Capuano  
Cardin  
Carson (IN)  
Carson (OK)  
Case  
Clay  
Clyburn  
Coble  
Conyers  
Cooper  
Costello  
Crowley  
Cummings  
Davis (AL)  
Davis (CA)  
Davis (FL)  
Davis (IL)  
DeFazio  
DeLauro  
Deutsch  
Diaz-Balart, L.  
Dicks  
Dingell  
Doggett  
Doolittle  
Edwards  
Emanuel  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Flake  
Ford  
Frank (MA)  
Frost  
Gephardt  
Gonzalez  
Green (TX)  
Grijalva  
Gutierrez

Harman  
Hastings (FL)  
Hill  
Hinchey  
Hinojosa  
Hoeffel  
Holt  
Honda  
Hooley (OR)  
Hoyer  
Inslee  
Israel  
Istook  
Jackson (IL)  
Jackson-Lee  
    (TX)  
Jefferson  
Jenkins  
John  
Johnson, E. B.  
Jones (OH)  
Kanjorski  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind  
King (NY)  
Klecza  
Kucinich  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Lee  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowey  
Lynch  
Majette  
Maloney  
Markey  
Marshall  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Michaud  
Millender-  
    McDonald  
Miller (NC)  
Miller, George  
Mollohan  
Moore  
Moran (VA)  
Nadler

Napolitano  
Neal (MA)  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Paul  
Payne  
Pelosi  
Price (NC)  
Rahall  
Rangel  
Reyes  
Rodriguez  
Ross  
Rothman  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sabo  
Sanchez, Linda  
    T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (VA)  
Serrano  
Sherman  
Skelton  
Slaughter  
Smith (WA)  
Solis  
Spratt  
Stark  
Strickland  
Stupak  
Tanner  
Tauscher  
Terry  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Turner (TX)  
Udall (CO)  
Udall (NM)  
Van Hollen  
Velazquez  
Visclosky  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey  
Wu  
Wynn

A motion to reconsider was laid on the table.

## MESSAGE FROM THE SENATE

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

S. 3. An act to prohibit the procedure commonly known as partial-birth abortion.

The message also announced that pursuant to section 276d-276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Idaho (Mr. CRAPO) as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

The message also announced that in accordance with section 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Delaware (Mr. BIDEN) as Vice Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Eighth Congress.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for floor consideration of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation to the Committee on Rules up in room H-312 of the Capitol by noon on Tuesday, March 18. Members should draft their amendments to the bill as reported by the Committee on the Judiciary on March 12, 2003. Members are advised that the text should be available for their review on the Web sites of the Committee on the Judiciary and the Committee on Rules by Friday, March 14.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be sure their amendments comply with the rules of the House.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for the concurrent resolution on the budget for fiscal year 2004. Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the

## ANSWERED “PRESENT”—1

Bachus

## NOT VOTING—8

Combest  
DeGette  
Doyle

Gilchrest  
Hyde  
Johnson (IL)

Shuster  
Snyder

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1516

So the bill was passed.

The result of the vote was announced as above recorded.



amendment to the Committee on Rules in room H-312 of the Capitol no later than 6 p.m. on Tuesday, March 18.

As in past years, Mr. Speaker, the Committee on Rules intends to give priority to amendments offered as complete substitutes. Members are advised that the text of the concurrent resolution, as ordered reported by the Committee on the Budget, should be available on the Web sites of both the Committee on the Budget and the Committee on Rules no later than Friday, March 14. Members should use the Office of Legislative Counsel to ensure their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

#### LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I wish to inquire of the distinguished majority leader the schedule for the coming week.

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

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

Mr. DELAY. Mr. Speaker, I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of the bills will be sent to the Members' offices early next week.

I might alert the Members, Mr. Speaker, that in a change from our traditional schedule, I would like to put the Members on notice that we plan to vote one-half hour earlier than usual on Tuesday, at 6 p.m. Members from both sides of the aisle have asked for flexibility this Tuesday because a number of them and their spouses are involved in the annual March of Dimes Dinner Gala, which begins at 6:30. So Members should be aware that we are still trying to work it out with the minority, but be aware that they could be notified that votes will start at 6 p.m. Tuesday rather than the normal 6:30.

Next week we expect to consider H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, as well as the 2004 Budget Resolution.

Earlier this week, the Subcommittee on Crime of the Committee on the Judiciary marked up H.R. 1104, the Child Abduction Prevention Act. Nearly identical legislation passed the House last Congress with close to 400 "yea" votes. Chairman SENSENBRENNER has announced that the Committee on the Judiciary will report the bill out from a markup on Tuesday.

This important legislation would codify a current judicial program to implement a nationwide Amber Alert System. In addition, this bill elimi-

nates the statute of limitations for child abduction and sex crimes, prohibits pretrial release in cases of rape or child kidnapping, provides for mandatory minimum sentencing for child kidnapping, and establishes a "two strikes and you're out" for child sex offenders.

We hope to work with the minority to find a way to bring this important legislation to the floor next Wednesday, realizing that the House rules require a 2-day layover, after committee markup, to allow the minority to express their dissenting and minority views on legislation. But I hope we can work together in expediting this very important legislation to the floor.

Mr. Speaker, I thank the gentleman for yielding to me, and I am happy to answer any questions.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for the information he has provided us, and I will have a number of questions.

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

Mr. HOYER. I yield to the gentleman from Utah who would like to address the Amber Alert System and events that have occurred in his district.

Mr. MATHESON. Mr. Speaker, I thank the minority whip.

Mr. Speaker, I would suggest that we saw the benefits of an Amber Alert-like program yesterday in the State of Utah. We had a wonderful event occur, and it occurred because information got out to the public.

What concerns me, Mr. Speaker, is that the Senate has already passed national Amber Alert legislation unanimously. It has been in the House for 2 months now, about; and I would submit that the legislation referred to that is going to be in the Committee on the Judiciary contains a number of other provisions which are worthy of consideration, but I would suggest it might be worthwhile for us to take a look at the Frost-Dunn bill, the straight Amber Alert bill passed through the United States Senate. We could take it up on a unanimous consent request right now and get it on the President's desk right away.

Every day we delay is a day when another abducted child may have less access to an Amber Alert System that gets the information out to people. We learned a lesson in Salt Lake City. We are very proud of the miracle that occurred yesterday. Mr. Smart, in his time of triumph, still is emphasizing the need for Congress to move forward on this, and I would suggest that that is something this body ought to consider.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

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

Mr. HOYER. I yield to the gentleman from Texas, the ranking member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding. As the gen-

tleman knows, the Amber bill, the Amber Alert plan, was named after a little girl, Amber Hagerman, who was abducted and murdered in my district in Texas, in Arlington, Texas; and the Senate, as previously mentioned, has passed this as a stand-alone bill, unanimously, and has sent it to the House.

I would ask my friend, the distinguished majority leader, what is the objection to bringing the Amber bill as a stand-alone matter, that has already been passed by the Senate, to the House either under unanimous consent or under suspension of the rules?

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

Mr. HOYER. I will be glad to yield to the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's question, and I might point out that the gentleman, as well as many other Members around here, are always calling for regular order and we are expediting regular order.

The bill that the gentleman refers to is a bill that has just been marked up this week, even before, thank goodness, Mr. Smart's daughter was returned to him, and was on its way to full committee to be marked up later on next week. Because of the situation, the chairman of the Committee on the Judiciary feels very strongly that they can expedite the matter, actually hold an unusual markup before Members return, and hopefully have this bill on the floor on Wednesday.

There are a lot of provisions in this bill that help. And I might also point out to the gentleman that the Justice Department is running an Amber Alert System in 38 States. They are up and going. There are over 80 systems, Amber Alerts, operating as we speak. So it is not a situation where there will not be coverage of Amber Alerts out there. But I think this legislation is important to get at these criminals that are kidnapping these children, to help the police departments find them quicker and easier and be able to put them away, away from our children, along with codifying what the Justice Department is already doing.

Mr. FROST. If the gentleman from Maryland will continue to yield, my friend, the gentleman from Texas (Mr. DELAY), understands that by putting the Amber Alert legislation into a larger omnibus bill, this delays for a very substantial period of time the passage of the Amber Alert bill. There are a number of controversial provisions that have been added to it by the Committee on the Judiciary, provisions that were passed last year and were found unacceptable by the Senate.

I would repeat my question: What is the objection simply to bringing the Amber Alert bill itself as a stand-alone matter that has already been passed by the Senate? What is the objection to bringing that to the floor of the House?

Mr. HOYER. Reclaiming my time, Mr. Speaker, and before the majority leader answers that question, I would

say to him that I have had consultation with the Democratic minority leader; and the Democratic leader and myself, I would say on behalf of our side of the aisle, we would agree to a unanimous consent request today to bring the Senate bill, which as I understand is Senate Bill 121, which essentially is the base bill.

I, frankly, do not interpose objections to that which the gentleman has outlined in his statement will be added to the bill. I do not necessarily find any one of those individual items objectionable; and as I understand, in the committee they were not particularly controversial. But we obviously could accelerate that.

The gentleman is correct. We do want to go by regular order. Regular order is obviously seeking from both sides a unanimous consent to take some action, and I say to the gentleman that consistent with what the gentleman from Texas (Mr. FROST) has said, this side of the aisle would be prepared to give a unanimous consent agreement to passing that bill before we go home today.

Mr. DELAY. Well, if the gentleman will continue to yield, I am not sure I remember the question of the gentleman from Texas.

Mr. FROST. Mr. Speaker, I would repeat my question, if I may.

Mr. HOYER. I yield to the gentleman for that purpose.

Mr. FROST. Mr. Speaker, my question is, What is the objection on the majority side to bringing the stand-alone Amber bill to the floor which has already been passed by the Senate, to bring it to the floor as a separate item and not part of a larger bill?

Mr. DELAY. I appreciate the gentleman's continuing to yield; and, Mr. Speaker, let me just say that I do not agree with the assessment of the gentleman from Texas as to how slow this process can be. And if we honor what this House has already expressed itself on, I remind the gentleman that this bill that he is talking about that got so bogged down, passed this House with over 400 votes and went to the other body where the other body killed it in the last Congress.

So this House has expressed itself that it thinks it is important not only to codify the Amber Alert System that is being run by the Judiciary Department but also to eliminate the statute of limitations for child abduction and sex crimes, to prevent pretrial release in cases of rape or child kidnapping, to provide for a mandatory minimum sentence for child kidnapping, and we also would like to see a "two strikes and you're out" requirement for child sex offenders. I think all of these issues are vitally important when it comes to dealing with children that are being kidnapped in this country.

□ 1530

Mr. HOYER. Mr. Speaker, reclaiming my time.

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

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

Mr. FROST. Mr. Speaker, if the gentleman from Texas (Mr. DELAY) did not see the press conference earlier today carried on CNN, I would advise the gentleman that the senior Republican Senator from Texas, Senator KAY BAILEY HUTCHISON, who was a cosponsor of the Amber bill in the Senate, urged that the House take up the Senate passed Amber bill as a clean bill with a separate vote.

Mr. Speaker, I would inquire, did the gentleman see Senator HUTCHISON's statement?

Mr. HOYER. Mr. Speaker, reclaiming my time.

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

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

Mr. DELAY. I did not see the press conference, but I just ask the question, what did she do to pass the bill out of the Senate in the last Congress?

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

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

Mr. FROST. Mr. Speaker, she introduced the Amber Plan in this Congress and had it passed unanimously 92-0, she and Senator DIANNE FEINSTEIN. That is all we are asking, that there be a separate stand-alone vote on the Amber bill in the House, just as there was in the Senate, so it can be sent to the President and signed into law.

If the gentleman would indulge me further, I would like to very briefly read part of a letter that I received today from a city Councilman in my district, Councilman Joe Bruner from the City of Arlington, Texas.

Dear CONGRESSMAN FROST: I understand you have sponsored a bill which will take Arlington's own Amber Plan nationwide. In this day of turmoil and terror, I cannot think of any other means which would better cause the minds of moms and dads to return to normalcy. Doreen and I have always had a special place in our heart for little Amber and defy anyone to ever hinder the implementation of the Amber Plan. As councilman for the district here in Arlington where her body was found, I take exception to Congressman SENSENBRENNER's refusal to let your bill go through.

Then the letter continues.

This really speaks to the fact that the gentleman from Wisconsin (Chairman SENSENBRENNER) and the majority leader insists that the Amber Plan be combined with a larger piece of legislation that has had difficulty in the Senate.

I strongly urge my friend on the other side of the aisle, who has demonstrated an interest in children's issues, to persuade the chairman of the Committee on the Judiciary to permit this bill to go forward.

Mr. HOYER. Mr. Speaker, reclaiming my time.

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

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

Mr. DELAY. I appreciate the gentleman's concern. I have the same concern the gentleman has. I have convinced the chairman to accelerate the process. We are going to have this bill on the floor. With the cooperation of the minority, we will have this bill on the floor next week.

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

At some point in time perhaps we can discuss further the regular order. I observe only that it is my understanding there is a bill coming over from the Senate that will not be referred to committee, will not be subject to amendment, will be taken up and passed as the Senate passed it, and it is my understanding that will be done because of the view of the majority how important it is to pass that bill immediately. That is the partial birth abortion bill.

Am I correct that is the procedure which the majority intends to follow?

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

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

Mr. DELAY. Mr. Speaker, I doubt that. I have not had an opportunity to see that the Senate has even passed the partial birth abortion bill yet. If they have, we will take a look at it. The last I checked, there was an amendment put on the bill that would cause it to go to conference under regular order.

Mr. HOYER. It has not passed the House yet. It is coming from the Senate, and obviously there may be amendments on it. It is our understanding that will be taken in effect from the desk as the Senate bill, voted on, and sent to the President.

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, actually the gentleman from Wisconsin (Mr. SENSENBRENNER) intended to mark up a partial birth abortion bill next week, but under the circumstances he wanted to accelerate the Amber alert bill and take it up earlier, and so he is putting off the markup on the partial birth abortion bill that we would bring to the floor, and then hopefully go to conference with the Senate under regular order.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for that comment.

The gentleman indicated that next week we will be taking up the budget. Can the gentleman tell me whether or not all substitutes that are requested from the Congressional Black Caucus, from the Progressive Caucus, from the Blue Dogs and from the Democrats on the Committee on the Budget will be made in order? I see the distinguished chairman of the Committee on Rules is standing.

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

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

Mr. DELAY. Mr. Speaker, I know the chairman of the Committee on Rules is a very fair man and the Committee on

Rules tries to be as fair as they can. I would presume that the committee will be inclined to follow historic practice for the consideration of the budget next week.

Mr. HOYER. Mr. Speaker, I respectfully inform the majority leader, we were very concerned about the fact that we were shut down today in terms of offering amendments or substitutes. I will respectfully advise the majority that if that continues to occur, there will be actions on our side of the aisle to try to express our deep concern about that.

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

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

Mr. DREIER. Mr. Speaker, I simply will say as the distinguished majority leader has said, I actually made the announcement just a few minutes ago about the request that we have proposals submitted to the Committee on Rules by early next week so we will be able to consider this measure on Wednesday. It is our intention, as has been our intention in the past, to do everything we possibly can to make substitutes in order and as many substitutes as we possibly can.

I want to assure the gentleman that is the goal of the Committee on Rules, and we will look forward to testimony from our many colleagues who would like to offer proposals.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman and express the fervent hope that the committee will be able to reach its goals. They are commendable goals to achieve, and I hope they are achieved.

Mr. Speaker, we have been talking about the Amber bill and adding things to it. We had a bill a week and a half ago on the floor. That was to aid our men and women in the armed forces whom we are sending in harm's way. We were not able to pass it the week before. We have not passed it this week. Can the gentleman advise us as to the status of that bill.

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

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

Mr. DELAY. Mr. Speaker, the Committee on Ways and Means held a markup of the Social Security bill yesterday, and I expect to consider that legislation under a rule in the next week or so.

On the Armed Services Tax Fairness Act, the committee is still reviewing options for potential changes to that bill, but we also expect to consider that legislation in the very near future.

Mr. HOYER. Mr. Speaker, reclaiming my time, I advise the distinguished majority leader that I am authorized on behalf of the minority to tell the gentleman that if that bill were reported out without any additional items attached to it, we would be prepared to give unanimous consent so it could be passed either next Tuesday night or Wednesday.

Mr. Speaker, lastly, it is my understanding that we obviously want to accommodate those who want to go to that dinner, but am I correct in observing that the normal practice on Tuesdays will continue to be 6:30?

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

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

Mr. DELAY. Mr. Speaker, the gentleman is correct. This is a special and rare occurrence where we would not be starting votes on legislation at 6:30 on a day that we come back into session. There are extenuating circumstances, and we are trying to accommodate our Members. Yes, we hope to stick to 6:30 as much as possible.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

#### ADJOURNMENT TO MONDAY, MARCH 17, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent when the House adjourns today, it adjourn to meet at noon on Monday, March 17, 2003.

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

There was no objection.

#### HOUR OF MEETING ON TUESDAY, MARCH 18, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 17, that it adjourn to meet at 12:30 p.m. on Tuesday, March 18, 2003, for morning hour debates.

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

There was no objection.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

#### HONORING KATHLEEN CASEY AND ALL IRISH AMERICANS ON ST. PATRICK'S DAY

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

Mr. ROHRABACHER. Madam Speaker, with St. Patrick's Day only a few days away, it is appropriate for us to recognize and, yes, celebrate the role that Irish Americans have played in our history and in the development of our national character.

So many Irish Americans came here seeking refuge from tyranny and hunger in their own homeland. They never forgot that suffering that they left behind, which helped ensure that America has, over the years, sided with the oppressed and cared for the less fortunate.

Irish Americans passed on these values, along with a sense of decency and a commitment to justice, as well as a love of song and humor, from generation to generation. One of those proud Americans of Irish descent is Kathleen Casey of Orange County, California, who turns 80 years old today. We wish her a happy birthday, and will join her and other Irish Americans in the celebration of St. Patrick's Day this coming Monday.

#### NO STRATEGIC PETROLEUM RESERVES TO BE RELEASED

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

Mr. DEFAZIO. Madam Speaker, I urge Members to read the Wall Street Journal today wherein the Secretary of Energy, appointed by President Bush, assured Ali Naimi, the Saudi Minister, the man in charge of manipulating oil supply and heading up their negotiations with the cartel to control prices and to constrain supply, he assured him, Mr. Abraham, the Secretary of Energy, assured him the United States would not release oil from its Strategic Petroleum Reserve to help control the prices being gouged out of Americans by the Saudis and others.

That is outrageous. I cannot believe that the Secretary of Energy appointed by President Bush has cut a deal with the Saudis that we will not release our Strategic Petroleum Reserve to help the American consumers, to help keep our airlines from going bankrupt, to help keep our truckers from going bankrupt, and to help keep American families not being able to put food on the table so they can buy a tank of gas for their car. There is something wrong with that. I have sent the Secretary of Energy a letter to ask him to explain his position to the American people.

#### EXPRESSING REGRET FOR ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

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

Mr. DREIER. Madam Speaker, I rise today to express my deep regret at the tragic assassination yesterday of Serbian Prime Minister Zoran Djindjic. Prime Minister Djindjic worked closely with my friend, Jim Denton, and my chief of staff, Brad Smith, in pursuing democratization in Serbia. In a country that has seen more than its share of autocratic governments, the Prime Minister promoted democratic ideals

throughout his political career. He was one of the founding members of the Centrist Democratic Party in 1989, one of the leading anti-Milosevic parties. He was also instrumental in fostering the mass protest that ultimately ended Slobodan Milosevic's rule in 2000.

Since that time, he served as the Prime Minister of Serbia, promoting economic development and democratization within the former Yugoslavia. Prime Minister Djindjic was instrumental in delivering Slobodan Milosevic to face the war crimes charges before The Hague Tribunal.

It may be well that Mr. Djindjic's unabashed support for governance and his efforts to end corruption led to his tragic death. As we here in the United States continue to take advantage of our freedom and representative government, we must remember that there are fragile democracies all around the world.

Our Nation learned long ago that liberty does not come without a price. As other nations learn that same unfortunate lesson, the United States must continue to promote international democratization so the sacrifices of Prime Minister Djindjic and other revolutionaries will not have been in vain.

□ 1545

#### MOURNING ASSASSINATION OF SERBIAN PRIME MINISTER DJINDJIC

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

Mr. HOYER. Mr. Speaker, I want to join the gentleman from California (Mr. DREIER) in his comments about Mr. Djindjic, the Prime Minister of Serbia. Serbia in the 1990s, like Iraq has gone through, was under the heel of a despot who was vicious and who in my opinion was a war criminal. When the United States acted to displace the Milosevic regime and ultimately Milosevic was voted out of office because we went into Kosovo, it was Mr. Djindjic who showed the courage and the moral commitment to ensure that Mr. Milosevic would be transferred to The Hague to answer for his crimes. That trial currently is going on. It is going on because Mr. Djindjic had the courage to facilitate the transfer out of Serbia to The Hague of the alleged war criminal Slobodan Milosevic.

He has now been assassinated. We do not know yet who the perpetrator of that assassination is. Suffice it to say, we have lost someone whose courage and commitment to freedom and human rights was an important aspect for his country and for the international community. We are a lesser international community for his loss.

#### APPOINTMENT OF MEMBER TO MEXICO-UNITED STATES INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore (Mrs. BLACKBURN). Pursuant to 22 U.S.C.

276h, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE, Arizona, Chairman.

#### APPOINTMENT OF MEMBER TO CANADA-UNITED STATES INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Canada-United States Interparliamentary Group:

Mr. HOUGHTON, New York, Chairman.

#### APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276l, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the British-American Interparliamentary Group:

Mr. PETRI, Wisconsin, Chairman.

#### APPOINTMENT OF MEMBERS TO HOUSE COMMISSION ON CON- GRESSIONAL MAILING STAND- ARDS

The SPEAKER pro tempore. Pursuant to 2 U.S.C. 501(b), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the House Commission on Congressional Mailing Standards:

Mr. NEY, Ohio, Chairman;  
Mr. ADERHOLT, Alabama;  
Mr. SWEENEY, New York;  
Mr. LARSON, Connecticut;  
Mr. THOMPSON, Mississippi;  
Mr. HOLT, New Jersey.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that on February 10, 2003, the Speaker delivered to the Clerk a letter listing Members in the order in which each shall act as Speaker pro tempore under clause 8(b)(3) of rule I.

#### CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-46)

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

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2002 (67 FR 11553).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, March 12, 2003.

#### PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-47)

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

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c), I am transmitting a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

GEORGE W. BUSH.

THE WHITE HOUSE, March 12, 2003.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## AUTISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, a few minutes ago, the majority and the minority leaders of the House, or the minority whip and the majority leader of the House, discussed the Amber Alert System and how important it was that we do everything we can to protect our American children. This lectern, or this stand, holds the faces of about 55 or 60 children who have been damaged, their parents believe, by vaccines that contain mercury and they have become autistic. One of those is my grandson.

It is very interesting, Madam Speaker, that today we found out that there is a just-published report in the "Journal of the American Association of Physicians and Surgeons" that involves a research study on autism. The research, conducted by Drs. Mark Geier and David Geier, analyzed mercury doses children received from thimerosal, which contains mercury in childhood vaccines in comparison to Federal safety guidelines. The doctors concluded that mercury from thimerosal did exceed Federal safety guidelines and that the study provides strong epidemiological evidence for a link between increasing mercury from thimerosal-containing childhood vaccines and neurodevelopmental disorders such as autism which has reached epidemic proportions. The authors stated, "A causal relationship between thimerosal-containing childhood vaccines and neurodevelopmental disorders appears to be confirmed."

The Geier research confirms the findings of an unreleased CDC study, Centers for Disease Control, obtained through the Freedom of Information Act, which found a relative risk of 2.48 between thimerosal exposures and autism. Courts of law have generally held that a relative risk of 2.0 or higher is sufficient to substantiate that a given exposure causes diseases.

So there is no doubt, no doubt, that the mercury that has been injected into our children is a cause, a contributing cause at the very least, but a cause, of the autism that these children are suffering. I have asked the parents of these children from across the country to write to me, to give me information on how their child became autistic and how close it was to when the child was vaccinated with vaccines containing mercury.

We had a big problem in the last session. Right at the end in the homeland security bill, there was an amendment

stuck in at the 11th hour which took away any liability that the pharmaceutical companies might incur because of mercury-related damage done to children. We were able to get that out early this session. But now in the other body they are trying to put that back in in a bill that was introduced today by the majority leader. That is something that is intolerable. It is something that cannot be tolerated by this body or the other body.

I want to tell you why real quickly. Here is one example, a letter from a lady named Sue McManus from Kenesaw, Georgia. She says:

"Eight years ago, in 1994, I adopted a lovely daughter, Jessica, from Paraguay at age 5 months. Jessica was not identified as a special needs child at the time of adoption and was in fact seen by pediatricians in Paraguay who were U.S. trained as well as in this country and given a clean bill of health. Being a responsible parent and following directions from my doctors, I had her vaccinated within a few weeks of bringing her home. On 11/15/94, she received OPV, DPT, HIB and hepatitis B. On January 17, 1995, she received her second series of shots. Within 4 hours of the second series of shots, she reacted with severe infantile spasm seizures and she became autistic. She had three seizures that week and had never had any form of seizure prior to the second shot. Per medical recommendation, she received several shots that day. I don't have any doubt that my daughter reacted severely and directly as a result of this DPT shot or combination of shots."

She goes on to say that "she has not developed normally, she has become autistic, she stares at the walls, she flaps her arms like my grandson does and she has chronic diarrhea or constipation and it is a problem that will not go away." If you saw the movie "Rain Man," you know how bad autism can be. If we do not deal with this problem now, we are going to deal with it in 15 to 20 years when these people all become dependent on society.

Let me just say to my colleagues, this is something this House is going to have to address. It is not a partisan issue. Both Democrats and Republicans have said they want to protect America's children. The President said he does not want to leave any children behind. These kids are being left behind and their parents are being saddled with \$50,000, \$100,000, \$200,000 bills. They are selling their homes, they are going bankrupt to take care of their children, and the people who are responsible for the damage to them, the pharmaceutical companies, are being left high and dry with no damage whatsoever being attributed to them. There is a responsibility here for this government to make sure these children are treated properly.

In the next few weeks I am going to be reading every night letters from these parents talking about how their child was damaged and in what prox-

imity it was to the shots they received containing mercury. We can no longer turn our backs on this. We went from one in 10,000 children who are autistic to one in 150 right now. It is an absolute epidemic. We cannot sweep it under the rug.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## EXCHANGE OF SPECIAL ORDER TIME

Mr. PALLONE. Madam Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER).

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

There was no objection.

## CYPRUS TALKS COME TO AN END

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, first let me tell the gentleman from Indiana that I would like to join in his remarks and I want to commend him for taking to the floor to talk about this issue. I agree with him wholeheartedly in what he has been saying tonight and previously.

Madam Speaker, I come to the floor this evening to express my supreme disappointment with Turkish Cypriot leader Rauf Denktash for his unwillingness to compromise, an action that led to the end of the Cyprus peace negotiations earlier this week.

Yesterday, after some 20 hours of continuous negotiations, U.N. Secretary-General Annan declared they had reached the end of the road.

Madam Speaker, let there be no doubt that Turkish Cypriot leader Denktash is to blame for this sorry conclusion. Yesterday, State Department spokesman Richard Boucher said he found it regrettable that, quote, "Mr. Denktash has denied Turkish Cypriots the opportunity to determine their own future and to vote on such a fundamental issue." Lord David Hannay, Britain's special envoy for Cyprus, also blamed Denktash when he stated, and I quote, "I am sad about it but I do not think that Mr. Denktash left him, Secretary Annan, any alternative."

Finally, in today's Washington Post, columnist Jim Hoagland writes, and I quote, "The defiance of one grumpy old man derailed peace plans put forward by diplomats from the United States and the European Union because this grumpster would not see multilateral

reason. The stubborn, self-defeating unilateralist I have in mind is Ralph Denktash."

□ 1600

Madam Speaker, despite yesterday's giant setback, the President of the Republic of Cyprus, Tassos Papadopoulos, stressed that the Greek Cypriot side "will continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU."

Furthermore, President Papadopoulos pledged one more time to continue the efforts for a Cyprus settlement that would properly serve the interests of both Cyprus communities.

On the other hand, after the peace talks ended yesterday, Turkish-Cypriot leader Denktash continued his obstructionist actions threatening that if Cyprus accedes to the European Union on May 1, 2004, that there will be a disaster. He went on to say that talks would be suspended until Turkey joins the European Union.

Madam Speaker, Turkey's accession to the European Union was seriously undermined yesterday with the failure of a peace agreement. The Turkish government also bears blame for yesterday's developments after giving its full support to Denktash. New Turkish Prime Minister Erdogan said on Monday that it was impossible for Turkey to accept the U.N. plan in its current form.

Both the Turkish government and Denktash refused to listen to the thousands who have taken to the streets over the last couple of months in the occupied section of Cyprus and voiced support for a solution based on the U.N. plan.

The leader of the Republican Turkish Party in Turkey accused both the Turkish government and Denktash of bringing the talks to a deadlock, and he stated, "Mr. Denktash persuaded Turkey as well. Having the support of the powerful circles in Turkey he influenced the decision-making mechanism and foiled them. He used the indecisiveness for not making a serious decision. Not being able to decide, Turkey decided to preserve the status quo."

Madam Speaker, I continue to believe that the Bush administration did not put enough pressure on the Turkish government to force Denktash to negotiate in good faith. Turkey must finally realize that by supporting Denktash's intransigence, it is causing harm to its own long-term interest as a potential full member of the European Union.

After the setback of the U.N. efforts, the Bush administration must redouble its efforts to persuade Turkey and the Turkish-Cypriot leader to work constructively within the U.N. process to achieve a negotiated settlement to end the division of Cyprus.

Madam Speaker, Turkey's 28 year illegal occupation of 37 percent of Cyprus has to come to an end. It is time for all the citizens of Cyprus to be reunited so they may all reap the eco-

nomical rewards available with the nation's accession to the European Union. It is very unfortunate this occurred, but I continue to believe that we can somehow achieve a situation where the Turkish Cypriots will join with the Greek Cypriots in a unified Cyprus that would join the European Union at the time that is scheduled next year. I am still optimistic that can be achieved.

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

(Mr. WOLF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ONE NATION UNDER GOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RENZI) is recognized for 5 minutes.

Mr. RENZI. Madam Speaker, on March 10, our children who attend public schools in the jurisdiction of the Ninth Circuit Court, including my home State of Arizona, were told not to start their day with the real Pledge of Allegiance. An absurd ruling made by the Ninth Circuit Court of Appeals last June held that the 1954 Federal act that added the words "under God" to the Pledge of Allegiance violated the Establishment Clause of the first amendment.

Madam Speaker, our great Nation rests upon the wisdom of our Founding Fathers. Our Founding Fathers created a Nation based upon spiritual beliefs, and yet judges continually misinterpret this founding principle by citing the Establishment Clause.

So what really is the Establishment Clause? Within our Constitution, the Establishment Clause was created to protect American citizens against religious persecution, so that the government would not impose one religion, the government religion, so that a government or king would not impose his own spiritual or personal beliefs.

The Establishment Clause was not created by our Founding Fathers to sterilize this Nation, to not allow this

Nation to utter the name of God. Just the opposite. The Constitution of the United States of America, written by our Founding Fathers, states this clearly in Article VII, in the year of our Lord one thousand seven hundred and eighty-seven.

So how ridiculous is it that the Ninth Circuit Court of Appeals can prohibit our teachers and children from reciting the Pledge of Allegiance in the public schools of nine western states, when the Constitution itself speaks of God?

Using this perverted logic, the Ninth Circuit Court of Appeals must now find our Constitution unconstitutional. This holding is a new low for our Nation, a low that will harm our children.

A good teacher, Mr. Byron Bolen, who teaches American government in Round Valley, Arizona, is concerned that we are undermining our national traditions and taking focus away from our Founding Fathers by not allowing the real Pledge in our classrooms. He believes this issue has become more an issue not of separation of church and state, but an issue that directly negates the patriotism that our children need to learn towards their country.

As a teacher in the First District of Arizona, Mr. Bolen asked me how far our courts will go to sterilize and remove God from our classroom and public places.

Our Founding Fathers created a Nation based on truth and morality and a love for democracy based upon a person's desire to conform to laws which they revere. Our good natural tendencies as human beings is to repel from evil and to be drawn towards goodness.

When hippie generation judges impose their own sterile secular beliefs on the American people, they are establishing their agnostic beliefs on Americans.

To go one step further, on February 28 the Court of Appeals in the Ninth Circuit refused numerous requests by our President, the Congress and local school districts to overturn their prior decision.

Twice now this court has ruled that reciting the real Pledge of Allegiance is unconstitutional. Yet in the House of Representatives we start our day with the real Pledge of Allegiance. Our institution writes and debates our laws only after we recite the real Pledge of Allegiance. We must act to allow our children to start their day the way we start our day here in the House.

Therefore, I call upon the Supreme Court to review this case, to review it expeditiously, and allow our children to honor our Nation by reciting the real Pledge, and let them start their school day the way we start our day.

#### MAKE WAR A LAST-CASE SCENARIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, interestingly enough, as a member of the Committee on the Judiciary and also a Member of the other side of the aisle, I happen to agree with the gentleman from Arizona that the First Amendment protects freedom of religion and freedom of speech, and that the Pledge of Allegiance is protected sufficiently for us to be able to say "under God." I hope we will be able to move forward to give the sense and the obvious position that the Pledge of Allegiance is still a very legitimate expression of loyalty to this country.

Interestingly enough, those of us who have stood fast against the war in Iraq have been accused of being disloyal to the United States of America and unpatriotic. That is why it is important to come to the floor of the House and try to express the voice of millions and millions of Americans and millions and millions of the world family and to again say to the singular voice that is resounding out of Washington and into the airwaves that I thought a democracy represented practice over words; that we would practice the idea that when the people speak, or when the people question, the leaders of government should entertain their concerns, particularly since the people of the United States send their young men and young women to far away shores to defend us. And might I say to the troops that are stationed abroad, there is not one divide amongst us in support of those very loyal troops.

The Constitution clearly enunciates the principle that the Congress has the duty and responsibility to declare war. We well recognize that in the Constitution it also acknowledges that the President is the Commander in Chief, and if and when those troops are deployed, the United States of America will be unified. That is why the judgment of making that decision is so very important.

We have gotten ourselves in a foreign policy shambles. Many people blame it on the United Nations, partly because they do not understand that the United States has consented to be a part of the United Nations through the U.N. Charter 51. And we have lived in peace for almost 50 years because, as much as you malign the United Nations, it has kept a sense of world decorum and order. It means that one nation does not lift up arms against another. It means that the friendship and affection for the United States has been because it has been a leader for peace over war. It has been a defender as opposed to an offender.

Now we have thrown all of that to the winds. We have cast Syria against Iran, and Iran against Syria, and Turkey against Syria, and Turkey against Iraq. We have potentially created a destabilizing situation in that region.

We have not focused on solving our problems with Israel and the Palestinians, a strong effective peace, an abhorrence of suicide bombings, a recognition of the importance of that region

for us. We have totally overlooked North Korea, pointing missiles at Japan and South Korea.

I was in China a few weeks ago asking the President of China to engage. He said, you, the United States, needs to engage in bilaterals with North Korea.

What are the real ways we could engage in true, meaningful debate and respect of the United Nations? First of all, we have been not listening to them as they have argued vigorously for more vigorous U.N. inspections. It does not mean the United States is a wimp, that we cannot defend ourselves. What it means is that you understand the cost of war.

Over \$1 trillion is expected we would have to pay out in this war, now that we have a \$283 billion deficit, and the President is cutting \$470 billion in child care and special education and, most of all, what a horror, veterans benefits. A veterans hospital that I have in my district is closing the door to those veterans who are trying to enroll, those men and women who offered themselves, who wanted to, or if they had to would have sacrificed their lives. We cannot let them get in the hospitals because this administration is cutting \$470 billion on top of a \$600 billion tax cut and disrespecting the fact they have given us no monies and no dollars to account for how much we will have to spend for this war.

So I believe we need action. And what is the action I propose? First of all, I hope we will be debating soon a resolution that I have to ask the question whether this Congress has abdicated its duty to declare war.

Second, I want the U.N. Security Council to have a tribunal and to try Mr. Saddam Hussein as a war criminal. And I want humanitarian aid for Iraq, democracy for Iraq. And we should focus, Madam Speaker, on the Mideast peace solution and have troops, a small number, to ensure the investigation and inspection of the U.N. inspectors.

Madam Speaker, I say there is another way. War should be the last option, and our voices should be heard.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### CONTROLLING AMERICA'S BORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Colorado (Mr. TANCREDI) is recognized for 5 minutes.

Mr. TANCREDI. Madam Speaker, as we rightfully address the issues that are confronting us overseas and the possibility of sending American troops into harm's way, I think it is also important for us to think about those people who are here in the United States, those citizens, who every day, as a matter of fact, face almost warlike conditions at places on our borders, a place on our southern border especially, that I think there is no other way to describe the activities down there, with the number of people coming through that border illegally. That it is a battle zone, and there are people there who daily deal with this particular problem. I am periodically going to bring several of these folks to the attention of the House.

Today I would like to identify Mr. Roger Barnett and his wife Barbara, who own a 22,000-acre ranch located only 2 miles from the U.S.-Mexico border near Douglas, Arizona. Mr. Barnett also owns and operates a towing and propane gas business with branches in Phoenix, Tucson, Wilcox and Sierra Vista.

Almost any evening after dark, Mr. Barnett can get in his truck, ride a short distance across his own land and personally witness groups of 20, 30, 40, 50, even 100 illegal aliens crossing the property. Sometimes, of course, they cross in daylight also.

□ 1615

Mr. Barnett, his brother, and his wife have personally been responsible over the course of the last year for detaining, calling the INS, and being able to actually take off of his property over 2,000, I say 2,000, people who are trespassing, who are coming across his property illegally and, in fact, coming into the United States illegally.

Now, of course, that in and of itself is a challenging experience for anybody who lives on that border, but along with it goes a whole lot of other problems that are created. Mr. Barnett and all of the other ranchers in the area find that their fences are cut. They are constantly, and I mean constantly, challenged with the responsibility of going out and repairing the fences that have been cut, trampled, gates left open, cattle disappearing, cattle being butchered and eaten right on the spot by the people who are coming through. The water on the property being damaged, the water wells being damaged; the amount of trash that accumulates on these properties is enormous, and it accumulates at something called lay-over sites and these are simply sites where a large number of illegal aliens will gather and they will prepare to be picked up by a truck, by some sort of vehicle in a road not too far away from the site. They discard all of their belongings because they want to pack as many into these vehicles as possible, so they will discard all of the trash that they have been carrying with them and



certainly a lot of the water bottles, even articles of clothing. It is a place of enormous trash and human waste, as a matter of fact. This also gets into the water on the ranch when, after a rain, it destroys the wells; it becomes something that the cattle cannot drink.

The trucks and the buildings on this gentleman's property, as well as many people in the area, have been vandalized. The grasslands needed for food for the cattle are continually trampled by the aliens crossing and making new paths across the land. They discard, as I say, water bottles and trash and plastic bags. The cattle eat the plastic bags and die.

Recently, Mrs. Barnett, Barbara, was driving her truck near her home and saw three illegal aliens crossing her farm. She called her husband, and he and his brother came out and tried to locate them. After following the trail for a period of time, they found a stash of 220 pounds of marijuana hidden in the mesquite bushes.

The Border Patrol has told him that some part of his land is used every single night by drug traffickers, but the Border Patrol does not have the manpower to stop it. Lately, these illegal groups have been coming closer to his ranch house using a creek bed hiding spot not 100 yards from his home. A few months ago, he found a group of 30 and called the Border Patrol to come and get them.

This is happening day after day after day to the people who live in this area. This is not a unique story. I identify these people as homeland heroes, because they are fighting a war on their own land, on their own property, and on the border of the United States; and they are doing it certainly without the help of this government. They turn to their own government, to the Federal Government and say, what can you do? How can you help? What is happening to our property and to our lives? Our lives are essentially being destroyed.

They have to travel everywhere armed. They keep a rifle by the door, a loaded rifle by the door in almost every one of these houses up here because of the number of vandals that have come in, the number of times they have personally been threatened. People have been accosted. Their cars have been stolen, hijacked. The illegal aliens will put rocks up on the dirt road, stop the vehicles, and then hijack the vehicles.

Again, this is something that they put up with every single day. Madam Speaker, what would we do if that was the way we had to face every single day of our lives? I mean, would we not turn to somebody for help and say, what is going on here? This is incredible. This is, by the way, a relatively recent phenomenon, maybe 4 or 5 years. It is a result of a whole lot of things, including the fact that the Mexican Government has chosen to help move people into the United States illegally to serve some of their own needs in the country, Mexico, that is to say.

These are travesties, Madam Speaker, and they cannot be justified in any

way, shape, or form. These people are homeland heroes. I want to bring them to the attention of my colleagues, and I will continue to do so.

#### SUPPORT VOTING RIGHTS LEGISLATION FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Madam Speaker, today I have introduced a D.C. voting rights bill here in the House, and in the Senate it has been introduced by Senator LIEBERMAN with seven sponsors besides Mr. LIEBERMAN: Mr. FEINGOLD, Ms. FEINSTEIN, Mr. SCHUMER, Mr. DODD, Mr. KENNEDY, and Ms. LANDRIEU. I will be seeking cosponsors here in the House from both sides of the aisle beginning next week, and I will be seeking it on this eve of war. I am asking Members of the House to consider what it means to send people to war when those same people have no vote in the House and no Senators whatsoever. We, of course, are second per capita in Federal income taxes. Unless one comes from Connecticut, your constituents do not pay as much in Federal income tax as we do. Most of our residents pay income taxes.

The difference this year is that we are emphasizing something that most of our residents and most of my colleagues' residents have not had to do. On the eve of war, we honor 50,000 veterans of the District of Columbia who live here now. Three distinguished veterans who are also Washingtonians stood with me to announce that we are introducing the No Taxation Without Representation Act. They were former Secretary of the Army, Clifford Alexander, Harvard College, Yale Law School; Wesley Brown, a native Washingtonian, the first black person ever to graduate from the Naval Academy. He is also a graduate of Rensselaer Polytechnic, served in Korea in World War II, and is the former chair of my Service Academy Nominating Board that nominates young people from the District, selects people from the District for me to nominate to go to the academies. George Keyes, native Washingtonian, Air Force Academy, Yale Law School, Rhodes Scholar, just finished as chair of my nominating board for the service academies.

The present Chair, Kerwin Miller, was to be here. A West Point graduate, he could not attend for a completely outrageous reason. The House has attached a rider that forbids anybody who happens to be an employee of the District government from lobbying for voting rights. This man is head of the D.C. Veterans Affairs Office. What an outrage, Madam Speaker. This veteran, this West Point graduate, could not come here to plead for his own freedom because of a rider that has been attached to an appropriations bill that

should not even be here in the first place because it consists of money raised in the District of Columbia.

The Revolutionary War "Taxation without Representation" slogan has been with us since District residents fought in that war and have fought in every war since. The people I represent have indeed had more casualties in many wars than many others in this House. In World War I, more casualties than three States; in World War II, more casualties than four States; in Korea, more casualties than eight States; and in Vietnam, more casualties than 10 States. And no vote, Madam Speaker.

Since I have been in the House, three wars have taken place: the Persian Gulf War, Afghanistan, and now we are on the verge of war with Iraq. I have spoken at all three, sent all three off to war, all with no vote.

Madam Speaker, it is one thing to give your taxes to your government without a vote. It is quite another to lay your life on the line for your country without a vote.

Everyone in the military today is a volunteer. There is a freeze so one cannot even get out, making it really a draft. Taxes without a vote in return is awful, particularly in this body that does not want people to pay taxes in the everyday sense of the word. But patriotism without a vote for it is a shame and a shame on us, particularly given the kind of war we now want to fight, a war for democracy in Iraq and in the Middle East.

I am pleased that there are Republicans who have said to me, This is wrong and I am not for it.

Voting is not a partisan issue, except in undemocratic countries. It cannot be a partisan issue in our country today when we are sending young men and women off to war, yes, even from the Nation's Capital. So the people I represent, in whose name I submitted this bill today, standing with three veterans who live in the District of Columbia, I ask this question of this House: how much longer are you going to ask the residents of your Nation's Capital, 600,000 of them, to pay taxes more than most of my colleagues do per capita and to go to war without the right to vote? How long? I hope not very long.

#### SUPPORT H.R. 5

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Madam Speaker, today I rise to commend the House on the passage of H.R. 5 and to encourage the other body to immediately take up meaningful medical liability reform, the lack of which constitutes the number one health care problem in America today.

Doctors are being driven out of their practices by staggering medical liability insurance premiums, a direct result

of the incredible increase in medical liability lawsuits and the mind-boggling sums of money paid in jury awards and settlements, much of which ends up in the pockets of personal injury trial attorneys.

In the last 10 years in Texas, my home State, we have seen a 500 percent increase in medical liability awards. But the money is not going to the injured. Studies show that 57 percent of medical malpractice premiums go towards attorneys' fees. Frivolous lawsuits have caused professional liability premiums to jump anywhere from 50 percent to 200 percent in Texas, and the amazing fact is that most of these suits are frivolous. In fact, more than three out of four liability claims against Texas doctors are simply dismissed, dismissed for no merit. Yet, in all cases, doctors are forced to spend tens of thousands of dollars to defend themselves.

Because of the skyrocketing cost of insurance, many physicians are simply closing their doors, moving away from high-risk specialties, refusing to perform certain medical procedures or, frankly, taking early retirement. For example, in Mexia, Texas, in my district, the regional hospital had four family practitioners 1 year ago. But because of the increased costs of their liability insurance, three doctors are now lost. This will leave the hospital with only one OB-GYN in a service area of 70,000 people.

Madam Speaker, this is unacceptable. In this same town in my district, another practitioner closed her clinic and ended up filing bankruptcy, principally due to the skyrocketing cost of liability insurance.

Madam Speaker, I fear without meaningful reform we will lose the best and brightest. They will avoid or exit the medical profession altogether, and where are we going to be 10 years from now if we do not have enough quality doctors to serve our patients?

I know personally how important it is to have the best and brightest practicing medicine. One year ago, our first child was born, a daughter we named Claire Suzanne; and I honestly believe she is the most beautiful baby in the world. But there was a point last year when I was not certain she would be with us, because after almost 12 hours of labor, at 4:30 a.m. in the morning, our baby was in a breech position, apparently undeliverable. Losing her heartbeat with every contraction of my wife, the atmosphere in the delivery room turned very serious. Fortunately, due to a greatly skilled OB-GYN, an immediate C-section was performed in time to save our precious child's life. I do not want to contemplate what might have happened to my child or what could happen to someone else's child if the best and brightest are no longer there to practice medicine and save lives.

There are further problems, Madam Speaker. Doctors are being forced to practice defensive medicine just to pro-

tect themselves from being sued, ordering extra tests, invasive procedures and medications that they do not believe are medically necessary. Hospitals, doctors, and nurses are reluctant to provide care, even in emergency situations, because they live in fear of lawsuits. As one of my House colleagues recently noted, "Something is wrong with the system when it is easier to sue a doctor than it is to see one."

□ 1630

Madam Speaker, we know that there are 40 million people in this country without health insurance. Most simply cannot afford it. But for every 1 percent increase in individual health care premiums, 300,000 people nationwide are forced to go without medical insurance.

Madam Speaker, the answer to a medical tragedy or a grossly negligent medical act is not to pay personal injury trial lawyers millions of dollars, it is not to drive up the costs of health care for the rest of us, it is not to add more Americans to the ranks of the uninsured. The simple answer is to pull the license of the grossly negligent physician.

Madam Speaker, medical liability reform as we passed today will lower cost, improve quality, and provide more access to health care for all Americans.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BLACKBURN). The Chair would remind Members not to urge Senate action.

#### RECALL DESIGNEE

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

OFFICE OF THE SPEAKER, HOUSE OF REPRESENTATIVES,  
Washington, DC, March 13, 2003.

Hon. JEFF TRANDAH, *Clerk, House of Representatives, Washington, DC.*

DEAR MR. CLERK: Pursuant to House Concurrent Resolution 1, and also for purposes of such concurrent resolutions of the current Congress as may contemplate my designation of Members to act in similar circumstances, I hereby designate Representative Tom DeLay of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of my death or inability, to notify the Members of the House and the Senate, respectively, or any reassembly under any such concurrent resolution. In the event of the death or inability of that designee, the alternate Members of the House listed in the letter bearing this date that I have placed with the Clerk are designated, in turn, for the same purposes.

Sincerely,

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

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ORDER OF BUSINESS

Mr. MCDERMOTT. Madam Speaker, I ask unanimous consent to take the time allocated to the gentleman from Oregon (Mr. DEFAZIO).

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

There was no objection.

#### AMERICA BETTER WAKE UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, as we inch closer to Mr. Bush's unprovoked and unjustified invasion of Iraq, I come to the floor to talk about an issue that I think the American people should be aware of and Members of House should be very concerned about, and that is the type of news coverage they get about this war.

I see in today's Roll Call that the Republicans are setting up a spin room that will be briefings from the White House on a regular basis, but it is only on one side. It is all being coordinated through the gentleman from California (Mr. COX).

Now, in addition to that the question is then about reporters, and there are going to be two kinds of reporters in this war. The first are the embedded reporters. Those are the American reporters who are brought in and put in military uniforms and put in units of the military. They will be under constant censorship by the leadership of the unit that they are with. They have to sign an agreement to that effect. It is called the Coalition Forces Land Component Ground Rules Agreement, and that means they cannot write anything that the commander of that unit does not say is all right to go out.

Now it is pretty clear that the Secretary of War, Mr. Rumsfeld, is trying to deal with the problems of the Vietnam War. The press played an enormous role in stopping that war by reporting what is going on over there. Had there not been free press, there is no telling how long it might have gone on because the official reports were all bogus and we now know it. But, in the last couple of wars we have controlled the press, and this is the real best control I have ever seen.

There is a second kind of reporter, and that is the unembedded reporter, the international reporters. There is an article in today's paper from the Irish radio, an interview with a woman by the name of Kate Adie, who is the chief news correspondent for the BBC. She said when asked if there were any consequences of fatal actions, the Pentagon officers said we do not care. They have been warned, stay out of

there. She says, "I am enormously pessimistic of the chance of decent, on the spot reporting as the war occurs."

Another man on the same program, Phillip Knightley, who is a war historian, said, The Pentagon has also threatened they "may find it necessary to bomb areas in which war correspondents are attempting to report from Iraq."

Now, Miss Adie was told the Americans, and I have been talking to the Pentagon, their attitude is "entirely hostile to the free spread of the information." I have been told by a senior officer in the Pentagon that if uplinks, that is television and electronic links, that is the television signals, were detected by any planes, the military would fire on them, even if they were journalists, she said. And the man said, Who cares?

Well, the fact is those smart bombs, they tell us a lot but they cannot tell the difference between a radio link, a cell telephone or a radar. They are going to do everything they can to stamp out any kind of information about this war that they do not want to have to have processed.

Now the American people are being taken into a war which is, we are going to be told it is going to be short and quick and sweet, and we were told that about the last war. We were told that only 147 people died in Iraq. But the fact is that 10,000 people have died since, and there are 221,000 claims of disability in the Veterans Administration due to depleted uranium and other toxins that were experienced by our troops. That was not reported at the time. It was not reported now. You have to go to the foreign press.

I would say to all Americans, you should be watching the BBC. Read the French papers, the German papers, any other paper besides the United States. The reporters in the White House are lap dogs to the White House. They stood up there in a press conference the other day and watched the President of the United States with a script on the podium saying, I will call on Joe. Joe. I will call on Sally. Sally.

He knew what the questions were that they were going to ask and he took exactly what he wanted. He would not take any question that was off his list. That is what the American people are supposed to make a decision about. You cannot have a democracy when the people are ignorant. They have to have information, and this administration is determined not to tell people what is going on. America better wake up quickly.

[From GuluFuture.com, Mar. 10, 2003]

#### PENTAGON THREATENS TO KILL INDEPENDENT REPORTERS IN IRAQ (BY FINTAN DUNNE)

The Pentagon has threatened to fire on the satellite uplink positions of independent journalists in Iraq, according to veteran BBC war correspondent, Kate Adie. In an interview with Irish radio, Ms. Adie said that questioned about the consequences of such potentially fatal actions, a senior Pentagon officer had said: "Who cares. . . . They've been warned."

According to Ms. Adie, who twelve years ago covered the last Gulf War, the Pentagon attitude is: "entirely hostile to the free spread of information."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs," she told Irish national broadcaster, Tom McGurk on the RTE1 Radio "Sunday Show."

Ms. Adie made the startling revelations during a discussion of media freedom issues in the likely upcoming war in Iraq. She also warned that the Pentagon is vetting journalists according to their stance on the war, and intends to take control of US journalists' satellite equipment—in order to control access to the airwaves.

Another guest on the show, war author Phillip Knightley, reported that the Pentagon has also threatened they: "may find it necessary to bomb areas in which war correspondents are attempting to report from the Iraqi side."

#### Audio Transcript follows below:

Tom McGurk: "Now, Kate Adie, you join us from the BBC in London. Thank you very much for going to all this trouble on a Sunday morning to come and join us. I suppose you are watching with a mixture of emotions this war beginning to happen, because you are not going to be covering it."

Kate Adie: "Oh I will be. And what actually appalls me is the difference between twelve years ago and now. I've seen a complete erosion of any kind of acknowledgment that reporters should be able to report as they witness."

"The Americans . . . and I've been talking to the Pentagon . . . take the attitude which is entirely hostile to the free spread of information."

"I was told by a senior officer in the Pentagon, that if uplinks—that is the television signals out of . . . Bhagdad, for example—were detected by any planes . . . electronic media . . . mediums, of the military above Bhagdad . . . they'd be fired down on. Even if they were journalists . . . Who cares! 'said . . . [inaudible]."

Tom McGurk: ". . . Kate . . . sorry Kate . . . just to underline that. Sorry to interrupt you. Just to explain for our listeners. Uplinks is where you have your own satellite telephone method of distributing information."

Kate Adie: "The telephones and the television signals."

Tom McGurk: "And they would be fired on?"

Kate Adie: "Yes. They would be 'targeted down,' said the officer."

Tom McGurk: "Extraordinary!"

Kate Adie: "Shameless!"

"He said . . . 'Well . . . they know this . . . they've been warned.'"

"This is threatening freedom of information, before you even get to a war."

"The second thing is there was a massive news blackout imposed."

"In the last Gulf war, where I was one of the pool correspondents with the British Army. We effectively had very, very light touch when it came to any kind of censorship."

"We were told that anything which was going to endanger troops lives which we understood we shouldn't broadcast. But other than that, we were relatively free."

"Unlike our American colleagues, who immediately left their pool, after about 48 hours, having just had enough of it."

"And this time the Americans are: a) Asking journalists who go with them, whether they are . . . have feelings against the war. And therefore if you have views that are skeptical, then you are not to be acceptable."

"Secondly, they are intending to take control of the Americans technical equipment . . . those uplinks and satellite phones I was talking about. And control access to the airwaves."

"And then on top of everything else, there is now a blackout (which was imposed, during the last war, at the beginning of the war), . . . ordered by one Mr. Dick Cheney, who is in charge of this."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs. You will get it later."

#### USA: CPJ SENDS LETTER TO SECRETARY RUMSFELD

EXPRESSES CONCERN ABOUT EMBEDDING RULES AND NONEMBEDDED JOURNALISTS

MARCH 6, 2003.

Hon. DONALD H. RUMSFELD,  
*Secretary of Defense,*

*The Pentagon, Washington, DC.*

DEAR SECRETARY RUMSFELD: The Committee to Protect Journalists (CPJ) is encouraged that the administration is making efforts to accommodate journalists who are seeking to cover a possible U.S. military action in the Gulf. We welcome the Pentagon's plan to embed as many as 500 journalists with U.S. forces as a positive step that will improve frontline access to combat operations.

However, based on a 10-day trip, which CPJ senior program coordinator Joel Campagna recently completed to Kuwait, Qatar, and Jordan, we have a number of concerns regarding both the embed system's implementation and the ability of the many reports who plan to report outside the system to conduct their reporting duties freely.

During his recent trip, CPJ's Campagna visited U.S. military bases in Qatar and Kuwait, meeting with military officials in both places to discuss the Pentagon's media policy. CPJ is particularly concerned by the specific language in the recently released Public Affairs guidance document on embedding and the Coalition Forces Land Component Command Ground Rules Agreement, which embedded journalists will be required to sign. The language could be used to justify unreasonable limits on coverage.

For example, among the information deemed "not reasonable" in the agreement is that which pertains to "on-going engagements." According to the guidelines, such information will not be released unless authorized by an on-scene commander. What constitutes an ongoing engagement is not clear from this document, and unit commanders could interpret it in an extremely broad manner as a basis to restrict reporting.

We, of course, recognize the need to protect certain kinds of information to ensure the safety of U.S. forces. However, we are concerned that under the embedding guidelines, unit commanders have the authority to request that embedded reporters refrain from reporting on a number of broadly defined categories of information. Despite explicit guarantees that journalists' material will not be censored, the guidelines state that when a unit commander believes a reporter may be in a position to reveal sensitive information, he or she may ask a reporter to submit copy for security review. The commander may then ask the reporter to remove information that is classified or sensitive. Access to such information would be contingent on agreeing to this review.

Moreover, despite general assurances from Pentagon officials that they will limit reporting only in cases where operational security would be jeopardized, reporters have expressed fears that officials will restrict coverage by limiting movements or delaying journalists' ability to file stories. The current guidelines grant broad discretion to

unit commanders to limit the dissemination of information likely to be contained in news reports.

Perhaps more important than the embed plan itself is the extent to which journalists not embedded with U.S. troops will be allowed to move and gather news freely. To date, U.S. officials have offered no convincing guarantees that "unilateral" reporting, or reports by nonembedded journalists, will be allowed to proceed without interference. Pentagon officials have stated that they anticipate the presence of unilateral reporters in a potential military theater, and military units that encounter journalists will treat them "like any other civilian person found on the battlefield." Officials, however, have never provided details or assurances about the kind of access unilateral reporters would experience on or around the battlefield but instead have warned journalists about the dangers associated with not embedding.

Lastly, CPJ is concerned for the safety of the significant number of journalists who will likely be working in Baghdad should conflict erupt. While we are worried about possible threats from Iraqi authorities, who detailed and imprisoned several international correspondents during the 1991 Gulf War, we also fear that foreign reporters working in Baghdad could be endangered by U.S. air strikes. We note with concern that U.S. and NATO forces have targeted local broadcast facilities in previous conflicts, including the 1999 strike on the offices of the Yugoslav state broadcaster RTS television. Furthermore, your office has failed to assuage the concerns highlighted in our January 31, 2002, letter requesting clarification on the November 2001 U.S. military strike that destroyed the offices of the Arabic language broadcaster Al-Jazeera in Kabul, Afghanistan. We remind you that statements made by Pentagon officials to U.S. media representatives on February 28, 2003, warning of the potential dangers to unilateral reporters operating in Iraq do not absolve U.S. forces of their responsibility to avoid endangering media operating in known locations.

Today, hundreds of journalists are preparing to cover what could be a potentially hazardous assignment in Iraq and the Persian Gulf should the U.S. decide to attack Iraq. Despite these inherent dangers, journalists have an obligation to report the news, especially in times of war, when public information is crucial. Any U.S. military action must take into account the safety of working journalists and their ability to work freely. As an independent organization of journalists dedicated to defending press freedom worldwide, we urge you to take the following actions to make certain that journalists covering a possible war with Iraq can do so freely and safely: Ensure that journalists operating within the embed system be allowed the maximum possible freedom to report; provide public assurance to journalists who will be reporting outside the embed system that the U.S. military will not interfere in their work and will impose only those restrictions absolutely necessary to ensure the safety of U.S. military personnel and operations; refrain from targeting broadcast and other media operating in Baghdad; and ensure that maximum precaution is taken to avoid harm to journalists operating in known locations in potential military theaters.

Thank you for your attention to these important matters. We await your response.

Sincerely,

JOEL SIMON,  
*Acting Director.*

## CHILD ABDUCTION PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Madam Speaker, surely he came to save that which was lost.

As the father of two beautiful daughters, I was elated last night to see a little girl by the name of Elizabeth Smart lost 9 months ago to her family and her community restored to hearth and home. It was an awesome sight and a reunion that is difficult to imagine in its joy this side of eternity.

As a member of the Committee on the Judiciary and as the author of legislation protecting children from Internet pornographers, Madam Speaker, I am delighted to report this week against the backdrop of that awesome news Congress was caught doing something. It is truly astonishing.

In the midst of the disappearance of Elizabeth Smart and far too many others, last year Congress passed the Child Abduction Prevention Act, taking strong action to prevent child kidnappings in the future. It included a national Amber alert. But sadly, the Senate failed to act on that important legislation. Undeterred, the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENBRENNER), was already moving this bill last week when public vigilance restored Elizabeth Smart to her family.

Different from action in the other body earlier today, that creates a national coordinator that already exists within the Justice Department and a voluntary national Amber alert. The Child Abduction Prevention Act that was already marked up last week and scheduled for consideration in the Committee on the Judiciary this coming week creates a national Amber alert communication network. It gives the judicial branch the ability to impose life sentences for child sex offenders, creates a mandatory life sentence for two strike offenders. It eliminates the statute of limitation for child abduction and it doubles Federal funds to the National Center for Missing and Exploited Children.

There is real substance in the Child Abduction Prevention Act. This is a time against the backdrop of this extraordinarily joyous news that we in Washington need legislation, not symbolism and photo ops. To the family of Elizabeth Smart and her brave and courageous parents, may the Lord bless your reunion. But to my colleagues, let us seize this historic occasion of joy to pass meaningful legislation. Let us move the Child Abduction Prevention Act among my colleagues on the Committee on the Judiciary, and as swiftly as is possible, let us move it to the floor of the House of Representatives and to the President's desk. Our children, including Elizabeth Smart, deserve no less.

## PUBLICATION OF THE RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. NEY) is recognized for 5 minutes.

Mr. NEY. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI, I hereby submit for the RECORD the Committee on House Administration's Rules for the 108th Congress. The Committee Rules were adopted by the Committee on House Administration on February 5, 2003.

### RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION

#### RULE NO. 1: GENERAL PROVISIONS

(a) The Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a privileged motion in the Committee.

(b) The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and, subject to the adoption of expense resolutions as required by House Rule X, clause 6, to incur expenses (including travel expenses) in connection therewith.

(c) The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee, and to distribute such information by electronic means. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee shall be paid from the appropriate House account.

(d) The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The Committee's rules shall be published in the CONGRESSIONAL RECORD not later than 30 days after the Committee is elected in each odd-numbered year.

#### RULE NO. 2: REGULAR AND SPECIAL MEETINGS

(a) The regular meeting date of the Committee on House Administration shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the Chairman of the Committee (hereinafter in these rules referred to as the "Chairman") as he may deem necessary or at the request of a majority of the members of the Committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting may be dispensed with if, in the judgment of the Chairman, there is no need for the meeting.

(b) If the Chairman is not present at any meeting of the Committee, or at the discretion of the Chairman, the Vice Chairman of the Committee shall preside at the meeting. If the Chairman and Vice Chairman of the Committee are not present at any meeting of the Committee, the ranking member of the majority party who is present shall preside at the meeting.

#### RULE NO. 3: OPEN MEETINGS

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the Committee, shall be open to the public except when the Committee, in open session and with a quorum present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to

the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, that no person other than members of the Committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

#### RULE NO. 4: RECORDS AND ROLLCALLS

(a) The result of each record vote in any meeting of the Committee shall be transmitted for publication in the Congressional Record as soon as possible, but in no case later than two legislative days following such record vote, and shall be made available for inspection by the public at reasonable times at the Committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(b)(1) Subject to subparagraph (2), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(c) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) House records of the Committee which are at the National Archives shall be made available pursuant to House Rule VII. The Chairman shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the Committee upon written request of any Committee member.

(e) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

(f) All Committee resolutions and Committee motions (other than procedural motions) adopted by the Committee during a Congress shall be numbered consecutively.

#### RULE NO. 5: PROXIES

No vote by any member in the Committee may be cast by proxy.

#### RULE NO. 6: POWER TO SIT AND ACT; SUBPOENA POWER

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The Chairman, or any member designated by

the Chairman, may administer others to any witness.

(b)(1) A subpoena may be authorized and issued by the Committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the Chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any member designated by the Committee, and may be served by any person designated by the Chairman or such member.

(2) Compliance with any subpoena issued by the Committee may be enforced only as authorized or directed by the House.

#### RULE NO. 7: QUORUMS

No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating Committee orders, or changing the rules of the Committee, one-third of the members of the Committee shall constitute a quorum. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

#### RULE NO. 8: AMENDMENTS

Any amendment offered to any pending legislation before the Committee must be made available in written form when requested by any member of the Committee. If such amendment is not available in written form when requested, the Chair will allow an appropriate period of time for the provision thereof.

#### RULE NO. 9: HEARING PROCEDURES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one (1) week before the commencement of that hearing. If the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the Chairman, each witness who is to appear before the Committee shall file with the clerk of the Committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the Committee upon any measure or matter, the minority party members on the Committee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Committee members may question a witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended as provided by House Rules. The

questioning of a witness in Committee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The Chairman may accomplish this by recognizing two majority members for each minority member recognized.

(e) The following additional rules shall apply to hearings:

(1) The Chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the Committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(5) If the Committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (e)(5), the Chairman shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

(8) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee.

#### RULE NO. 10: PROCEDURES FOR REPORTING MEASURES OR MATTERS

(a)(1) It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present.

(2) With respect to each record vote on a motion to report any measure or matter of a

public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) The report of the Committee on a measure or matter which has been approved by the Committee shall include the matters required by Clause 3(c) of Rule XIII of the Rules of the House.

(d) Each report of the Committee on each bill or joint resolution of a public character reported by the Committee shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(e) If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that members shall be entitled to not less than two additional calendar days after the day of such notice, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraph (c) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of the Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the Committee upon that measure or matter.

(3) shall, when appropriate, contain the documents required by Clause 3(e) of Rule XIII of the Rules of the House.

(f) If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings published and available to the members of the House prior to the consideration of such measure or matter in the House.

(g) The Chairman may designate any member of the Committee to act as "floor manager" of a bill or resolution during its consideration in the House.

#### RULE NO. 11: COMMITTEE OVERSIGHT

The Committee shall conduct oversight of matters within the jurisdiction of the Committee in accordance with House Rule X, clause 2 and clause 4. Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress in accordance with House Rule X, clause 2(d).

#### RULE NO. 12: REVIEW OF CONTINUING PROGRAMS: BUDGET ACT PROVISIONS

(a) The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, en-

sure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in Clause 4(e) of Rule X of House Rules.

(b) The Committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

#### RULE NO. 13: BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 4 of House Rule XI, subject to the limitations therein. Operation and use of any Committee Internet broadcast system shall be fair and non-partisan and in accordance with Clause 4(b) of rule XI and all other applicable rules of the Committee and the House.

#### RULE NO. 14: COMMITTEE STAFF

The staff of the Committee on House Administration shall be appointed as follows:

A. The Committee staff shall be appointed, except as provided in paragraph (B), and may be removed by the Chairman and shall work under the general supervision and direction of the Chairman;

B. All staff provided to the minority party members of the Committee shall be appointed, and may be removed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member;

C. The Chairman shall fix the compensation of all staff of the Committee, after consultation with the ranking minority member regarding any minority party staff, within the budget approved for such purposes for the Committee.

#### RULE NO. 15: TRAVEL OF MEMBERS AND STAFF

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the Committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

#### RULE NO. 16: POWERS AND DUTIES OF SUBUNITS OF THE COMMITTEE

The Chairman is authorized to establish appropriately named subunits, such as task forces, composed of members of the Committee, for any purpose, measure or matter; one member of each subunit shall be designated chairman of the subunit by the Chairman. All such subunits shall be considered ad hoc subcommittees of the Committee. The rules of the Committee shall be the rules of any subunit of the Committee, so far as applicable, or as otherwise directed by the Chairman. Each subunit of the Committee is authorized to meet, hold hearings, receive evidence, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems

necessary, and to report to the full Committee on all measures or matters for which it was created. Chairmen of subunits of the Committee shall set meeting dates with the approval of the Chairman of the full Committee, with a view toward avoiding simultaneous scheduling of Committee and subunit meetings or hearings wherever possible. It shall be the practice of the Committee that meetings of subunits not be scheduled to occur simultaneously with meetings of the full Committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the Chairman through the clerk of the Committee.

RULE NO. 17: OTHER PROCEDURES AND REGULATIONS

The Chairman may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

RULE NO. 18: DESIGNATION OF CLERK OF THE COMMITTEE

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the Committee shall act as the clerk of the Committee.

### HONORING ERNIE BARKA

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

Mr. BRADLEY of New Hampshire. Madam Speaker, I rise today to pay tribute to a dedicated New Hampshire resident who has devoted over 30 years of his life to public service, Mr. Ernie Barka.

Ernie passed away Monday, March 10, at the age of 80. He was a true civic leader in his community, devoting his life to others and improving the quality of life for residents, not only in his hometown but all over southern New Hampshire. He worked tirelessly to help those less fortunate and was a champion for the elderly and for children.

The son of Lebanese immigrants, Ernie learned strong family values and the importance of respect for others while working in his parents' grocery store. The strong work ethic instilled by his parents during his childhood carried over to all aspects of his adult life, particularly in his community and civic involvement.

Ernie served most recently as Rockingham County Commissioner and was a former State representative and former school board member in the town of Derry.

Ernie is credited with launching the Meals on Wheels program in Rockingham County. Leaders like Ernie exemplify the true spirit of civic responsibility and he will be truly missed. His efforts to make New Hampshire a better place to live have made a lasting impact on the people of New Hampshire that both knew him and knew of him. I am happy to have called Ernie my friend.

### FINANCIAL CHALLENGES FACING THE NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Madam Speaker, with this early session today it seemed like an appropriate time to talk about what I think are maybe three of the greatest problems that we are facing in the United States Congress in America outside of our economic security and our physical security with the wars going on in Iraq, with the challenge from the terrorists around the world. However, the financial problems that we are facing in Congress are also very serious, and I think we must reverse the rapid descent that we have been taking into extra deficits and overspending. So today I will talk about three areas: One, spending; two, the resulting debt; and, three, some of the financial challenges that face this Nation in the future.

The first chart I have is the a chart representing the last 10 years of spending; and discretionary spending has increased an average of 6.3 percent, 6.3 percent each year since 1996, and 7.7 percent each year since 1999. So it is somewhat flat. It starts going up in 1996 and then it really takes off from 1998, 1999 averaging 7.7 percent a year. That is two, three, depending on the year, sometimes almost four times the rate of inflation. So you can imagine if you project that on in this kind of growths of costs, government is going to be eating up more of our income, more of our gross domestic product in the years ahead.

□ 1645

Why is this? How can we control ourselves from the overzealousness and the attractiveness to spend more money? Of course, politicians in this Chamber get elected every 2 years. The politicians in the other Chamber get elected every 6 years, and the tendency has been when a Member of Congress takes home more pork barrel projects, when they are doing something to solve some of the problems that we face in this country, then they get on television. They get on the front page of the paper. They become popular, especially with those people that need those services, and there is a greater propensity that they are going to get reelected.

So the tendency has been to spend more and more money, and we have changed our income tax system so that most of the people in the United States do not pay much of any income tax. It is the top 14 percent of taxpayers that pay something like 90 percent of the total income tax, and the bottom 50 percent of income taxpayers only pay about 1 percent of the income tax. So it is easy to understand that that bottom 50 percent is not outraged by increased

taxes and increased spending and increased borrowing, and this is the next issue I wanted to talk about is borrowing.

Three years ago, in the year 2000, we had a budget surplus of \$236 billion. This year we are approaching a \$500 billion deficit. So over \$700 billion changed from surplus to deficit in a total Federal spending budget that we are looking at this year of \$2.1 to \$2.2 trillion. Huge points, and again, that is because of the overzealousness to spend.

Let us look at what has happened as a result of that spending, and I think it is good to remind ourselves of the definitions. When we say "deficit" that means a year in which we are spending more money than the Federal Government has in revenues coming into the Federal Government, and "debt" is the accumulation of that annual overspending. So what does government do? We borrow more money.

As a safeguard to try to hold the line on borrowing, what we did many, many years ago is said, look, we cannot borrow, in fact, the Constitution prescribes it, we cannot borrow any extra indebtedness for this country unless it is a law passed by the Senate, the House and signed by the President, to try to put some restraints on the temptation to simply borrow more and more money and spend more and more of that money, and of course, this chart is an explanation, as best as we could portray it, in a blue line, a green line and a purple line, if you will, on the gross Federal debt and its components.

As we look at the bottom purple line, this is the debt held by government accounts. It is the money that we ask workers in this country to pay into the FICA tax, into the Social Security tax, designed in 1934, to be a forced saving so that while we are working, some of that money is taken out. FDR, Franklin Delano Roosevelt, said instead of having to go over the hill to the poor house, we are going to have mandatory savings during those years when a person is working, and then when they retire they will have more security, more Social Security. They will not have to go over the hill to the poor house.

So we came up with a Social Security system, and when we started, it was a situation where current workers paid in their taxes to pay for the benefit of current retirees. That is the same today.

Also, the extra money that is paid in by all Federal workers for their retirement programs, the money for the pensions of the military, our armed service members who pay in part of their wages for their retirement, that is all accounts held by the government, and what we assume in this Chamber, in the Senate and the White House, is that it is okay simply to write out an IOU and spend that money for other government services, but it technically is part of the debt, and as we see over the years, this debt held by government services continues to go up, at



least past into the future, as far as we can see almost.

The green line in the middle is the debt held by the public, the Treasury auctions that we have, the so-called Wall Street debt, the debt that is held by retirement funds, insurance companies, banks, anybody that wants to buy those Treasury bills. That is the debt that is held by the public.

We saw a period in 2001 and 2002 and 1999 where we were having a little surplus in terms of paying down some of that debt held by the public, and so, to me, I think it was a little bit misleading, maybe a little bit of hoodwinking in terms of telling people we were paying down the Federal debt at a time when actually the total debt of the country continued to go up. The total debt never went down during our brag sessions of having a lock box, that we are going to take and pay down the public debt of this country.

Yet what was happening is we were to pay down that debt, we were taking extra money coming in from Social Security and the other trust funds and using that money to pay down some of the public debt. So, therefore, as my colleagues can see and as we have tried to portray by this chart, the debt has never really decreased.

Why is this bad policy? Why is it unfair to our kids and our grandkids and future generations to keep piling up this debt?

If we will, sort of pretending that our debt and our problems today are greater than maybe the needs of our kids and our grandkids, probably not so. They are going to have to somehow come up with the extra tax effort to pay off this debt but absolutely to pay the cost of servicing this debt.

Right now we have got a downturn and a sluggish economy, and so, therefore, there are less revenues coming in. The demand for extra money is not out there in the private sector, and so the effect of extra government borrowing does not hurt the economy so much, but when it is going to start to hurt is when we have this economic recovery. When individuals say it is time, I want to buy a new car, what is the interest rate; it is time I want to buy my house and my home for my family, how much is it going to cost me; and a business that decides to employ more and expand and buy the equipment and the facilities they need for expansion and business, and then they find out that who is at that marketplace, buying up available money, is the Federal Government.

The Department of Treasury has auctions every week, and based on the total indebtedness and how much extra we are spending over and above what is being brought into the Federal Government, it is a situation where government says, well, look, whatever it costs we are going to have our money. If we have to bid up the interest rate to make sure that we get the money we need, we are going to do that, and of course that results in the potential for

higher interest rates and that is what is going to happen.

When the economy recovers, interest rates are going to go up. Interest rates right now are a little over 3 percent. So government can borrow money at about 3 percent, and yet even with that low interest rate, the servicing that debt, the interest that government pays on that borrowing represents 11.4 percent of our total Federal spending budget.

What would happen if we hit interest rates that were in existence in the late seventies and early eighties when we saw interest rates go as high as 17 percent, sometimes higher than 17 percent? Then that 11.4 percent becomes five times greater, and 60 percent of our budget would be used paying interest, and that is just the situation with the current debt today.

What if we project ourselves to the debt that is going to happen if we are not able to have the intestinal fortitude, if you will the guts, to stand up and say no, we are going to slow down spending, we are going to prioritize some of the Federal spending, government cannot be responsible to all of the problems of the country and we go back to the basics of our United States Constitution?

When Republicans took the majority in this Chamber in 1994 and starting in 1995, Newt Gingrich, the then Speaker of the House, asked me if I would be chairman of the Debt Limit Task Force, and so we got what I considered some of the really good thinkers in terms of trying to come together to analyze how do we start having a balanced budget, how do we start living within our means, how do we start convincing Members of Congress and the country that government cannot solve all the problems and that it is unconscionable just to keep spending more and more money, and of course, politically it is not wise to increase taxes to cover those expenditures, because people reach in and they feel their billfold and they feel the money going out of that billfold to pay the income tax but not so with borrowing. So the tendency has been to increase more and more borrowing.

What if interest rates, and they will, what if interest rates simply are forced up by 2 percent because of the extra demand that government has for borrowing? A person goes out and buys a \$28,000 car and they amortize it over 5 years, pay it off in 5 years, it is going to cost them \$3,000 more to buy that vehicle because government has pushed up interest rates in the marketplace.

What if they want a home, what if they are going to go out and buy an \$80,000 to \$100,000 home, amortized, let us say, over 25 years? Then they are going to end up paying \$13- or \$14,000 more for that home because government is in the marketplace bidding for available funds and driving up the bid on what that interest rate is going to be. So it is going to affect each one of us individually eventually if we are not able to hold the line on spending.

Our debt today amounts to about \$24,000 per individual in this country. The total debt is \$6.4 trillion.

Let me tell my colleagues another safeguard that our task force on holding the line on debt did. We said that there was a rule in this House, it was called the Gephardt rule, and the Gephardt rule stated in the rules of this Chamber that every time we passed a budget, if that budget spent more money than what was coming in in revenues, then automatically, without another vote, the debt limit of this country would be raised in legislation that would automatically be passed and sent on to the Senate. Why was that? That was so this Chamber was not embarrassed by having to take a vote and a debate on should we increase the debt for our kids and our grandkids.

I am a farmer from Michigan, and it has been our goal to pay off the mortgage, to give our kids a little better chance, but that is not what we are doing in this Chamber. That is not what we are doing across the hall at the Senate. It is not what we are doing at the White House. We are saying our problems must be so great that it justifies us making the wages and earnings of our kids and our grandkids and our great-grandkids to pay off that debt. That is sort of the spending part of the problem on debt.

Another task force that I have been chairing is a bipartisan task force made up of Republicans that sit on this side of the aisle, Democrats that sit on that side. So it was a task force on Social Security, and after we studied the problem and challenge of Social Security, we pretty much all agreed, Democrats and Republicans, that something has to be done because Social Security is going broke, and just let me review a couple of charts that I have on why Social Security is going to grow.

The coming Social Security crisis, and it is coming very quickly, our pay-as-you-go retirement system will not meet the challenge of demographic change. Pay-as-you-go is back to where it was. It is the same as when it started in 1934, existing workers pay in their Social Security tax. That money immediately goes out to current or existing retirees.

□ 1700

So there is no savings account. Nothing is being saved up for your retirement. It is simply a situation where whenever there were not enough workers and enough revenue coming in for the Social Security to cover promised benefits, then what did government do? And I am sure you can guess what government did. They either raised the tax, Social Security tax, and/or they cut benefits. And most often, throughout the years since 1934, they have done both, raised taxes and cut benefits.

That is why when we looked at the chart on how much debt held by the government accounts kept going up, it is because in 1983, on Social Security, the Greenspan Commission raised taxes

so high that ever since that law was enacted, there has been more money coming in to Social Security than was needed to pay out Social Security benefits. And like I said, government said, this is a good deal. We are going to take this money, write an IOU, and we are going to use the Social Security money to pay for other government programs.

That is why some of us said, look, we need something. We need private accounts. We need some way to get it out of the hands of spenders in Congress that would like to take that extra money and instead of saving it, somehow investing it. Every year, Congress has simply spent that money.

So what is in the Social Security trust fund? It is a nice name, but it is a misnomer because there is no real trust fund. There is no money there. So young people are at risk of trying to figure out ways on how they are going to do maybe without Social Security, or with much less Social Security; but more importantly, during their working life, they are going to probably be asked to pay more towards current benefits of retirees.

Look at this chart a minute with me. Demographics is the word. That is the problem. When we started this pay-as-you-go program, it worked very well. The working population was growing in relation to the number of retirees. In fact, back when we started the program, there were 36 workers working, paying in their taxes, for every one retiree. By 1940, it got down to 24 workers working, paying in their taxes, for every retiree. By the year 2000, three workers. Three workers paying in their taxes for every retiree. So their taxes, of course, had to go up. And what the actuaries at the Social Security Administration are predicting is that by 2025 there are only going to be two workers for every one retiree in this country.

And why is that? That is the demographics. The baby boomers. The increase in the birthrate has always been sufficient to keep an increased number of workers in relation to retirees. But now, after the baby boomers, those born after World War II, and the big increase in workers in this country, we are seeing a reduced birthrate; and at the same time we are seeing older people living longer. So where the average age of death when we started this program was 62 years old, which meant most people never got to 65 and collected Social Security benefits, now the average age of death is 86 years old, and it is going up.

Let me conclude by pointing out what we know about Social Security. Insolvency is certain. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out, and we know the results. The fact is payroll taxes will not cover benefits starting in 2015 and that the shortfalls

will add up to, and listen to this, \$120 trillion between 2015 and 2075. Our annual budget is only \$2.1 trillion; but over those years, in excess of the tax money from Social Security coming in, we are going to need an additional \$120 trillion.

That is why it is so important that we deal with this; that we step up to the plate; that we deal with this problem now instead of putting it off. Because we have a surplus now coming in from Social Security. If we can use that surplus, it is going to help.

The bipartisan task force on Social Security came to the conclusion that there has to be a better investment for that extra Social Security revenue coming in to the Federal Government. Private accounts are good, for a two-fold reason. One, you take it out of the hands and you get it off the table in terms of having it available to be spent by Congress. So it is an assurance that that money is in the name of the American worker and they can depend on it. If they happen to die before age 65, then it goes into their estate.

Now, some have argued, well, we cannot let the individual decide how to invest that money. I say if it is a compromise, fine, let us do it the same as the government's Thrift Savings Plan, where there is a government manager with indexed funds and that you have the choice of some of those safe index funds and you invest in that variety of funds as you might choose. But, still, it is government saying these are the safe funds where you are going to be least likely to lose any of that money. And so somehow it is a good idea.

Because let me tell you, the Supreme Court, on two occasions now, has said that there is no entitlement to Social Security money. I mean, if you work all your life, you pay in all those Social Security taxes, the Supreme Court, on a couple of cases, has said, look, Social Security tax, the FICA tax, is simply a tax and your entitlement to get benefits is simply legislation that has been passed by Congress and signed by the President.

In conclusion, let me say that the biggest risk is doing nothing at all; to do nothing to set aside the Social Security trust fund money and to not use it. And the lockbox that we heard about 3 years ago was a farce. It did not do anything to save Social Security. It was just sort of rhetoric that became politically popular. That money really needs to be invested in some fashion, in such a way to make sure that it is not available to the rest of government to spend as they might choose in other areas.

Social Security has a total unfunded liability of over \$9 trillion. Now, the \$9 trillion is what we need to come up with today if we are going to keep Social Security solvent. The \$120 trillion that I mentioned is future-years money with inflation, et cetera. So between the years 2015 and 2075 we are going to need that extra \$120 trillion over and above the Social Security tax that is coming in from payroll.

And I need to mention that right now 75 percent of American workers pay more in the FICA tax, the payroll tax, than they do in the income tax. And it would be, I think, extremely unfair to increase that tax again. Over the years, we have done it dozens of times. It started out at 1.5 percent tax on your income, and that included the employer's share; and now it is up to 12.4 percent.

The Social Security trust funds contain nothing but IOUs. So if we do nothing, somehow government is going to have to raise taxes someplace or increase borrowing or cut down on other government expenses to accommodate what we promised in Social Security. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. Too much. It would be bad. It would be terrible. With so many seniors that depend on Social Security for over 90 percent of their total income in their old age, it would be inconceivable to make those kinds of cuts.

So I ask my colleagues, Madam Speaker, to stand up to this great challenge. Even in the midst of the tremendous challenges that we have with the terrorists, the challenge of what we do with Saddam Hussein in Iraq, we have to stand up and make some hard decisions to make sure that we save Social Security and we do not keep putting it off until it becomes a crisis. And that crisis is rapidly approaching, because sometime between the year 2015 and 2017 there is not going to be enough money coming in from the Social Security tax to pay benefits.

So back to my three areas that I thought were very important. One is spending. We cannot continue to spend. And there will be a lot of criticism on this budget that came out, because we are cutting back on spending. For the first time since I have been here, and I came in in 1993, the budget resolution that we are going to be looking at over the next couple of weeks actually says in the discretionary part of spending, which represents less than half of the total spending, but in some discretionary spending, in some entitlement spending we are going to have to cut back because we want to hold the total spending of this Congress down.

And you know what I think? I think even a lot of grandpas and grandmas, if they knew that it just meant extra borrowing to accommodate some of their needs, even to the extent of prescription drugs, they would say, look, if it is going to be borrowing that my grandkids have to pay back, hold off a little while. Try to hold the line on spending, because that is going to result in holding the line on the total debt that we are passing on to our grandkids.

Mr. BOYD. Madam Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Florida.

Mr. BOYD. Madam Speaker, I thank the gentleman for yielding. I have been

watching from my office, and I came to the floor to tell him that I agree with everything he has said. And as a matter of fact, I and some others have control of the second hour, but I know the gentleman has some time left so I thought maybe before they get here he and I could talk.

Mr. SMITH of Michigan. Let us solve the Social Security problem. Let us solve the spending problem.

Mr. BOYD. I hope we can do that. Because the Social Security and the spending problems are the major problems that face our children and our grandchildren. We are hanging an albatross around their necks.

But I wanted to say to the gentleman from Michigan how pleased I was to hear the points that he has made. I did not realize he was a farmer from Michigan. I happen to be a farmer from Florida, as the gentleman may know; and I was very interested to hear the gentleman talk about the fact that as a farmer he knows that at the end of the day his revenues have to match his expenditures or he does not stay in business. I think all of the farmers around the country know that, and all of our small business people and even all of our constituents know that.

At the end of the day they have to have enough revenue to match their expenditures. And if they do not do that, they are bankrupt.

Mr. SMITH of Michigan. Reclaiming my time for just a moment, before the gentleman says it, I say if we cannot hold the line on spending, then we should not have a tax cut. And I yield to the gentleman.

Mr. BOYD. And I thank the gentleman for yielding. I could not agree with him more. I think that is why the gentleman will see, when the Blue Dogs, who are going to be here in the next hour to talk to the Nation, that the gentleman will find that our plan is to reduce spending too and to hold the line and defer the tax cuts until we get a handle on this thing.

But I just wanted to say that our constituents understand that if they cannot hold their spending down to a level that matches their revenue, that they are bankrupt. And they go to a court and they ask the court for relief. And the court will say, well, do you have a reorganization plan? And if they do not have a reorganization plan, the judge will require them to sell their house and their car and that new piece of property they bought, their stocks and so forth. And I think that is the situation we find ourselves in.

Mr. SMITH of Michigan. Madam Speaker, what I am a little nervous about on this reorganization plan that government might have is what some might call monetizing the debt, just printing more money, causing inflation, so it is easier to pay back. That would be terrible.

Mr. BOYD. That would be. That would be terrible. We have to figure out how to discipline ourselves, to quench our thirst for having programs

that we are not willing to pay for in our generation.

So I just want to commend the gentleman for his coming to the floor on his own, by himself, and saying what he has said. I think there is a lot of opportunity here for us to work together, and I hope that we can to solve this long-term fiscal problem.

Mr. SMITH of Michigan. Well, Madam Speaker, the rumor is the gentleman might be going to the Senate before we get this worked out. I do not know if he wants to tell the 5 million listeners that we have tonight about that.

Mr. BOYD. Well, wherever we are, we need to work on it together.

Mr. SMITH of Michigan. Exactly right.

#### THE BLUE DOG BUDGET

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. BOYD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BOYD. Madam Speaker, I appreciate the opportunity to speak, and I appreciate the remarks of the gentleman from Michigan who preceded me. I think I see a great glimmer of hope here, that those of us who are in different parties can come to the floor of the House of Representatives and essentially preach the same message.

That is what I want to do here today. I want to follow up on what the gentleman from Michigan (Mr. SMITH) says and tell the House that I believe that it is unconscionable that we are entering this time of war, this pending war, when we are economically in the doldrums. We have higher unemployment rates than we have had for years and years. Just 2 short years ago we had a surplus in our Federal budget, and in a very short 2 years we have managed to deplete that surplus and create the biggest deficit in the history of this Nation.

□ 1715

I think the results of that, the consequences of that, are certainly unacceptable to me and should be unacceptable to most Americans because I think what it does for us in the long run, the long-term economic consequences of it are very serious. It will stagnate our economy. It will make it impossible to solve the long-term Social Security problem that we have that the gentleman from Michigan (Mr. SMITH) spoke about. It will make it almost impossible for us to put in place a prescription drug program.

Both presidential candidates on the campaign trail talked about that as one thing that this Congress should do, reform Medicare to include a prescription drug program. But sometimes as a Congress and as an administration, we seem so fixated on revenue reductions that we have to pay for the priorities that we may list as a Federal Government.

Those priorities are pretty simple. Our primary responsibility is national security. There is a new buzzword, homeland security, that has been created since 9/11, and we know that the world is changing and we have to react to that. That is the primary responsibility of the Federal Government is national security.

We have Social Security, which is a very important program to the success of this society over the last 40 or 50 years. I tell my constituents often that in 1964 about the time of the creation of the Medicare program, if an American reached the age of 65 in this Nation, there was a 58 percent chance they would be below the poverty level. In other words, 58 percent of our citizens that reached that age, retirement age, did fall below the poverty level.

That figure today is a single digit figure, less than 10 percent reach the age of 65 and fall below the poverty level. There are many reasons for that sort of success in having the retired generation of this Nation live in comfort, but the least of those reasons certainly is not that we have a great Social Security and Medicare program in place. We know those programs have long-term funding problems, and we have to find solutions for them.

I think many of us in the Blue Dogs felt we had that opportunity 2 years ago when we had a surplus to fix those programs long term so that our children and grandchildren would not be hung with the responsibility of fixing those programs because it is going to be a much, much more difficult fix 15 or 20 years down the road. The fixes are painful now, but not nearly as painful as they will be in 15 or 20 years.

The Blue Dogs have always focused on fiscal responsibility and tried to convince this Congress that the best thing we can do for this economy is to set our priorities, spending priorities, and be willing to pay for those in our own generation. That is really what our Blue Dog budget is all about, it is about getting the Federal Government back onto a glide path of fiscal responsibility.

We spent the whole decade of the 1990s trying to bring us out of the huge deficit years of the 1970s and 1980s. It was a long, difficult battle. There were spending cuts. We ratcheted down spending at every level of government. The facts, if they are spoken accurately, will bear that out. Now in just a few short years of fiscal irresponsibility, we put ourselves back into a deep, deep ditch.

Madam Speaker, we have some other folks joining us today, and I would like at this time to yield to the gentleman from Tennessee (Mr. TANNER), who is a very effective member of the Committee on Ways and Means, who will discuss a few details of the Blue Dog budget.

Mr. TANNER. Madam Speaker, I think the gentleman is correct in his assessment that our generation ought to be willing or have the courage to

pay the bills that we are incurring for our protection and for the protection of our children and not pass on a debt that we have been working on to the extent that we are.

Let me give Members a few facts which are painful to even read. Right now we, the people of the United States, owe about \$6.4 trillion as represented by our national debt. Even worse, 8 months ago Congress was called on to raise the debt ceiling; that is the amount of money that the people of the United States borrow. Eight months ago, we raised that debt ceiling \$450 billion, which represents almost 10 percent of the then-\$6 trillion debt. Do Members realize that 8 short months later we are told by the Secretary of the Treasury we are going to hit that ceiling in the next few days or weeks. That means we have run through in 8 months \$450 billion of additional debt.

It gets worse. The Congressional Budget Office last week reported that the deficit for this year would be \$287 billion, and that does not include any monies for a potential war in Iraq. CBO further predicted that the deficits over the next 10 years if we continue to follow the economic model that we are operating under right now and do the things the President has suggested with regard to the Tax Code, that over the next 10 years we will rack up almost \$2 trillion of additional debt.

Now any rational businessperson understands that such an economic business plan, either in their business or for the country's business, is unsustainable; and the reason it is unsustainable is because interest must be paid on this debt. Last year we, the people of this country, paid \$332 billion, paid and accrued \$332 billion of interest on the national debt. The revenue of the Federal Government last year was \$1.8 trillion. That means we have a debt tax, D-E-B-T, debt tax of 18 cents out of every dollar. Said another way, we have an 18 percent mortgage on our country and this debt tax, as we continue to borrow more and more money, is the only tax increase on the American people that cannot be repealed because interest has to be paid.

This does not even touch the moral argument of what we are doing to the next generation. I told somebody the other day, I said I do not think any of us in this room want to leave our children a country where the rivers and streams are so polluted that fish cannot live in it, kids cannot swim in it, and people cannot drink from them. I do not think anyone wants to leave our children a country where the air is so foul and smog infested that our children have to wear a surgical mask to ride their bicycle, and I do not think any of us want to leave our children a nation that is so burdened with debt that they will not be able to make the public investments that only the government can make to enable private enterprise to grow, expand and flourish.

If there is any businessperson in this country who thinks for one moment

that private enterprise can flourish and grow without public infrastructure investment, whether it be in bricks and mortar, airports, railroads, harbors on our rivers and streams, or anything else, interstate highways. If they think private business can grow and flourish without that kind of public investment, then they have never been to a country that does not have any government because in those countries, nobody is doing any good. I have been there, seen that.

So I want to just say that under our present scheme if we listen to some, the deficits do not matter, that this is just a short-term problem. People have tried since the dawn of civilization and the invention of something we call money to borrow themselves rich. It has never worked then, and it is not working now, and anybody who thinks that we can borrow ourselves rich expects what never was and never will be.

We have a serious problem in this country. We are not doing our children right by passing on such a debt to them because we do not have the courage to either raise the necessary revenue for what we want, or we do not have the political courage to cut spending where we can. Something has got to be done, and that is why the Blue Dogs came today with a new budget for this fiscal year that will get us back on a glide path to balance. The biggest gift we could give to our country and to our children is a country that is debt free.

Just think, if we did not pay \$332 billion in interest last year what we could do, either cut taxes or make the investments in education, in a world class military, in all of those things without ever raising taxes again. That is the kind of financial management I think people expect us to exhibit up here, rather than trying to borrow ourselves rich and tell them everything is going to be all right.

Madam Speaker, I just want to say that I hope people will give some consideration to the God-awful debt that this country possesses now and what is forecast for the future, and will help us as we try to wrestle with it.

Mr. BOYD. Madam Speaker, I thank the gentleman from Tennessee. Members can tell he is truly our leader on these kinds of budget issues, and a very thoughtful member.

□ 1730

#### THE BLUE DOG BUDGET PLAN

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LORETTA SANCHEZ) is recognized for the remainder of the minority leader's hour.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I was sitting in a military congressional hearing and could not get out in time, but we are here now and really excited about having so many of our Blue Dogs come

here today to talk about the real problem on our hands.

And what is the problem on our hands? The problem is that a couple of years ago, many of us who were here in the Congress understood that we were in a surplus situation. We were getting more money in taxes than we were spending. And so we had a surplus. In just 2 years, under the Bush administration, we are in a deficit situation, a projected deficit, anybody that you talk to in this year's budget, of anywhere between about \$300 billion and \$350 billion. That does not include the war on terrorism, the war in Iraq, our work going on in Afghanistan; that is above and beyond the \$300 billion-plus deficit that we are running this year.

Add that to almost a \$6 trillion debt load that we are already carrying, and this becomes a major problem. Yet everything else seems to be going wrong. People are being laid off. There are no jobs being created under this administration with the plan that he had, his great tax cut that was supposed to stimulate the economy. It has not. Businesses are closing; bankruptcies are up. We read that in today's newspaper. That is despite all the other problems that we are having in the international world and with respect to a war. So our economy is weak and in many cases, like in California, is getting smaller as we speak.

So what do we do? The President's proposal has been to put forward a budget with stated aims of saying that the economy should get moving, that this budget of his would create jobs and that they would balance the budget. Strike one, strike two, strike three. This budget misses all marks of these three aims. I am going to go through that a little, and then we have got some Blue Dogs here who want to talk about what our proposal is for the budget of 2004.

First of all, economic stimulus. The way that the President has structured his tax cut does not and will not stimulate our economy in the short term. It does very little. In fact, even the President's plan when you look at it, only 5 percent of his projected stimulus package would have any impact now. Now, while people are being laid off. Now, while unemployment benefits are running out. Simply put, the President's stimulus plan is not stimulative at all. In contrast, we Democrats, and in particular the Blue Dog budget, would help to expand the economy. It would help those who have lost their jobs, and it would call for immediate tax rebates. That puts money in the pockets of those people who will spend it, not the people who already have money, but the people who need it to live on a day-to-day basis. It is going to create jobs.

Let us take a look at the President's tenure. Unemployment went from 4 percent to its current 5.8 percent. In other words, he has not created jobs. We have been losing them. He has done a round of tax cuts, over \$1 trillion

worth of tax cuts. It did not work. It has not worked. And now he proposes to do the same thing, another tax cut. But if his first one did not work, his second one certainly will not work. We need job creation, and we want it to include small business. Small business is where jobs in America are created today. The stimulus effort needs to be focused in part on small business. The Blue Dog plan calls for immediate aid to small businesses by calling for increases in small business expensing from \$25,000 to \$75,000 for equipment purchases in 2003 and 2004, right now. If businesses invest right now, we are going to give them a tax break, and that is going to stimulate the economy.

Finally, the President's plan, he says, would bring down the debt. But it will not. It would increase the national debt far into the future. As my colleague, the gentleman from Tennessee (Mr. TANNER), said, when we include the service on the debt, or the interest payment that we have to make that the President's plan would generate, his plan will cost at least \$925 billion through 2013 alone, with no end in sight. The Democrats, and the Blue Dogs in particular, believe that the main thing we have to get under control is the debt, because when we do that, when we bring down the debt, then the interest payment that we make on that borrowed money becomes smaller and smaller.

When I first got to the Congress, it was about 17 cents of every dollar was spent on interest on the debt. By the time President Clinton got out of office, it was only 11 cents. We were bringing down the debt. The Republicans, when President Bush came in, they were having a hard time deciding, my God, what does the world look like when the Federal Government does not have any debt? They were worried. They were actually worried that we might bring down the debt and there would be no debt in the United States. But they fixed that. They fixed it by giving tax cuts, they fixed it with a bad economy, and now we are back up to 18 cents of every dollar we bring in as tax revenue to the Federal Government gets spent on the debt. We need to reduce the public debt. It is a debt tax.

We as Blue Dogs believe that we cannot simply stand around and criticize, but that we must present our own solution to the problem, that it has to be credible, that it has to be based in principles. The Blue Dog principles are to bring down the debt, stimulate the economy, create jobs, and get the economy moving again. That is why I am for the Blue Dog enforcement bill, which we call Assuring Honesty and Accountability in 2003.

All of the provisions in our budget enforcement bill are for debt and deficit reduction. In very black and white terms, we have a plan of how to bring down the debt and how to stimulate the economy. A handful of my fellow Blue Dogs will be here tonight to speak

about that. I believe the next one that we have is the gentleman from Mississippi (Mr. TAYLOR), who will give his version of what Blue Dogs are trying to do to help bring down the debt, create jobs, and put more money in America's pockets.

Mr. TAYLOR of Mississippi. I thank the gentlewoman. I think it is important that we remind the American public where we are now. When we passed the Bush tax cuts in May, just 2 years ago, our Nation was \$5,643,680,010,418 in debt. Less than 2 years later we are \$6,445,790,102,749 in debt. That is an increase of over \$800 billion. If you were to track the American debt from the founding of the American Revolution through the Vietnam War, our Nation had borrowed that much money in about 180 years. In less than 2 years, our Nation has borrowed that much money. What is particularly frustrating I think for all of us is the complete flip-flop on the part of our Republican colleagues.

The gentleman from Illinois (Mr. HASTERT) has been the Speaker of the House now for, I believe, 1,500 days or something very close to it. In those 1,500 days, he has never scheduled a vote on a balanced budget amendment. I find this a bit ironic, because on March 17, 1994, then-Member Hastert said clearly, "Until our monstrous \$3.4 trillion deficit is eliminated, interest payments will continue to eat away at the important initiatives which the government must fund. I will not stand by and watch Congress recklessly squander the future of our children and grandchildren."

As I pointed out, the debt has increased \$2 trillion since the Speaker said that, then-Member HASTERT. Yet he will not allow a vote on a balanced budget amendment, and we are not even sure he is going to allow a vote on the Blue Dog budget. As we know last year, it was so thoroughly convoluted in the Committee on Rules that we were not given a clear opportunity to offer it as an amendment. I hope, Mr. Speaker, you will do so this year.

I would also remind you that on that same day, you said, "The American people have wanted a balanced budget amendment for a long time, because they know it's the only way to force Congress to make spending choices."

Mr. Speaker, if you meant what you said in 1994, we are willing to help you do just that, but you have got to give us a vote on it.

There are some other interesting quotes. The next year, January 25, the Speaker said, "Mr. Chairman, a national debt of \$4.5 trillion, you can see how it's growing, should finally convince every Member in this Chamber that Congress has got no discipline to solve its own problems. This balanced budget amendment will put discipline upon us."

Mr. Speaker, I wish you would live by those words and give us a vote.

Here a few days later, "The American people want their government to be fis-

cally responsible. They want us to balance the budget in order to lower our debt and make our children's future brighter."

We could not agree with you more. You were right in 1995. Why are you not for a balanced budget now?

Some other friends of mine on the other side of the aisle have said similar things. Now Majority Leader TOM DELAY, it has been a while, March 11, 1994:

"We are showing what we would do. If the Republicans were in charge of this House and in charge of the Senate, it would be a much different America. It would be a much different government."

In the past 2 years, or less, you guys have run up \$800 billion in new debt. It is obviously different. I do not think it is better, but there is always time to change. I think one of the ways that you can change is to allow a vote on the floor next week of the Blue Dog budget, which would get us back on the path to a balanced budget.

The gentleman from Texas (Mr. DELAY) had some interesting statistics. This is from a speech that he gave on the House floor in 1995:

"In 1980, each child born that year immediately inherited a debt of \$4,000. That is government debt. By 1985, because no balanced budget had been adopted, the children that year had inherited a \$7,600 debt. By 1990, our children were burdened with almost \$12,800 in debt."

This is again from Majority Leader DELAY's floor speech from 1995:

"Each year every child born in America this year will begin life with a debt of more than \$16,700. Is it any wonder that young families have trouble saving money for a down payment on a house? Is it any wonder that the Federal Government's consumption of more than one-quarter of all our economic activity is driven in interest rates and stifling economic growth?"

When the majority leader made that comment, our Nation was about \$4.3 trillion in debt. We are now \$2 trillion further in debt, so I think it is fair to say that your \$16,000 debt that you made reference to is now a \$25,000 debt for every American man, woman and child. Yet what really troubles me, and I could go on and on pointing out very important Members of the Republican Party: the gentleman from California (Mr. THOMAS), the gentleman from Illinois (Mr. HASTERT), the gentleman from Texas (Mr. DELAY), the gentleman from California (Mr. DREIER).

One thing that strikes me as an American who tries to be objective about all of this and who kind of enjoys watching other people's political races, I remember distinctly then-candidate Al Gore being severely beaten about the head and shoulders for flip-flopping on the abortion issue. I know many people in this Chamber have different opinions on this, but my Republican colleagues reminded the American people that Al Gore ran as a pro-life candidate only to change to a pro-choice

and accused him of flip-flopping. That is probably true. But if that is true, then how can the Speaker and the majority leader, the gentleman from California (Mr. THOMAS) and others who came to this floor and gave eloquent speeches, and they were eloquent speeches, about the importance of balancing the budget, the importance of a balanced budget amendment, that deficits are bad, that interest payments on the debt are bad, how can they now look the American people in the eye and say they are good?

□ 1745

It is a fair question to each of you. It is a fair question the American people ought to be asking my Republican colleagues. Do not try to tell me that you never said it, because it is in the CONGRESSIONAL RECORD.

So the question is, what did you really believe in? Did you believe it when you said it then, or do you believe it when you are saying deficits are not important now? Because they are totally opposite. And all I think the American people are asking for is some honesty, some honesty in budgeting, and some concern about the future of this country, and that we quit sticking our kids with the bills.

The last thing I am going to say, and it is the analogy I use back home because everyone understands it, there is not a Member in this body who would go out and buy a car, and say, "I don't care what it costs, I don't care what the payments are, because my 6-year-old child is going to pay the bill."

There is not a Member in this House that would go out and buy a house and tell the realtor, "I want the nicest house in the county. I don't care what it costs, I don't care what the payments are, because I am going to stick my grandkid with the bill." That is precisely what we have been doing as a Nation, and in less than 2 years we have stuck our kids and grandkids with an \$800 billion bill.

The Blue Dogs will give you an opportunity next week to start turning that around. We are going to give you an opportunity to be men of your words. I hope you will join us in trying to balance the budget.

Mr. Speaker, I would hope that you would live by your own words and give us a vote on a much-needed balanced budget amendment to the United States Constitution.

Ms. LORETTA SÁNCHEZ of California. Mr. Speaker, I thank the gentleman from Mississippi.

Mr. Speaker, now to join us on the House floor is the gentleman from Texas (Mr. TURNER), who has been a leader of the Blue Dogs and has some nifty charts here, to really explain, in case any of you have just joined us, that the Blue Dogs are about bringing down the deficit and creating jobs and bringing the economy back, in contrast to what the President and his Republican majority in the House and in the Senate have presented with their 2004

budget. We have a different budget in mind. We have a timeline to bring down the debt and bring this country back into surplus.

I yield to the gentleman from Texas.

Mr. TURNER of Texas. Mr. Speaker, I thank the gentlewoman for hosting this hour for our Blue Dog group for the presentation of our budget proposal.

The Blue Dog Democrats in the House are 35 members strong. We come from all over the United States. Tonight we have had Members from California, Mississippi, Tennessee and Florida. We will hear from the gentleman from Arkansas (Mr. ROSS) shortly.

This is a group that is united by one theme, and that is we believe that our country must return to balanced budgets, we must try to pay down our debt, which now stands at over \$6.3 trillion, and, in order to do so, we have to adopt a fiscally responsible budget in this Congress this year.

Back in January the President revealed his budget plan, and we have had the opportunity to look very carefully at his plan. As you know, his plan calls for tax cuts and acceleration of tax cuts that were implemented 2 years ago when we passed the largest tax cut in the history of the country. That tax cut was to be phased in over a period of about 10 years. Those tax cuts have been phasing in, and the Blue Dog Democrats believe that the tax cuts that we have all received need to remain in place.

We also believe that the future tax cuts that will accrue to the benefit of low and middle income families need to be implemented immediately in an effort to bring about a short-term stimulus.

But the Blue Dog Democrats disagree with our President on two important points of his plan. First of all, we believe that it is wrong for half of his tax cut plan to be dedicated to the elimination of the taxation of dividends.

Now, there are many wealthy Americans who have a lot of stock and who would greatly benefit from eliminating the tax on dividends. But most Americans have very modest stock investments, and we believe it is wrong to dig the deficit hole deeper and to increase our national debt by proposing at this time the elimination of the taxation of dividends.

We also believe that at a time when our Nation is on the verge of war, that we as Members of Congress need to call upon the American people to share in the sacrifice that is being made by the young 18, 19, 20, 21-year-olds who are now gathered around the borders of Iraq, poised for military conflict.

In time of war, all Americans must share in the sacrifice. By eliminating the part of the President's budget plan that eliminates the tax on dividends, we believe we are calling upon those Americans who are best able to share in the sacrifice to postpone that part of the President's plan.

We also believe that American families who have incomes over \$170,000 a

year should be willing to defer the tax cuts that they would get under the President's plan in order to share in the sacrifice necessary to fight and pay for the war in Iraq.

That is the Blue Dog plan: Accelerate the tax cuts for the lower and middle income families, for all families who have incomes below \$170,000 a year; but those who have greater incomes than that, they will get the tax cuts that would naturally accrue to the cuts in the lower tax brackets. They will get the benefit of the Blue Dog plan for accelerating the child tax credit and eliminating the marriage penalty, as will all Americans. But as far as a reduction of the top rates, those families at \$170,000 and above should be willing to wait, wait until we get through this war, wait until our budget situation improves.

The difference in those two plans, the Blue Dog plan and the President's plan, has a dramatic impact upon our Federal budget. If you look at the chart to my right, you see the President's plan will dig the budget deficit hole deeper to the tune of \$2.7 trillion in debt over the next 10 years. Our present \$6.3 trillion debt under the President's plan at the end of 10 years will stand at \$10 trillion. We think that is wrong. We think that is bad for the country. We think that is digging a hole that we will have a very difficult time getting out of.

The second chart I have shows that the amount of interest that every American family of four will have to pay just to service that debt that we will have under the President's plan. As you can see by the chart, currently every family in America pays \$4,624 in interest just to service that \$6.3 trillion national debt. That is what we call the interest tax, and the interest tax is the only tax that you cannot repeal, because the interest obligation on the \$6 trillion debt must be paid every year by the taxpayers of this country.

So if you look at the President's plan, by the year 2013, 10 years from now, every American's debt tax will double. Every American family will be paying \$8,458 every year, just to pay the interest on the ever-increasing national debt.

We believe that is wrong. We believe it is a tremendous waste of taxpayer dollars to invest that much in interest.

Ms. LORETTA SÁNCHEZ of California. If I may ask the gentleman a question on that, right now you are telling us we are paying about \$4,400 for a family of four just on the debt that this Nation carries in 2003, and if the President's budget gets passed and signed by him, we are going to be looking at increasing that geometrically, basically?

Mr. TURNER of Texas. That is correct. As we said, by 10 years, the end of the budget period that we are now looking at, the tax paid by every family would be \$8,458, just in interest. Today, 18 percent of every tax dollar collected by the Federal Government goes to pay interest.

To look at it another way, if you took only the Federal personal income tax, about 25 percent of every dollar we pay, 25 cents out of every dollar that we pay, goes just to interest on the national debt.

What a waste. We talk about wasteful spending, there is no greater waste in any area of spending than what we waste every year just paying interest on this debt that we have accumulated. The Blue Dog plan is to stop that hemorrhaging.

Ms. LORETTA SANCHEZ of California. I would say to the gentleman from Texas, this does not include what it costs for us to go to war with Iraq.

Mr. TURNER of Texas. That is correct. All of the discussion currently ongoing about the Federal budget, the levels of spending, do not include the cost of a conflict with Iraq or the cost of rebuilding Iraq once the conflict is over. The President has said that is a separate item, that it should be treated as a separate item. He has promised he will send a supplemental request to the Congress to pay for that if and when it occurs.

So we are actually talking about very conservative estimates of the size of the national debt, and the Blue Dog budget plan we are contrasting tonight with the President assumes the President's levels of total spending.

There are a lot of folks around here who believe very strongly, as I do and the Blue Dogs do, that we spend too much money and we have to be conservative in our spending. The President has sent us a budget that calls for significant reductions in the levels of spending that we have seen over the years. But even if you abide by the President's spending recommendations, which our budget does, his tax cut policies will increase our national debt to the level to the tune of \$10 trillion by the end of this decade.

So, what we say is as long as we are facing war, facing growing deficits, those who are most blessed economically in our country should be willing to defer the future tax cuts they have yet to receive in order to help us dig our way out of this ever-deepening hole of debt and deficit.

The chart I have to my right shows in a line graph the differences and the surplus under the Blue Dog defense budget and the deficit that will occur over the next 10 years in the President's budget. The blue line shows the President's budget. The red line shows the path to a surplus under the Blue Dog budget.

As you can see, after 10 years, our Blue Dog budget has seen several years of improved fiscal condition of the Federal Government, and we have returned to surplus. We will have returned to a surplus by 2009. By the end of the decade, we will have returned to what we call a true surplus that does not account for the influx of Social Security funds, which we are currently spending, just to run the rest of the government.

This Congress a few months ago voted on several occasions never again to borrow money from the Social Security Trust Fund to run the rest of the government. We had 1 year, the last year of the Clinton administration, when we did that, when we accomplished that. But now we are back into deficit spending, we are using Social Security money once again to run the government, and the Blue Dog plan is a plan that will get us back to a point where we will no longer do that. The President's plan, to the contrary, does not accomplish that goal.

Just in the last 2 months, the Congressional Budget Office in revising its economic forecast on Federal income said that the Federal debt at the end of the 10-year period would be half a trillion dollars larger than they have said it would be in just January of this year. So the slide into ever-deepening debt has been dramatic.

The Blue Dogs call upon our President to take a look at the same numbers that his Office of Management and Budget produces, which are very similar to the numbers that our bipartisan Congressional Budget Office produces, and acknowledge and recognize that our picture, our financial picture, has changed dramatically, even since he announced his budget recommendations in January of this year.

I think, based on those changed numbers, the President should join with the Blue Dogs in trying to move toward a balanced budget within this decade, rather than continuing to dig this deficit hole deeper and deeper.

So, I hope tonight as the Blue Dogs have gathered on this floor, that we will be able to persuade not only our Democratic colleagues, who are well aware of this severe deteriorating budget situation, but our Republican colleagues, that they should take a good, hard look at the Blue Dog budget alternative.

It should be appealing to many of them, because for many years Republicans were known to be fiscal conservatives, and it has only been in the last 2 years when we have seen Republicans abandon that, and in fact on many occasions tell us that deficits really do not matter.

The truth is, common sense still prevails, and as you go along spending more money than you take in, eventually it is going to catch up with you. I have never seen a family that could sustain itself for very long incurring debts that they could not repay, and neither can your Federal Government.

□ 1800

So we believe Republicans will be attracted to our plan because we do not dig the deficit hole deeper. We believe that our spending levels, which are the same levels as the President's, will also be attractive to Republicans because they, I hope, would follow their President's recommendations on spending.

So we hope this plan will be well received, and we look forward to the op-

portunity to debate it when this House considers the budget resolution for this year.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman. Congratulations, by the way, at being named the ranking member of the new Committee on Homeland Security, another area of government that we will see, undoubtedly, some spending happening this year. I know with the gentleman's fiscal conservative principles that he will really hold the line and try to make America safe, but do it within a budget and without too much overspending, as we see the Republicans are attempting at this point. I thank the gentleman for being here tonight.

Next we have the gentleman from Arkansas (Mr. ROSS), who has been a Blue Dog now, I do not know, maybe 4 years, or maybe 2 or 3. He is going to talk about the Blue Dog budget. I yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Madam Speaker, I thank the gentlewoman from California. We have heard a lot of talk tonight about the Blue Dogs. There are 35 of us in the United States Congress who are conservative Democrats that make up the Democratic Blue Dog Coalition. We have one mission as a coalition, and that mission is to promote fiscal discipline, fiscal responsibility, and to bring common sense to our Nation and its budget process.

We rise tonight because we are concerned about this country and its future. This country is \$6 trillion in debt; and under President Bush's budget that he just released to Congress, over the next 10 years, this country will go from \$6 trillion in debt to \$9 trillion in debt.

This country spends \$1 billion every single day simply paying interest on the national debt. What does that mean to all of us? It means a lot. Madam Speaker, \$1 billion a day. We could build 200 brand-new elementary schools every single day in America just with the interest that we are paying on the national debt. I have several interstate highway programs under construction in my congressional district back home that will create jobs while the roads are being built and will create jobs long term because of an improved infrastructure which will allow more industry to come and locate in the Delta region, one of the most impoverished regions of the country. I could finish those highways in less than a week just with the interest that we are paying on the national debt. I call it a debt tax. The gentleman from Texas (Mr. TURNER) had it right. That is one tax that cannot go away because as the debt grows, the amount of interest that we as a Nation are required to pay on that debt also grows.

The first \$2,559 that every single taxpayer in this country pays each year does not go to educate our children, it does not go to improve roads or to create jobs or improve health care, or to make it affordable and accessible, or to



provide prescription drug coverage as a part of Medicare for our seniors, no. The first \$2,559 that every taxpayer in this country pays each year simply goes to pay interest on the national debt. We have got to get this debt under control. But now it is getting worse.

From 1997 through 2001, this country did not deficit spend. Last year, President Bush's budget put us back in the days of deficit spending to the tune of \$199 billion. This year it will be \$300 billion. It is projected to be \$307 billion next year. We are headed in the wrong direction. We must get out of the days of deficit spending, and we must begin to pay down this debt.

Social Security. The President's budget for fiscal year 2004, he wants over a 10-year period to borrow \$2.3 trillion from the Social Security trust fund. Our government has already borrowed \$1 trillion from the Social Security trust fund, and I think it is time for the politicians in Washington to keep their hands off the Social Security trust fund.

There are those in government who will tell us that we must invest that money until the time that we need it somewhere, and that may be true. But let me tell my colleagues something. When I go to the bank to get a loan, they want to know how much I am going to pay back and when I am going to pay it back. This country has already borrowed \$1 trillion, getting ready to borrow an additional \$2.3 trillion from the Social Security trust fund with absolutely no provision on how it ever gets paid back. Guess what? Assuming it does get paid back, Social Security as we know it today is still broke in 2041, because beginning in 2011, we will have more people earning Social Security benefits than paying into the system.

Medicare as we know it today is broke in 2030.

Now, the President wants another tax cut for the wealthiest people in America. I am not here to beat up wealthy people. This is America. Many people grow and realize the American dream of being successful, and there is nothing wrong with that. But we are asking our men and women in uniform to now make a sacrifice. We are asking people all across America to sacrifice during this heightened time with the potential for war and terrorism. I think now is not the time to pass additional tax cuts.

Let me say this, Madam Speaker. I was one of 28 Democrats to vote with President Bush for his tax cut about a year ago. It was the biggest tax cut in 20 years, \$1.3 trillion. But a lot has happened since then. We have gone from a \$5.6 trillion projected surplus to a \$215 billion debt over the next 10 years. We have had 2.5 million people in America, 2.5 million in America lose their jobs; and anyone who has a retirement plan, a 401(k) plan or invests in the stock market knows exactly what has happened there. We may need dividend tax

reform, but now is not the time to do it.

Madam Speaker, as I travel my district back home, I have people come up to me and they talk about how they are unemployed for the first time in their lives. They talk about how they are trying to get by on a \$600 Social Security check with a \$400-, \$500-, \$600-, even \$700-a-month drug bill. People come up to me and talk about how they are struggling to figure out how they are going to afford to send their kids to college; but never has anyone walked up to me back home or anywhere, for that matter, and said, you know, I am having trouble feeding my kids because I am paying too many dividends, too many taxes on my dividends.

Now is not the time for that reform. Now is the time to be fiscally responsible. Now is the time to begin to get out of the days of deficit spending and to pay down, to begin to pay down this debt.

Here is why it is so important, and here is why the Blue Dog budget addresses those things, and here is why the Blue Dog budget is the right answer during these difficult times to begin the process of getting us out of deficit spending and beginning to pay down the debt. The reason is simple. My grandparents left this country just a little bit better off than they found it for my parents, and my parents left this country just a little bit better off than they found it for our generation. And I think we have a duty; no, I think we have an obligation to leave this country just a little bit better off than we found it for our kids and for our grandkids.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman from Arkansas. I think there was a point that the gentleman made that is so important for America to understand, and that is that when one comes to this country or when one is born in this country and one realizes their potential, one is in the greatest market economy the world has known, and so it is great if one can use their talents and make money. It is the American way. My father did it coming to this country, my brothers and sisters and I have done it in this country. We want the same thing for everybody. And I tell people all the time who make good money, I say, when they complain to me about paying taxes, I say to them, is it not a great country, where you can make \$1 million, \$2 million, \$500 million a year? Is it not a great marketplace? Is it not great to see the infrastructure we have, the communication that we have? The way our market works, the way people can come here with nothing and make something? Is it not a great place?

Madam Speaker, one has to make money to pay taxes. I think it is a great thing that we pay taxes, because I see the improvements, I see what we have. We have a market economy where we can succeed. So we are not

against rich people. We just want to tell people who are making money, there are the troops sacrificing, there are the unemployed sacrificing. There are teachers in classrooms sacrificing, taking out of their own pocket to buy supplies right now. Can you wait? Can you wait on your next tax cut? Would the gentleman not agree?

Mr. ROSS. Well, let me say that this is not a partisan issue for me. I was one of those who supported President Bush's tax cut about a year ago. I just think now is not the time for additional tax cuts, not at a time when we are asking our men and women in uniform to sacrifice, and not at a time when we return to the days of deficit spending, and this country is \$6 trillion in debt. Again, we are spending \$1 billion a day just paying interest on the national debt. Now is the time to restore fiscal discipline to our national government, to pay down this debt, and to get out of the days of deficit spending.

Let me tell the gentlewoman two things that concern me. If the President is just dying to spend \$700 billion on something, let me tell my colleagues some things we ought to do in this country. We ought to quit talking about modernizing Medicare to include medicine for our seniors and we ought to do it, and we ought to fund it to where seniors can walk into the pharmacy of their choice, pull out their Medicare card and be treated just like they are when they go to the doctor and when they go to the hospital.

We hear a lot about homeland security. We hear a lot of talk about it, but it is way underfunded. On February 7, four members of the Cuban Coast Guard on a 30-foot boat made the trip across the waters from Cuba to Key West. They docked at the marina at a hotel in Key West with two machine guns, and they walked the streets of Key West for a number of minutes trying to find somebody to defect to. Thank God it was the Cuban Coast Guard, and thank God they were here to defect. What if it had been terrorists? We have to quit talking about homeland security, and we have to fund it. We have to keep America safe. We have to keep our children safe. We have to keep our grandchildren safe.

Ms. LORETTA SANCHEZ of California. Madam Speaker, the gentleman is right. We need to protect and invest in America. Because we know what happens when we invest in America, when we invest in education, when we invest in a health care system, when we invest in our infrastructure and our communications system. When we invest, we reap more. And when we spend and drive up the debt, we get ourselves in trouble.

When we are talking about 18 cents of every dollar going to pay down the debt, it is credit card amounts. It is what one would anticipate as being the highest cost of borrowing. And imagine if we have to go to war. That is outside

of the President's budget. It is not included in the spending that he is proposing. So we will be even higher. And the Blue Dogs feel that the first thing we need to do is get down to basics. Hold down our spending, be good about that, tighten our belts in these tight times, spend on the right things, on investment, on homeland security, on education of our children, on our military. But we also believe it is not time for a tax cut. We believe that everyone must sacrifice during this time; and if we sacrifice and we do it right, we will bring down the debt that we see spiraling out of control. And when we do that, we will have more money, more money in the long run to spend on the things that make this country great.

So I would encourage my colleagues, in particular on the Republican side, to come and ask us about the Blue Dog budget, because we think it will work and it will bring down the debt. And when we bring down the debt, we will see ourselves where we were 2 years ago: in a surplus situation.

□ 1815

#### CONTROLLING THE TYRANT IN IRAQ

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I have come to the floor tonight to discuss our Nation's policy in Iraq and before I discuss that most important issue I would like to make a couple of preparatory comments.

First, I would I want to express my respect, admiration and appreciation for the men and women of our Armed Services who are today deployed in the service of their country, who are already assisting the security and freedoms of our country today, regardless of the outcome of our national policy in Iraq. And I think it is important to note in any discussion of our national policy that the very reason we have the opportunity to discuss and debate these issues on the floor of the House of Representatives are the contributions past, present and future of the men and women of the America's armed forces. Because the very right of freedom of speech would not exist without the courage and dedication of our soldiers and sailors and Air Force personnel, Marines and Coast Guard and there are others.

We would not have the ability and other Americans would not have the ability to protest, to question their government's policy but for the dedicated courage of these individuals. And I have a particular personal connection and admiration for them. In the last 2 weeks I have gone to two deployments of citizens and my neighbors to the Middle East. I went to the deployment in Bremerton, Washington of the 8th Navy Hospital Unit who left about 2½

weeks ago and watched them say good-bye to their husbands and wives and children for the service of this country. And I have them in mind when I am deciding what position to take in Iraq.

I have the sailors of the U.S.S. *Rodney Davis*, a U.S.S. frigate that shipped off last weekend from Everett, Washington now bound for the Middle East and watched them say good-bye to their loved ones on that dock, and I have them in minds when I think about what our policy ought to be in Iraq.

Regardless of what Americans think their policy should be in Iraq, I think we should stand absolutely unanimously as we did in Congress here, in the House last week when we passed a resolution respecting and pledging our support and our prayers, which the brave men and women have tonight and today, in the sands of the Middle East, and we have should not forget them in any stretch.

Second, I want to say that I think that the U.S. Congress needs more discussion, not less, of America's policy in Iraq. And I think it is very disappointing to many Americans that there has been a pall of silence in the House about Iraq for the last several months. It is disappointing because while every democratically elected legislative body around the world or many of them have been debating this subject, the very citadel of democracy, the U.S. House of Representatives right here, the People's House, has been almost absolutely silent on this issue, and I think that is not in the best traditions of democracy.

To that end, we have invited some of my Republican colleagues, the gentleman from Texas (Mr. DELAY), to lead an effort to debate what should be our policy here in the House of Representatives, and to date we have not convinced them to agree to that type of debate in the House and I think it is very unfortunate. I hope that some of my Republican colleagues will engage with us in that discussion in the near future, and we have hope the gentleman from Texas (Mr. DELAY) would reconsider and would allow debate to occur on the floor of the House in this regard.

And the reason I say that is while this House did cast a vote, which I believe unwisely abrogated our constitutional authority to make the decision on war to the executive branch, a lot has happened since that decision months ago. This Chamber should be debating what the right course of action is in Iraq. We owe it to the soldiers and sailors of the 8th Hospital Unit in the Navy and the people of the U.S.S. *Rodney Davis* and all Americans to decide and debate this subject. And I think it is most unfortunate that the House has derogated its responsibility to make that decision and punted it over to the White House down on Pennsylvania Avenue. So I hope that we can inspire additional debate. I have come to discuss this today. I wish we had others to join us who has a different view about Iraq.

Now to the substance of Iraq, I will pose about 8 or 10 questions that I think that we need to have answered before a war starts in Iraq.

The first question I would pose is, is a policy of inaction in Iraq the right and acceptable policy for America and the international community? And I will answer that with a resounding no.

Inaction is not an accepted policy when it comes to Iraq. And fortunately inaction is not what we have at this moment. We have a policy of keeping this thug, this tyrant, this diabolical dictator in a tight little box and that is where we ought to keep him, and we ought to continue and promote and make stronger our inspection protocol to find and root out and disarm this tyrant. And we have been having success in that regard in the last several weeks. And we ought to continue and enhance and strengthen our no-fly zone, which denies that dictator effective control of 70 percent of his country. And fortunately, and this is very difficult to the Iraqi innocent citizens under this tyrant's control, but we ought to continue this economic sanction policy as well to keep this tyrant in his box.

The gentleman from Wisconsin (Mr. KIND) has joined us and I yield to him.

Mr. KIND. Madam Speaker, I appreciate my friend from Washington State for yielding to me.

I just wanted to commend the gentleman for having this discussion this evening. I think it is perhaps the most important decision that the President is about to make on behalf of our Nation, and it is a decision that is going to affect our relationship with the Arab world and the rest of the international community for decades to come. But one of my concerns is for the past several months Congress has been AWOL on this issue, absent without leave. And I think there is still time for us to engage on this fundamentally important decision, and that is what will be the future course of events in dealing with Saddam Hussein and Iraq. And somehow, some way I think we need to come to grips with the new reality of the international order, and that is there are some bad people out there that pose security threats against the safety of our citizens, but it is imperative that we figure out a way of distinguishing between those individuals who are deterrable and those who are undeterrable.

Certainly I would put Osama bin Laden, the al Qaeda regime in the undeterrable category. Those are the ones we need to focus on, we need to get after in order to enhance the security of our people in this country.

I think there is still a debate going on in regards to Saddam Hussein and whether he, in fact, can be deterred. But what is most disconcerting in all this is that we have lost a lot of good will in the international community. The international coalition of support that the President said he would work hard to try to achieve last fall has not

come together and we are dealing with a different set of circumstances in an entirely different context today than when the first Iraq resolution came up last fall: The security threat that North Korea now poses against us, which I think is still the most imminent threat against our Nation's security today, even more than Saddam Hussein.

The fact that we do not have this coalition of support to do it the right way, not the military operation which we can pretty well do on our own but the rebuilding afterwards. I am afraid we could win the war but lose the peace. And that is why international support is so crucial. But also the domestic implication. The President a couple weeks ago submitted a budget calling for the largest deficit in our Nation's history, and it does not include a dime for the cost of the military build-up in the Middle East or the possible military action or the rebuilding that will have to come afterwards. These are issues that all of us in this Congress should be engaged in in having a national discussion, however unpleasant that might be. That is what a great democracy needs to do.

And that is why I earlier this week called on the gentleman from Illinois (Mr. HASTERT) and Majority Leader FRIST to allow the United States to have a renewed discussion, to give our constituents back home an opportunity through their representatives to voice their opinions and their concerns in regard to this very important decision. And that is why, again, I want to just thank my friend from Washington State (Mr. INSLEE) for trying to have a dialogue on this very important issue, because a lot of folks back home feel that they are wondering where Congress is in all of this. And instead of having these meaningful discussions, we are instead discussing about changing French fries to freedom fries. I mean, how trivial can you get?

So as we move forward, and I still think there is time to engage the country but also the international community in regard to this important decision, hopefully we will have more of an opportunity for Congress to get back involved in this and get the policy right. And regardless of what decision the President makes, and if it is a decision to send the troops in, I would hope at a minimum there would be consensus in the country that we need to support our troops.

I have been to a lot of deployment ceremonies for Guard and Reserve units in Wisconsin, and I had a chance to meet a lot of those who are being called up today, and let me tell you they are impressive individuals. Well-trained, well-motivated, very patriotic. They love and believe in their country, and we need to give them support in their mission. But it is our task as policymakers to make sure we get the policy right, and there is where the conversation should take place, and there is why we need to have these type of discussions.

So I thank my friend again for the opportunity to speak on this important issue, for the leadership he has shown on this important issue. And hopefully we will be able to work and engage together on this. That it is not just one individual here in this country making such a profound decision that will affect our position on the global scene for many years to come.

Mr. INSLEE. I appreciate it. We will continue to get our efforts to get a dialogue going in the House. The gentleman has written the gentleman from Illinois (Mr. HASTERT). I have written the gentleman from Texas (Mr. DELAY). We will continue these efforts.

Before the gentleman goes, I will note just a little problem we will be working on. I met with a group of reservists last weekend because we are having these longer deployments and longer call-ups and one of the things we need to work on is make sure they get adequate health care when they switch from one coverage to another as well as adequate travel reimbursement because, unfortunately, we will have longer deployments. I will be talking with the gentleman.

I thank the gentleman for joining me and I thank him for his leadership on this work.

Madam Speaker, we are talking about inaction is not an option when it comes to Iraq. And I point this out because I feel that in the debate, those who have supported a largely unilateral war, which is the situation we are in with very little international support, those who support that position have suggested that there is only two decisions here, war or passivity, war or inaction.

I think it is very important to note that the course we are advocating is that we continue to squeeze down on this tyrant. And that it is important to realize that we ought to engage the power of the international community to isolate him and to continue this disarmament program, and I think just in the last few days we have continued to see success in the inspection process, and it is important to realize no inspection process is going to be totally effective in the first 24 hours or the first 30 days. It took us years in the 1990s but the disarmament program and the inspection protocol, although it was not absolutely foolproof, in fact destroyed more weapons of Saddam Hussein than were destroyed in the Persian Gulf War. That is a significant fact that is sometimes forgotten. It ought to give us some degree of optimism about continuing the inspection protocol which is so important, which we ought to make stronger.

By the way, when it comes to these inspections, if we have to double the number of inspectors, if we have to triple the number of inspectors, if they need to go up a factor of ten, it is cheap at twice the price. Because frankly this inspection protocol is costing us a few million dollars a year. A war will cost somewhere between 60-

and \$120 billion a year to the United States taxpayers. And we ought to advocate with the United Nations to have a more rigorous inspection protocol and accomplish that.

The second question I would ask and I think is important to answer in this debate, is the President's assertion, his implicit assertion, that Saddam Hussein was behind the horrendous attack on our Nation September 11 supported by the evidence of our intelligence services? And I am afraid to say that that assertion is wholly unsupported by the evidence.

□ 1830

If Saddam Hussein were connected with the September 11 attack on this Nation, I would not hesitate for 5 seconds to vote for an action by the United States, even largely unilaterally, as we did in Afghanistan, because the Taliban was directly behind the attacks of the United States of America. It was responsible for thousands of deaths.

I have listened closely for months now for some shred of meaningful evidence that Saddam Hussein had broken with his decade of failing and refusing to ally with the al Qaeda, and all of the sudden the September 11 attack, and that has been wholly missing in this debate. I have gone to repeated classified briefings; and I obviously will not disclose what were in those briefings, but I have come away from a review of the entire record and not seen meaningful evidence of a connection between Saddam Hussein and September 11.

Frankly, it is not too surprising, because anyone who has studied the Middle East understands that there is a dramatic difference between the thinking of al Qaeda and Osama bin Laden and the type of tyranny and oppression that Saddam Hussein has advocated, because al Qaeda has been a fundamentalist Islamic group, and they have called Saddam Hussein, as recently as several weeks ago, an apostate, who is a secular tyrant; and they have been oil and water, and it is a good thing that they have been.

I serve on the Committee on Financial Services, and as recently as yesterday we had the Homeland Security Department, the Department of Justice, and the Department of Treasury; and we were looking at money laundering and issues about the financing of terrorism. I asked our three agencies whether there was any evidence that they would share with us that there was any financing by Saddam Hussein of the September 11 attacks, and I asked them a very specific question, because this is fundamental to the President's argument. They did not present one shred of evidence that there was a connection between Saddam Hussein and September 11, and this is very important in this debate.

It is not important to know whether Saddam Hussein is a despicable, loathsome human being who has been a tyrant, who has tortured his citizens,

who has started wars, who one can find no virtue in whatsoever. That is an accepted fact, and we should not be naive enough to think otherwise.

When it comes to deciding whether America should go to war, it would be a huge mistake to go to war based on an illusion that this is the person responsible for September 11; and unfortunately, and it is unfortunate, I think, I saw a poll the other day that the President has convinced 42 percent of Americans that Saddam Hussein was behind September 11 when his own intelligence agencies know otherwise. That is unfortunate in this debate.

The third question I would ask that is important to ask is what is the relative threat posed by Iraq relative to the threats posed by other nations and non-nations around the world, and that is an important question, because there are an unlimited number of threats to our personal security. It is unlimited, and there is a hierarchy of how imminent and how dangerous they are, and if we simply focus on Iraq and if we are willing to go to war in Iraq, to the detriment of our ability to deal with other threats that I believe are more imminent and potentially more lethal, it will be a bad decision by the United States. So if I can, for a moment, talk about some of these other threats.

The President has indicated that Saddam Hussein has attempted to obtain fissionable material and nuclear weapons. This is true. It is clear that Saddam Hussein has tried for decades to obtain a nuclear device, and he has been spectacularly unsuccessful in his multiple-decade efforts, but other countries have not been unsuccessful.

North Korea, the country that the President of the United States told us is not creating a crisis, a country that has probably got fissionable material and is on the course to have several nuclear weapons in several months, that recently intercepted our reconnaissance aircraft, which has been involved in infiltration of various other countries, who is acting in a fanatical, totally unpredictable manner, who may have or will have shortly nuclear weapons that can reach Japan, who is developing missiles that can reach the western coast of the United States in a few years, that is an imminent threat to this country. Unfortunately, America's response to North Korea has been damaged, hindered and limited due to the President's concentration on Iraq, and I have to stand here to sadly say that if Saddam Hussein could, potentially, I do not know how with the inspection process, but with our inspection process under way, he is decades away from a nuclear weapon.

North Korea is months away from nuclear weapons that are deliverable to other nations and potentially the Western United States in several years. That is the number one threat to the security of this Nation and the President, who only has 24 hours in the day, has been making a lot of calls about Iraq, and has not had time to make

calls about North Korea; and we have to be aware of the presence of these other threats.

Second threat, Iran. I was in Israel about a year and a half ago, and I met with the number three or five person in the Israeli defense force, and I asked him what he was most concerned about in threats in the region and to the security of Israel. Obviously, the intafada, creating the havoc and destruction, is first on his mind; but he told me, and he had a lot of concern in his voice when he told me this, that we had to really crack down on a country that started with the letter I in the Mideast, because they were very, very dangerous to the regional security of the area and to the security of Israel, and that country was Iran.

Because he told me that, because of the assistance of Russia, Iran was making significant progress to nuclear weapons, and his statement to me almost a year and a half ago has been borne out by the intelligence photographs we saw last, I guess it was, Monday now in our newspapers about the cascade of centrifuges that Iran has developed to develop fissionable material in relatively short order for another nuclear power in the Mideast. That is a clear and present danger to the security of the Mideast and ultimately to the United States, but the United States has not been able to deal with that threat because it has been so focused on Iraq, and I think that is most unfortunate.

While we are fighting a war in Iraq, if that breaks out, these other nuclear-armed countries, or very shortly will be, will be perfecting their weaponry under the cover of this war of Iraq. While we are fighting a country that is trying to make balsa wood airplanes, that we are now told was the reason to go to war, and I will come to that in a moment, we have got to be very cautious about focusing on one threat to the detriment of our ability to deal with others.

Fourth question, are we making progress in disarmament of Iraq? I have been actually relatively pleasantly surprised at the rate of progress we have made. It seems like every week or two we have been able to make progress in the disarmament of Iraq, and the folks listening probably are more familiar than I am; but it is important to note that progress continues as it did in the 1990s.

I think we cannot be naive. There is no way to guarantee absolute 100 percent disarmament of Iraq unless it becomes under our military control. It would take years to conduct searches of every nook and cranny in Iraq; but what we can say, I think with a relative degree of assurance, is that we have stopped Iraq's efforts to the extent they existed, which were quite rudimentary, at least in the last year or two, toward a nuclear weapon.

We have significantly impaired any ability to have a meaningful bio-weapons hazard program, and we are on

the way to assuring that the destruction of the delivery system or potential delivery system to the al-Samoud missile system, which I think now we have destroyed about 40 percent of their missile system, we are making real progress. The question in my mind is why stop that progress now in favor of a war while we are continuing to make progress on this effort? I do not believe there is a good answer to that question.

Fifth question, what would be needed in postwar Iraq? Here is where I think unfortunately the administration is wholly not up at least at the moment to the task of what they have said their goal is in Iraq. The President has offered a variety of statements as to what his goal is in Iraq. He has said that he has wanted to wage war or may want to wage war in Iraq in order to preserve the sanctity of the United Nations to make sure that the United Nations has credibility, and he has said that he is concerned about Iraq's threatening its neighbors. He said that it is for our own personal security, and he has said that he wants to free the Iraqi people from this tyrant; and I want to address that last goal of freeing Iraq from this tyrant.

The reason I want to address that is, to me, that actually if there were a legitimate reason for a war in Iraq would be the one that would be most telling and most consistent with the facts and the evidence, and the reason is because there is no question but that innocent Iraqis, by the millions, have suffered at the hand of this tyrant. It is an appealing thought to believe that we could free them from that control of this despot. That is appealing.

I have to say that in reviewing the plans, or lack of plans, and the commitment, or lack of commitment, of this administration, the ability of George Bush to bring democracy to Iraq, at best, is highly speculative; and I will tell my colleagues the reasons why.

Number one, exhibit A, Afghanistan. I believed war in Afghanistan was necessary from a personal security standpoint due to the tie of the Taliban government to the September 11 attack; but we had a perfect opportunity to, in fact, try to establish a democracy, and this administration has blown it big time. To the extent that when it came time for this year's budget, to put money in to help the rebuilding of Afghanistan, to help restore democracy to keep out the return of the Taliban, do my colleagues know how much money they put in their budget? Zero dollars, zero dollars for democracy in Afghanistan.

Their explanation was they forgot, and I think that was very candid. The President's administration forgot about the goal of democracy in Afghanistan; and today we are faced with the same problem we had after there were efforts to kick the Russians out, which is the return of the Taliban and the return to tyranny and return to the war lords because we have not made the investment that is required to get the job

done in Afghanistan; and if we want a template, unfortunately, and I think it is unfortunate, if we want a template of what the Bush administration would do in Iraq, look what they have done in Afghanistan, which is to basically say we are going to take care of about a 10-block area around Kabul so we can say we have got some vestiges of a country. That is a farrier and I have not seen anything better planned for Iraq.

We have been asking on a bipartisan basis for the administration's plans on a postwar Iraq for months and months now; and we have been given, I do not know how to say this charitably. I am searching for a way to say it charitably. A joke perhaps is the best thing to say on what their plans are on a postwar Iraq.

Here is a country, cobbled together after the British Empire left the Mideast, of three distinct ethnic groups that have never worked together except under the heels of a despot with the Kurds who the administration has already decided to sell out to Turkey for the 15th time to the Kurds, the Kurds who are now finally enjoying some degree of autonomy under our no-fly zone. We have got the Kurds some freedom today from Saddam Hussein because of our no-fly zone and think of the irony of it.

The President may be on the cusp of a war, and he has agreed to turn them back to Turkey, and in fact, that is overstating a little bit, but he has allowed Turkey, under the secret deal he wants to make, to come into the Kurds' territory; and what an irony it is that the President says he wants to restore democracy in Iraq, and the first deal he cuts with Turkey is to allow them to come back in and again be dominant over the Kurds who are now free for the first time in decades.

That is the type of shady dealing and efforts that have plagued us in our Mideast policy for years.

□ 1845

And to think that we can break these eggs and put them back into the democracy category with the lack of commitment of this administration is wholly speculative and most disappointing to the poor people of Iraq. And I think anyone who knows the history of these people knows how terrible their conditions have been.

Frankly, if we had an administration that we believed we could have confidence would really commit to the democracy in Iraq, for the long-term future, and who made the commitment financially and otherwise, I would be a lot more willing to look at the idea. But we do not have that right now in this administration.

Talk about a financial commitment, we are talking about tens of millions, perhaps in the billions, of dollars in a postwar Iraq. And the President has not even factored in the cost of even the attack, much less the postwar cost into his budget, nor have my friends on the Republican side of the aisle. What

type of commitment do we think we can make to the international community to in fact build democracy in Iraq when we basically have said we are not going to spend a dime to do it and we have been afraid, Congress and the administration, to build into our budget the cost that it would take to do this? No, perhaps building democracy in Iraq after a war could be a great vision, but we have certainly not seen the vision to make it happen.

Six. What are the real goals of the administration in Iraq? Here is something I think that is very important in the discussion. The discussion we have heard, and it has changed over time, but when the President went to the United Nations at one time, he said his good deal was the disarmament of Iraq. The problem is, and the reason I believe we have had so much problem in winning and building an international coalition, unlike the success that the first President Bush enjoyed, is that President Bush, in the very first statement of his administration, said that was not our goal at all. He said our goal was simply to remove Saddam Hussein, period. No ifs, ands, but. No disarmament. Saddam Hussein was going to have to go.

When the President said, as he did most recently last week, that it is simply about removing Saddam Hussein, it did not matter what benchmarks he made, did not matter what inspections we had or what disarmament he would do, he was going to have to go, well, that would be attractive; but it has damaged our ability to build an international coalition to deal with this despot. And it is an unfortunate contrast to the skills that the first President Bush demonstrated in building an international coalition to deal with the threat in Iraq.

When the first President Bush spoke with respect to our international partners, we were clear to them about our goals, we hewed to the commitments we made to our international partners, and we did not tell our international partners that we were going to do what we were going to do, and it did not matter what they thought. That is what the first President Bush did, and he was successful. This administration has violated all those fundamental precepts of human communication, which is respect for one another.

The other goal is the President has said he wants to make sure the United Nations resolutions are honored. That is a legitimate goal. He has implicitly said he wants to show respect for the United Nations and build it up as a coalition, an international body that can deal with this. That is a laudable goal and an important one, but it certainly is shortchanged and has its legs cut out from underneath it when in the same breath the President says he wants to respect the United Nations, but then says he is going to ignore the United Nations if they do not do exactly as he wants them to do and he will start a war anyway.

You do not instill trust in your colleagues, or in the United Nations, when right out of the box you say you are just coming to them for a rubber stamp and you are going to start a war anyway. It is not the way to build respect in the United Nations. It is one of the problems we are having now in trying to build an international coalition to deal with this problem.

Seventh question. What has changed since Congress voted on this resolution? I thought it was unwise then for the U.S. Congress to derogate its constitutional duty to make a decision about war when it voted to essentially allow one person, one person in this country, to make the decision to go to war, rather than the elected officials here in Congress. When they drafted the Constitution, they said Congress had the power to declare war, so that one person would not have that awesome challenge and responsibility. Nonetheless, Congress did that, and my side of the vote did not prevail.

It is important to have this discussion now because since that decision, other potential enemies of the United States have used our continued concentration and obsession, and I will not use the word obsession, I will strike that word, but our concentration on Iraq has allowed them to continue to develop their own nuclear weapons programs. And we have been totally ineffective in dealing with those other issues, and that calls for Congress to have a debate about what the current state of this situation is. And we should have one.

The eighth question. Has the President really leveled with the American people about the ramifications of this war financially and otherwise? The sad fact is that he has not. He has refused to even discuss with the U.S. Congress what the costs are going to be. And at the same time that we are going to incur from \$60 billion to \$120 billion in cost, the President, unlike any other wartime President in American history, and every other wartime President in American history has leveled with the American people, and they have told the American people what the war would cost in lives and treasury. They have been straight and said we need to pay this. And this President has not been straight with the American people about the cost of this war, either in lives or treasury, because he wants his tax cut above everything. Above everything. At the same time we are going to spend an additional \$60 billion to \$120 billion, he continues to try to ram through these tax cuts, which is his number one ideological belief.

Now, to me, when we have seen our soldiers and sailors off to harm's way in this war, and they are making this sacrifice, it does not seem to me to be right that the President of the United States says we might have a war overseas, but we are going to have a fiscal party at home. That is irresponsible, and it does not respect the tradition and the willingness of Americans to

sacrifice together when we do face a mutual security threat.

Number nine. What does a war in Iraq do to our security on the downside? Because many of us believe, and I believe, that while a war in Iraq and the elimination of Saddam Hussein's rule could reduce a particular threat that he presents, it could create greater threats in many other ways. I believe that in balancing those threats there is as much potential increased harm to the United States, in threats to our security, as there is benefit. And there are multiple reasons for that. The most obvious reason is what is happening in Iraq today, where we have kicked Saddam Hussein out of a particular region in the northeast corner of the country and al Qaeda has moved in.

It is a great irony. We have seen the sort of picture of what Iraq is going to look like in a post-Saddam Hussein world. Because in this corner of chaos, where there is no state, it is like a little Afghanistan about a decade ago. The fundamentalist Islamic movement has moved in and this group has now got about 700 fighters that are grouping in Iraq. Not under or allied with Saddam Hussein, but they are using the absence, this vacancy, this vacuum of state control to regroup and potentially plan attacks against the United States of America. By creating a chaotic situation in Iraq, we not only inspire the hatred which we have heard so many people talk about of young Muslim folks in the Mideast, but we will provide them a place to group, which is in a vacuum of what used to be Iraq.

It has been said by many people that a war in Iraq could be sort of the great dream of Osama bin Laden. Because no Osama bin Laden is going to bring down the United States in his wildest imagination. His dream is to incite a war between the West and Muslim nations. And his dream can only be accomplished in one possible way, and that is if the United States acts in a way which will prove to folks in the Muslim nations that in their view that we intend a colonial empire in the Middle East, which I do not believe we do. But to them, having an occupied Middle East Muslim nation, occupied for potentially years, and we have been in Germany for over 50, the ramifications of the recruiting efforts of Osama bin Laden are obvious.

I cannot think of a single thing that could potentially allow the regrouping of the al Qaeda network other than a war with Iraq, eventually. This is truly one battle we could win but lose the war. That is why war does not always buy more security. Sometimes it buys less, even if you win the first battle. And I think we should think about that.

Tenth. What would a largely unilateral war do to America's moral leadership in the world? I will close on this point, because I think it could be the most important for the long-term future of our Nation.

I believe America is a unique country that has a unique responsibility for moral leadership in the world. The world looks to us for leadership. It looks to us for an idea of what is acceptable conduct by nations and men. It looks to us to lead in the establishment of a rules-based society, because that is the genius of America. We have rules here and we follow rules here. Other countries do not. They do not have rules they follow in a lot of countries.

Since the collapse of the Soviet Empire, an empire we contained in a way that certainly makes Saddam Hussein look like a petty little maggot, but we contained the Soviet Union for many, many decades, and we should think about that in regard to Saddam Hussein. But we have this moral leadership, and we wear the cloak of moral leadership in the world, and we are looked to all over the world for leadership. The Statue of Liberty is not just about immigration. That flame is about leading the world in a lot of ways, not just economically.

It is my belief that should we go it alone, largely alone, which is the position we are in at the moment, if there is a lack of success developing an international coalition, which there has been a spectacular failure at this moment, if we act without United Nations sanctioning, we will have damaged our ability to fulfill the destiny of America to lead the world to a new civilization internationally, not just along the borders of our country. That is why it is so important for us to work with the international community to maintain what we have right now, which is the admiration of the world.

Think about what has happened in the last 12 months, where in the weeks following September 11 the world embraced us. There were headlines around the world in various newspapers. We were all Americans. Think how far that has changed because of the reaction against the United States and this administration acting so cavalierly in certain regards. It is disappointing.

But we can regain this. We can regain our position. We can continue to keep this tyrant in his box. We can build an international coalition. We can succeed in these inspections. We can continue our no-fly zone. We should continue to work with the international community. And in the days ahead, we hope that the President will listen to the American people and the voices from around the world in doing that, because that is America's destiny.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. DEGETTE (at the request of Ms. PELOSI) for today on account of a family emergency.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. TANCREDI) to revise and extend their remarks and include extraneous material:)

Mr. RENZI, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. TANCREDI, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. NEY, for 5 minutes, today.

#### ADJOURNMENT

Mr. INSLEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 p.m.), under its previous order, the House adjourned until Monday, March 17, 2003, at noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1130. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Payments for Cattle and Other Property Because of Tuberculosis [Docket No. 00-105-2] (RIN: 0579-AB36) received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1131. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Unshu Oranges From Honshu Island, Japan [Docket No. 02-108-1] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1132. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aluminum tris (O-ethylphosphonate); Pesticide Tolerance [OPP-2002-0348; FRL-7292-6] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1133. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 1,3-Benzene Dicarboxylic Acid, 5-Sulfo-, 1,3-Dimethyl Ester, Sodium Salt, Polymer with 1,3-Benzene Dicarboxylic Acid, 1,4-Benzene

Dicarboxylic Acid, Dimethyl 1,4-Benzene Dicarboxylate and 1,2-Ethanediol; Tolerance Exemption [OPP-2003-0037; FRL-7290-9] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1134. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyriproxyfen; Pesticide Tolerance [OPP-2002-0345; FRL-7289-6] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1135. A letter from the Assistant Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Cheesecake Creek, NJ [CGD01-03-003] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1136. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing [OAR-2002-0086, FRL-7461-3] (RIN: 2060-AG93) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1137. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing [OAR-2002-0035; FRL-7461-8] (RIN: 2060-AG66) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1138. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks [Docket ID No. OAR-2002-0085, FRL-7462-3] (RIN: 2060-AH55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1139. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing [OAR-2002-0054 and OAR-2002-0055, FRL-7459-9] (RIN: 2060-A167 and RIN: 2060-A168) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1140. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing [OAR-2002-0088, FRL-7462-6] (RIN: 2060-AG68) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1141. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture [OAR-2002-0048-FRL-7462-1] (RIN: 2060-AG55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1142. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the

Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products [OAR-2003-0002-FRL-7462-2] (RIN: 2060-AH02) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1143. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles [OAR-2003-0014-FRL-7461-9] (RIN: 2060-AG98) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1144. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Standards [OAR-2002-0040-FRL-7461-4] (RIN: 2060-A174) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1145. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production [OAR-2002-0003; FRL-7461-7] (RIN: 2060-AE79) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1146. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Rhode Island; Negative Declaration [RI-1047a; FRL-7458-5] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1147. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing [AD-FRL-7463-2] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1148. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District [CA 245-0375a; FRL-7446-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1149. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing [OAR-2002-0083; FRL-7460-2] (RIN: 2060-AG48) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1150. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations [OAR-2002-0080; FRL-7461-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1151. A letter from the Acting Principal Deputy Associate Administrator, Environ-

mental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production [OAR-2002-0057; FRL-7460-1] (RIN: 2060-AH75) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1152. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2003 Harvest Specification for Groundfish [Docket No. 021122286-3036-02; I.D. 110602B] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1153. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2003 Harvest Specifications for Groundfish [Docket No. 02121307-3037-3037-02 I.D. 110602C] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1154. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes Equipped with Rolls-Royce Model Trent 800 Series Engines [Docket No. 2002-NM-318-AD; Amendment 39-13027; AD 2003-03-03] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1155. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1156. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois [CGD08-02-020] (RIN: 2115-AE47) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-172-AD; Amendment 39-13033; AD 2003-03-09] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1158. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category [FRL-7462-8] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1159. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Modification of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres of Land [7464-2] (RIN: 2040-AC82)



received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 444. A bill to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work; with an amendment (Rept. 108-35). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 875. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes (Rept. 108-36). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Ms. CARSON of Indiana, and Mr. MICHAUD):

H.R. 1256. A bill to amend title 38, United States Code, to provide for the annual placement of memorials honoring the service in the Armed Forces of veterans who, at the time of death, were homeless or indigent; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. MICHAUD, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, Mr. REYES, Mr. STRICKLAND, Mr. UDALL of New Mexico, Mr. RYAN of Ohio, Mr. SANDERS, Mr. HOLDEN, Mrs. DAVIS of California, and Ms. WATERS):

H.R. 1257. A bill to amend title 38, United States Code, to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans; to the Committee on Veterans' Affairs.

By Mr. MCGOVERN (for himself, Mr. SHAYS, Mr. OBERSTAR, Mr. LAHOOD, Mr. MOORE, Mr. ENGLISH, Mr. HINCHEY, Mr. QUINN, Mr. WEXLER, Mr. PAUL, Mr. LYNCH, Mr. BOEHLERT, Mr. MCNULTY, Mr. KILDEE, Mr. KLECZKA, Mr. RAHALL, Ms. LOFGREN, Mr. DELAHUNT, Mr. GRIJALVA, Mr. EVANS, Ms. BALDWIN, Mr. DEFAZIO, Mr. OLVER, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. UDALL of Colorado, Mr. WATT, Ms. WOOLSEY, Mr. DOGGETT, Mr. LEVIN, Mr. COSTELLO, Ms. HOOLEY of Oregon, Mr. SANDERS, Ms. LEE, Mr. SERRANO, Mr. SABO, Ms. MCCOLLUM, Mr. MARKEY, Ms. NORTON, Mr. HOLT, Mr. BLUMENAUER, Mr. KUCINICH, Mr. CAPUANO, Mr. RUSH, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Mr. PALLONE, and Mr. ALLEN):

H.R. 1258. A bill to repeal the statutory authority for the Western Hemisphere Institute for Security Cooperation (the successor institution to the United States Army School

of the Americas) in the Department of Defense, to provide for the establishment of a joint congressional task force to conduct an assessment of the kind of education and training that is appropriate for the Department of Defense to provide to military personnel of Latin American nations, and for other purposes; to the Committee on Armed Services.

By Mr. WELLER (for himself and Mr. CROWLEY):

H.R. 1259. A bill to amend the Internal Revenue Code of 1986 to allow businesses to expense qualified security devices; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Ms. DEGETTE, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, and Mr. JOHN):

H.R. 1260. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Energy and Commerce.

By Mr. MCKEON (for himself and Mr. BOEHNER):

H.R. 1261. A bill to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FOLEY:

H.R. 1262. A bill to implement or enhance consistent AMBER Alert plans throughout the country; to the Committee on the Judiciary.

By Mr. ACEVEDO-VILA (for himself, Mr. LAMPSON, Mr. FOLEY, Ms. VELAZQUEZ, Mr. GUTIERREZ, Mr. SERRANO, Mr. PALLONE, Mr. CRAMER, Mr. FROST, Mr. WICKER, Mr. SCHIFF, Mr. CONYERS, Mr. ROGERS of Michigan, Mr. CHABOT, Mr. SHUSTER, Mr. ISAKSON, Mr. BOEHLERT, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, and Mr. DUNCAN):

H.R. 1263. A bill to require that certain procedures are followed in Federal buildings when a child is reported missing; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA (for himself, Mr. ORTIZ, Mr. ACEVEDO-VILA, Mr. TERRY, Mr. SOUDER, Mr. FROST, Mrs. JONES of Ohio, Mr. MCGOVERN, Mr. CUMMINGS, Mrs. NAPOLITANO, Mrs. LOWEY, and Mr. RAHALL):

H.R. 1264. A bill to provide for reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1265. A bill to provide, upon the request of a qualifying person, for the removal of the remains of any United States servicemember or other person interred in an American Battle Monuments Commission cemetery located in France or Belgium and for the transportation of such remains to a location in the United States for reinterment; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself and Mr. FOLEY):

H.R. 1266. A bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources and the credit for the production of

electricity to include landfill gas; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself, Mr. LATOURETTE, Mr. WAXMAN, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. STARK, Ms. LOFGREN, Mr. GEORGE MILLER of California, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. PAYNE, Mr. RODRIGUEZ, Ms. CORRINE BROWN of Florida, Mrs. MALONEY, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. MORAN of Virginia, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. PALLONE, Mr. GRIJALVA, Mr. HOLDEN, Mr. ABERCROMBIE, Mr. FILNER, Mr. FROST, Mr. LYNCH, Mr. HINCHEY, Mr. SERRANO, Mr. MCGOVERN, Ms. KILPATRICK, Ms. CARSON of Indiana, Mr. BAIRD, Ms. SLAUGHTER, Mr. BISHOP of New York, Mrs. NAPOLITANO, Mr. OWENS, Mr. ACKERMAN, Ms. MILLENDER-MCDONALD, Ms. MCCOLLUM, Mr. DOGGETT, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. RANGEL, Ms. WOOLSEY, Mr. MCNULTY, Mr. FATTAH, Mr. REYES, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. FALEOMAVAEGA, Mr. CLYBURN, Mr. BOSWELL, Mr. MCDERMOTT, and Mr. CASE):

H.R. 1267. A bill to amend the Public Health Service Act, the Social Security Act, and chapter 89 of title 5, United States Code, to provide research on the health impact and prevention of family violence; to provide training for health care professionals, behavioral and public health staff, and community health centers regarding identification and treatment for families experiencing family violence; and to provide coverage for domestic violence identification and treatment under the Maternal and Child Health Services Block Grant Program, the Medicaid Program, the Federal Employees Health Benefits Program, and the Community Health Centers Program; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS:

H.R. 1268. A bill to amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COSTELLO (for himself, Mr. BOUCHER, Mr. WHITFIELD, Mr. SHIMKUS, Mr. LIPINSKI, and Mr. MOLLOHAN):

H.R. 1269. A bill to provide for research, development, and demonstration on coal and related technologies, and for other purposes; to the Committee on Science.

By Mr. CRANE (for himself, Mr. CAMP, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. JEFFERSON, and Mr. VITTER):

H.R. 1270. A bill to amend the Internal Revenue Code of 1986 to clarify the status of employee leasing organizations and to promote and protect the interests of employee leasing organizations, their customers, and workers; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. MARKEY, Mr. CRANE, and Mr. MATSUI):

H.R. 1271. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy

consumption in buildings; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. MARKEY, Mr. BOUCHER, Mr. TOWNS, Mr. PALLONE, Mr. RUSH, Mr. ENGEL, Ms. DEGETTE, Mrs. CAPPS, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. INSLEE, Ms. MCCOLLUM, Ms. LEE, Ms. NORTON, and Ms. KILPATRICK):

H.R. 1272. A bill to prohibit fraudulent, manipulative, or deceptive acts in electric and natural gas markets, to provide for audit trails and transparency in those markets, to increase penalties for illegal acts under the Federal Power Act and Natural Gas Act, to reexamine certain exemptions under the Federal Power Act and the Public Utility Holding Company Act of 1935, to expand the authority of the Federal Energy Regulatory Commission to order refunds of unjust and discriminatory rates, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. LEWIS of California, Mr. MATSUI, and Mr. NUNES):

H.R. 1273. A bill to designate a United States courthouse to be constructed in Fresno, California, as the "Robert E. Coyle United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. NUNES, and Mr. RADANOVICH):

H.R. 1274. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county; to the Committee on Transportation and Infrastructure.

By Mr. FROST:

H.R. 1275. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Ms. HARRIS (for herself, Mr. ROGERS of Michigan, Mr. OXLEY, Mr. NEY, Mr. DAVIS of Alabama, Mr. MURPHY, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BEREUTER, Mrs. BIGGERT, Mr. BOEHLERT, Mr. CASTLE, Mr. EMANUEL, Mr. GILLMOR, Mr. GREEN of Wisconsin, Ms. HART, Mr. JONES of North Carolina, Mrs. KELLY, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mr. GARY G. MILLER of California, Mrs. CAPITO, Mr. RENZI, Mr. RYUN of Kansas, Mr. SCOTT of Georgia, Mr. SHADEGG, Mr. SHAYS, Mr. TIBERI, and Mr. WILSON of South Carolina):

H.R. 1276. A bill to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Financial Services.

By Mr. HAYWORTH (for himself, Mr. BECERRA, and Mrs. BONO):

H.R. 1277. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for ground rent paid on land on which a qualified residence of a taxpayer is located and which is allotted or Indian-owned land; to the Committee on Ways and Means.

By Mr. HILL (for himself, Mr. TAYLOR of Mississippi, Mr. BERRY, Mr. MOORE, Mr. SANDLIN, Mr. STENHOLM, Mr. TURNER of Texas, Mr. HOLDEN, Mr. MATHESON, Mr. THOMPSON of California, Mr. PETERSON of Minnesota, Ms. LORETTA SANCHEZ of California, Mr. MICHAUD, Mr. SCHIFF, Mrs. TAUSCHER, Mr. TANNER, Mr. JOHN, and Ms. HARMAN):

H.R. 1278. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of

1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HULSHOF (for himself, Mr. POMEROY, Mr. LEWIS of Kentucky, Mr. KENNEDY of Minnesota, Mr. WELLER, Mr. LIPINSKI, Mrs. EMERSON, Mr. SKELTON, Mr. SHIMKUS, Mr. BERRY, Mr. RYUN of Kansas, Mr. MCINTYRE, Mr. JOHNSON of Illinois, Mr. PAYNE, Mr. REHBERG, Mr. COSTELLO, Mr. HOSTETTLER, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mr. ROSS, Mr. LEACH, Mr. ANDREWS, Mr. BEREUTER, Mr. GILCHREST, and Mr. ETHERIDGE):

H.R. 1279. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the use of biodiesel as a fuel; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself, Mr. OXLEY, and Mrs. MALONEY):

H.R. 1280. A bill to reauthorize the Defense Production Act of 1950, and for other purposes; to the Committee on Financial Services.

By Mr. KING of New York:

H.R. 1281. A bill to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LOFGREN (for herself, Mr. NETHERCUTT, Mr. HOLT, Mr. CUNNINGHAM, Mr. ISSA, Ms. LEE, Mrs. TAUSCHER, Mr. HALL, Mr. MCGOVERN, Mr. MATSUI, Mr. BERMAN, Mrs. CAPPS, Mr. SCHIFF, Mr. PASCRELL, Mr. EHLERS, Mr. CAPUANO, Mr. LAMPSON, Mr. OLVER, Mr. HONDA, Mrs. DAVIS of California, Mr. CALVERT, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. STARK, Mr. EDWARDS, Mr. GREEN of Texas, Mrs. BONO, Mr. MARKEY, and Mr. LYNCH):

H.R. 1282. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Science.

By Mr. MEEKS of New York:

H.R. 1283. A bill to protect automobile consumers by requiring complete disclosure and warranty of any add-ons included with the sale of new automobiles; to the Committee on Energy and Commerce.

By Mrs. NAPOLITANO (for herself, Mr. DREIER, and Ms. SOLIS):

H.R. 1284. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project; to the Committee on Resources.

By Ms. NORTON:

H.R. 1285. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on the Judiciary.

By Mr. PALLONE:

H.R. 1286. A bill to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone; to the Committee on Resources.

By Mr. PAUL:

H.R. 1287. A bill to amend the Internal Revenue Code of 1986 to make health care coverage more accessible and affordable; to the Committee on Ways and Means.

By Ms. PRYCE of Ohio (for herself,

Mrs. MYRICK, Mr. GREENWOOD, Mr. TANCREDO, Mr. HOUGHTON, Mr. KING of New York, Mr. GOODE, Mr. CASTLE, Mr. HYDE, Mr. WAMP, Mr. SHUSTER, Mr. SHIMKUS, Mr. PORTMAN, Mr. LATOURETTE, Mrs. BIGGERT, Mr. LOBIONDO, Mr. HOBSON, Mr. BURTON of Indiana, Mr. TIAHRT, Mr. SMITH of Michigan, Mr. WOLF, Mr. BACHUS, Ms. DEGETTE, Mrs. CAPPS, Mr. ISRAEL, Ms. LEE, Mr. UDALL of New Mexico, Mrs. MALONEY, Mr. JOHN, Mr. GREEN of Texas, Mr. LIPINSKI, Mr. POMEROY, Mr. TURNER of Texas, Ms. BALDWIN, Mr. STRICKLAND, Mr. PALLONE, Mr. PASCRELL, Ms. BERKLEY, Mr. HOLT, Mr. FROST, Mr. SERRANO, Mrs. LOWEY, Mr. MURTHA, Mr. MCINTYRE, Mr. INSLEE, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. LUCAS of Kentucky, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, and Mr. BURGESS):

H.R. 1288. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of all oral anticancer drugs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH (for himself and Mr. CARDOZA):

H.R. 1289. A bill to establish the National Parks Institute at the University of California, Merced, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Ms. CORRINE BROWN of Florida, and Ms. WOOLSEY):

H.R. 1290. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado:

H.R. 1291. A bill to amend the Public Health Service Act to include State high risk pool insurance programs in the list of covered entities that receive reductions in the prices charged for prescription drugs under the prescription drug pricing agreements under section 340B of that Act; to the Committee on Energy and Commerce.

By Mr. UDALL of Colorado (for himself and Mr. PICKERING):

H.R. 1292. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. UDALL of Colorado (for himself and Mr. FROST):

H.R. 1293. A bill to authorize the Small Business Administration and the Department of Agriculture to assist farmers and ranchers seeking to develop and implement agricultural innovation plans in order to increase their profitability in ways that provide environmental benefits, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. GEORGE MILLER of California, Mr. TIERNEY, Mr. OWENS, Mr. HINCHEY, Mr. CARDIN, Mr. BERMAN, Mr. LEACH, and Mr. PALLONE):

H.R. 1294. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable energy portfolio standard for certain retail electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WOOLSEY (for herself, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. FROST, Mr. HONDA, Mr. CONYERS, Ms. JACKSON-LEE of Texas, Mr. SERRANO, Mr. RYAN of Ohio, Mr. ABERCROMBIE, Ms. WATSON, Mr. OWENS, and Mr. SANDERS):

H.R. 1295. A bill to provide for coverage of diabetic foot sore apparatus as items of durable medical equipment under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 1296. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on the deduction of interest on education loans; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 1297. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter; to the Committee on Veterans' Affairs, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARTER:

H.J. Res. 39. A joint resolution proposing an amendment to the Constitution of the United States relative to references to God in the Pledge of Allegiance and on United States coins and currency; to the Committee on the Judiciary.

By Mr. SAM JOHNSON of Texas (for himself and Mr. HUNTER):

H. Con. Res. 92. Concurrent resolution expressing the sense of the Congress regarding the need to invest a minimum of 4 percent of gross domestic product on national defense; to the Committee on Armed Services.

By Mr. MCKEON:

H. Con. Res. 93. Concurrent resolution expressing the sense of Congress that the President should renegotiate the extradition treaty with Mexico so that the possibility of capital punishment or life imprisonment will not interfere with the timely extradition of criminal suspects from Mexico to the United States; to the Committee on International Relations.

By Mr. SESSIONS (for himself and Mrs. CAPPS):

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for in-

dividuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Education and the Workforce.

By Mr. CAPUANO (for himself, Mr. BILIRAKIS, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. OLVER, Mr. DOYLE, Mr. SERRANO, Mr. MEEHAN, Mr. BELL, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. BERMAN, Mr. MCNULTY, Ms. SLAUGHTER, Mr. CASE, Mr. LAHOOD, Mr. KILDEE, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. MATSUI, Mr. BROWN of Ohio, Mr. GREENWOOD, Ms. BALDWIN, Mr. RANGEL, Mr. UDALL of New Mexico, Mr. MCINTYRE, Mr. WAXMAN, Mr. ROSS, Mr. CONYERS, Mr. LYNCH, Mr. SIMMONS, Mr. NORWOOD, Mr. DOOLEY of California, Mr. FRANK of Massachusetts, Mr. STENHOLM, Mr. SCOTT of Virginia, Ms. ROYBAL-AL-LARD, and Mr. FILNER):

H. Res. 142. A resolution to express the sense of the House of Representatives that the Federal investment in programs that provide health care services to uninsured and low-income individuals in medically underserved areas should be increased to serve 20,000,000 individuals by 2006; to the Committee on Energy and Commerce.

By Mr. FROST (for himself and Mr. LAMPSON):

H. Res. 143. A resolution providing for consideration of the bill (S. 121) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes; to the Committee on Rules.

By Mr. WU:

H. Res. 144. A resolution to express the sense of the House of Representatives that the maximum Pell Grant should be increased to \$5,800; to the Committee on Education and the Workforce.

### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. GORDON, Mr. BARRETT of South Carolina, Mr. CASE, and Ms. HART.

H.R. 23: Mr. EVERETT.

H.R. 57: Mr. GILLMOR.

H.R. 58: Mr. LIPINSKI, Mr. BERMAN, Ms. SOLIS, and Ms. DEGETTE.

H.R. 75: Mr. CULBERSON.

H.R. 100: Mr. MICHAUD.

H.R. 120: Mr. LIPINSKI.

H.R. 125: Mr. WU, Mr. THOMPSON of Mississippi, Ms. SLAUGHTER, Ms. LEE, Mr. DAVIS of Illinois, Mr. DICKS, Mr. FRANK of Massachusetts, Mr. ANDREWS, and Ms. DEGETTE.

H.R. 141: Mr. WILSON of South Carolina.

H.R. 217: Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. HASTINGS of Florida, Ms. LINDA T. SANCHEZ of California, Mr. BROWN of South Carolina, Mr. MEEHAN, Mr. FALCOMA-VAEGA, Mr. SIMMONS, and Mr. WU.

H.R. 221: Mr. CONYERS, Mr. FARR, Mr. GUTIERREZ, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Mr. MCGOVERN, Mr. PASCARELL, Mr. TOWNS, Ms. WOOLSEY, and Mr. LANGEVIN.

H.R. 241: Mr. MICHAUD.

H.R. 282: Mr. GARRETT of New Jersey and Mr. GUTKNECHT.

H.R. 303: Ms. SLAUGHTER, Mr. CASE, and Mr. HALL.

H.R. 308: Mr. HINCHEY, Ms. SCHAKOWSKY, Mr. RYAN of Ohio, and Mr. JACKSON of Illinois.

H.R. 343: Ms. BORDALLO.

H.R. 362: Mr. FORBES, Mr. GREENWOOD, Mr. QUINN, Mr. ORTIZ, Mr. FATTAH, Mr. WYNN, Mr. MEEHAN, Mr. SNYDER, Mr. HOFFFEL, Mr. PUTNAM, Mr. ISAKSON, Mr. PLATTS, Mr. HINOJOSA, Mr. TANCREDI, Mr. ENGLISH, Mr. GIBBONS, and Mr. ADERHOLT.

H.R. 375: Mr. BLUNT.

H.R. 380: Mr. MCKEON.

H.R. 412: Mr. OLVER, Ms. JACKSON-LEE of Texas, Ms. CARSON of Indiana, Ms. SLAUGHTER, Mr. TURNER of Ohio, Mr. PRICE of North Carolina, Mr. CRAMER, Mr. NEAL of Massachusetts, Mr. CAPUANO, Mr. GREENWOOD, Mr. WEINER, Mr. TURNER of Texas, Mr. SMITH of Washington, Mr. PLATTS, Mr. SHAYS, Mr. ISSA, Mr. HINOJOSA, Mr. NADLER, Mr. SNYDER, Mr. LIPINSKI, Mr. HUNTER, Mr. DOOLEY of California, Mr. HINCHEY, Mr. FATTAH, Mr. SOUDER, and Ms. WATERS.

H.R. 432: Mr. VAN HOLLEN.

H.R. 434: Mr. BAKER, Mr. LAHOOD, Mr. TIBERI, Mr. PITTS, Mr. BONNER, and Mr. BOEHLERT.

H.R. 436: Ms. LEE.

H.R. 442: Mr. LARSEN of Washington, Mr. RYAN of Ohio, and Mr. OSBORNE.

H.R. 466: Mr. GREENWOOD and Mr. BRADLEY of New Hampshire.

H.R. 489: Mr. EVERETT and Mr. TANCREDI.

H.R. 490: Mr. JENKINS, Mr. UDALL of Colorado, and Mr. GILLMOR.

H.R. 496: Mr. CANNON.

H.R. 501: Mr. DAVIS of Illinois.

H.R. 502: Mr. ISAKSON.

H.R. 503: Mr. LEWIS of Kentucky.

H.R. 528: Mr. ROTHMAN.

H.R. 578: Mr. SHAW, Mr. HERGER, Mr. ENGLISH, Mr. WELLER, Mr. BACHUS, Mr. GRAVES, Mr. MORAN of Kansas, and Mr. WILSON of South Carolina.

H.R. 583: Mrs. MUSGRAVE, Mr. CROWLEY, Mr. PETERSON of Pennsylvania, Mr. OSBORNE, Mr. MCINNIS, Mr. KIRK, Mr. CANTOR, Mr. BROWN of South Carolina, Mr. BEAUPREZ, Mr. TANCREDI, Mr. KING of Iowa, Mr. CRAMER, Mr. PUTNAM, Ms. HART, Mr. GREEN of Wisconsin, Mr. LUCAS of Kentucky, Mr. TIBERI, Mrs. CAPITO, Mr. GRAVES, Mr. PENCE, Mr. BONILLA, and Mr. BAKER.

H.R. 591: Mr. FILNER.

H.R. 594: Mr. TIERNEY, Ms. NORTON, Mr. DELAHUNT, Mr. SESSIONS, Mrs. JOHNSON of Connecticut, Mr. CRAMER, and Mr. MEEHAN.

H.R. 611: Mr. SENSENBRENNER.

H.R. 612: Mr. SENSENBRENNER.

H.R. 615: Mr. SENSENBRENNER.

H.R. 616: Ms. GINNY BROWN-WAITE of Florida.

H.R. 617: Ms. GINNY BROWN-WAITE of Florida.

H.R. 621: Mr. FOSSELLA, Mr. FROST, Mr. OWENS, Mr. LIPINSKI, Ms. SLAUGHTER, Mr. GEORGE MILLER of California, and Mr. RYAN of Ohio.

H.R. 667: Mr. WU.

H.R. 678: Mr. BONNER and Mr. BISHOP of Georgia.

H.R. 688: Mr. PORTER.

H.R. 694: Mr. RYAN of Ohio.

H.R. 713: Mr. WELDON of Florida, Mr. STRICKLAND, and Mrs. CUBIN.

H.R. 714: Mr. REHBERG.

H.R. 735: Mr. FERGUSON and Mr. WOLF.

H.R. 743: Mr. PETERSON of Minnesota.

H.R. 767: Mr. CANTOR, Mr. HAYWORTH, Mr. HERGER, and Mr. PENCE.

H.R. 768: Mr. PICKERING.

H.R. 771: Mr. CANTOR.

H.R. 775: Mr. NORWOOD.

H.R. 784: Mr. RAHALL.

H.R. 800: Mr. GILLMOR.

H.R. 811: Mr. FROST.

H.R. 814: Mr. DICKS, Ms. NORTON, Mr. LANGEVIN, Mr. DINGELL, Mr. FARR, Mr. WAXMAN, Mr. TERRY, Mr. COSTELLO, Ms. LINDA T. SANCHEZ of California, Mrs. CAPPS, Mr. HOLDEN, Mr. MATHESON, Mr. KUCINICH, Mr. MCNULTY, Mr. MCGOVERN, and Mr. MOORE.

H.R. 815: Mr. WOLF.  
 H.R. 830: Mr. GOODE.  
 H.R. 839: Mr. LEWIS of Kentucky.  
 H.R. 847: Mr. DAVIS of Illinois.  
 H.R. 850: Mr. BILIRAKIS, Mr. CAMP, Mr. LATHAM, Mr. MANZULLO, and Mr. KLINE.  
 H.R. 858: Mr. SCOTT of Georgia and Mr. UDALL of Colorado.  
 H.R. 872: Mr. HOSTETTLER.  
 H.R. 879: Mr. GOODE.  
 H.R. 884: Mr. PORTER.  
 H.R. 893: Mrs. MALONEY.  
 H.R. 896: Ms. BORDALLO.  
 H.R. 919: Mr. GEORGE MILLER of California, Mr. MCGOVERN, and Mr. STUPAK.  
 H.R. 927: Mr. ENGLISH, Mr. WELLER, Mr. SHIMKUS, Mr. QUINN, Mr. BEREUTER, Mr. KENNEDY of Minnesota, Mr. KOLBE, and Ms. GINNY BROWN-WAITE of Florida.  
 H.R. 931: Mr. NORWOOD and Mr. LINDER.  
 H.R. 935: Mr. STARK, Mr. GUTIERREZ, Ms. ROS-LEHTINEN, and Mr. ENGEL.  
 H.R. 936: Mr. ENGEL, Mr. GRIJALVA, Mr. RYAN of Ohio, Mr. DAVIS of Illinois, and Mr. MCGOVERN.  
 H.R. 941: Mr. POMEROY and Mr. WHITFIELD.  
 H.R. 946: Mrs. CUBIN.  
 H.R. 962: Mr. SANDERS, Mr. SCOTT of Georgia, Mr. CASTLE, Ms. WOOLSEY, Mr. FRANK of Massachusetts, and Mr. LEVIN.  
 H.R. 965: Ms. WATERS, Mr. DEUTSCH, Mr. WAXMAN, and Mrs. LOWEY.  
 H.R. 966: Mr. FILNER.  
 H.R. 967: Mr. FRANK of Massachusetts, Mr. CROWLEY, Mr. PICKERING, Mr. GORDON, Mr. OLVER, Mr. GRAVES, Mr. DAVIS of Alabama, Mr. LIPINSKI, Mr. PASTOR, Mr. GEORGE MILLER of California, Mr. POMEROY, Mr. RYAN of Ohio, Ms. NORTON, Mrs. MALONEY, Mr. KUCINICH, and Mr. MCGOVERN.  
 H.R. 977: Ms. WOOLSEY and Mr. GIBBONS.  
 H.R. 983: Ms. LORETTA SANCHEZ of California and Mr. SCHIFF.  
 H.R. 995: Mr. CASE and Mr. HEFLEY.  
 H.R. 1004: Mr. SMITH of Washington, Mr. NETHERCUTT, Mr. GOODLATTE, Mr. LAHOOD, and Mr. SERRANO.  
 H.R. 1009: Mrs. CHRISTENSEN.  
 H.R. 1013: Ms. DUNN and Mrs. BONO.  
 H.R. 1022: Ms. LINDA T. SANCHEZ of California.  
 H.R. 1023: Mr. SESSIONS.  
 H.R. 1039: Mr. FALEOMAVAEGA.  
 H.R. 1048: Mr. FILNER.  
 H.R. 1072: Mr. KING of New York.  
 H.R. 1080: Mr. SCHIFF, Mr. RYAN of Ohio, Ms. DELAURO, Mr. FRANK of Massachusetts, and Mr. ENGEL.  
 H.R. 1081: Mr. BERMAN, Mr. SCHIFF, Mr. RYAN of Ohio, Ms. DELAURO, Mr. FRANK of Massachusetts, and Mr. ENGEL.

H.R. 1093: Mr. MCCOTTER and Mr. CASE.  
 H.R. 1094: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LOBIONDO, Mr. RYAN of Ohio, Mr. OXLEY, Mr. LARSEN of Washington, and Mr. KUCINICH.  
 H.R. 1095: Mr. FARR, Mr. CARSON of Oklahoma, Mr. MCHUGH, Mr. CARDOZA, Mr. ROHR-ABACHER, Mr. GORDON, and Mr. ISSA.  
 H.R. 1097: Mr. MCNULTY, Mr. LEVIN, Mr. COSTELLO, Ms. SOLIS, and Ms. ESHOO.  
 H.R. 1104: Mr. DELAY, Mrs. CAPITO, Ms. DUNN, Mr. BRADY of Texas, Mr. FOLEY, Mr. GOODLATTE, Mr. TERRY, Mr. BAKER, Mr. UPTON, Mr. MCCOTTER, and Mr. SIMMONS.  
 H.R. 1105: Mr. FARR.  
 H.R. 1124: Mr. STRICKLAND.  
 H.R. 1130: Mr. GORDON.  
 H.R. 1157: Mr. ABERCROMBIE, Mr. UDALL of New Mexico, Mr. PETERSON of Minnesota, Mr. MANZULLO, Ms. CORRINE BROWN of Florida, Ms. ESHOO, and Mr. SABO.  
 H.R. 1160: Mr. BONNER, Mr. EVERETT, Mr. VITTER, Mr. LEWIS of Kentucky, Mr. NUNES, Mr. PETERSON of Minnesota, Ms. MCCOLLUM, and Mr. JANKLOW.  
 H.R. 1161: Mr. OSBORNE, Mr. SULLIVAN, Mr. UPTON, Mr. TERRY, and Mr. MCCOTTER.  
 H.R. 1162: Mr. ISRAEL.  
 H.R. 1165: Ms. WATSON.  
 H.R. 1175: Mr. PITTS, Mr. HENSARLING, and Mr. BEAUPREZ.  
 H.R. 1196: Mr. LEACH.  
 H.R. 1199: Mr. PASTOR and Mr. SNYDER.  
 H.R. 1200: Mr. CARSON of Indiana, and Ms. LINDA T. SANCHEZ of California.  
 H.R. 1203: Mr. HOSTETTLER.  
 H.R. 1212: Mr. FILNER.  
 H.R. 1231: Mr. ABERCROMBIE, Mr. AKIN, Mr. ALLEN, Mr. ANDREWS, Mr. BACHUS, Ms. BALDWIN, Mr. BASS, Mrs. BIGGERT, Mr. BISHOP of Georgia, Mr. BOUCHER, Mr. BOSWELL, Mr. BROWN of Ohio, Mr. BURR, Mrs. CAPPS, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. CRAMER, Mr. CROWLEY, Mrs. CUBIN, Mr. CUMMINGS, Mr. DELAHUNT, Mr. DEUTSCH, Mr. DOYLE, Mr. ENGEL, Mr. ENGLISH, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FOLEY, Mr. FORBES, Mr. FOSSELLA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GILCHREST, Mr. GILLMOR, Mr. GOODE, Mr. GORDON, Mr. HALL, Mr. HASTINGS of Florida, Mr. HAYES, Mr. HEFLEY, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOLT, Mr. HOSTETTLER, Mr. INSLEE, Mr. ISRAEL, Mr. ISTOOK, Ms. JACKSON-LEE of Texas, Mr. JOHN, Mr. JONES of North Carolina, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Mr. KING of New York, Mr. KLECZKA, Mr. KOLBE, Mr. LAHOOD, Mr.

LANTOS, Mr. LEACH, Ms. LEE, Mr. LEWIS of Kentucky, Mr. LIPINSKI, Mr. LOBIONDO, Mrs. LOWEY, Mr. LUCAS of Kentucky, Mr. LYNCH, Mr. MANZULLO, Ms. MCCOLLUM, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINTYRE, Mr. NEAL of Massachusetts, Mr. NEY, Mr. OBERSTAR, Mr. OLVER, Mr. OTTER, Mr. PALLONE, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PETRI, Mr. PLATTS, Mr. POMEROY, Mr. RAHALL, Mr. REHBERG, Mr. RODRIGUEZ, Mr. ROGERS of Kentucky, Ms. ROS-LEHTINEN, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SHAYS, Mr. SHIMKUS, Mr. SIMMONS, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SNYDER, Mr. SOUDER, Mr. TANCREDI, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. TIAHRT, Mrs. JONES of Ohio, Mr. TURNER of Texas, Mr. UDALL of Colorado, Mr. WALSH, Mr. WAMP, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. WHITFIELD, Ms. WOOLSEY, and Mr. WU.

H.J. Res. 4: Mr. ALEXANDER, Mr. BASS, Mr. FORBES, Mr. POMBO, Mr. TAUZIN, Mr. OTTER, Mr. BONNER, Mr. FRANKS of Arizona, and Mr. HAYES.

H.J. Res. 26: Mr. CARSON of Oklahoma and Mr. SULLIVAN.

H. Con. Res. 26: Mrs. NORTHUP and Mr. KILDEE.

H. Con. Res. 48: Mr. SESSIONS.

H. Con. Res. 49: Mr. PITTS, Mr. BURGESS, Ms. LEE, Mrs. LOWEY, and Ms. DEGETTE.

H. Con. Res. 56: Mr. BILIRAKIS and 1Ms. JACKSON-LEE of Texas.

H. Con. Res. 78: Mr. HINCHEY.

H. Con. Res. 79: Mr. BILIRAKIS.

H. Con. Res. 86: Mrs. LOWEY, Mrs. MALONEY, Mr. GRIJALVA, Mr. SERRANO, Mr. OWENS, and Mr. FARR.

H. Con. Res. 89: Ms. WOOLSEY.

H. Res. 28: Mr. BELL, Mrs. JONES of Ohio, Ms. NORTON, Mr. ROHRABACHER, Ms. BERKLEY, Mr. POMEROY, and Mr. PAYNE.

H. Res. 108: Mr. SMITH of Washington.

H. Res. 118: Mr. STEARNS, Mr. WYNN, Ms. MILLENDER-MCDONALD, and Mr. FROST.

H. Res. 121: Mr. KILDEE.

H. Res. 132: Mr. DUNCAN, Mr. BUYER, and Mr. COMBEST.

H. Res. 133: Mr. DAVIS of Tennessee.

H. Res. 140: Ms. WOOLSEY.

H. Res. 141: Ms. CORRINE BROWN of Florida.



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 149

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No. 41

## Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. On this day in 1995, Dr. Ogilvie delivered his first prayer as Senate chaplain; today he will lead us in prayer for the last time.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O God, our refuge and our strength, a very present help in trouble, we will not fear! In the midst of these perilous times, we hear Your voice saying, "Be still and know that I am God; I will be exalted among the Nations, I will be exalted in the earth." In response we affirm, "The Lord of hosts is with us; You are our help and hope."

From the Continental Congress through the formation of our Constitution to the establishment of the first Senate, our leaders have acknowledged You as Sovereign of this land and the source of all our blessings.

Lord I thank You for the privilege of serving as Chaplain of the men and women of this Senate. As You have called them to lead our Nation and the world, You have opened their minds and hearts to receive Your guidance and care. It is with profound gratitude that I reflect on these years with them. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS 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.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### IN GRATITUDE TO CHAPLAIN LLOYD OGILVIE

Mr. FRIST. Mr. President, while reflecting on Dr. Ogilvie's tenure as Senate Chaplain, I came across a letter of his dated March 31, 1995. He was just 3 weeks on the job. You could already see his devotion not only to his official duties as Senate Chaplain, but his unofficial duties as the spiritual leader of the entire Senate family.

In that letter, he writes about the importance of interceding "personally" for Senators—for praying for Members, for our families, and for our staff. He says that he is just as close as a phone call and provides not only his work phone number, but his home phone number, as well. He asks that we keep him up-to-date about the needs of others in the Senate family. And he talks about building a "caring network of people who support each other."

Yes, this is a man who knew early on the Senate needs more than one prayer at the start of each day. We needed a lot of support from him, from God, and from each other. And that is exactly the kind of spiritual climate Lloyd Ogilvie fostered for 8 years as Senate Chaplain.

He conducted Bible studies—which Karyn and I and many in this Chamber regularly attended. He hosted weekly prayer breakfasts and small faith groups. He researched theological questions and advised us on the great moral issues of our times. And when he took time to offer his own private thoughts to God, he always forwarded our petitions with his.

He even filled in at the last minute when my office needed a third baseman on our Senate softball team. Now that is going above and beyond the call of duty.

Dr. Ogilvie consoled us during our darkest hours—September 11th, the October anthrax attacks, the loss of two Capitol Police officers and three Senate colleagues come to mind. But he was also there for us every day. To help

us cope with the stress of our jobs. To help us overcome struggles in our personal lives. And, most of all, to help us keep things in perspective by reminding us we serve the United States in our offices, but we serve God in our lives.

So I simply want to say thank you to Dr. Ogilvie, for his many prayers on our behalf, for the many hours he dedicated to his position, and for being there—as the spiritual leader of the Senate family—every day in the Chamber and every day in our lives.

And, lastly, I want to thank him for being such a wonderful and supportive friend. I wish him the best in California with Mary Jane. And though Karyn and I will miss them both dearly, we are certain we will hear from them because they will always be family. And there is nothing more precious to the Ogilvies—as they have demonstrated time and again—than family.

The PRESIDING OFFICER (Mr. SUNUNU). The minority leader.

Mr. DASCHLE. Mr. President, in a few moments the Senate will offer a resolution which honors a member of our Senate family who, as the majority leader noted, will be leaving us soon. Lloyd Ogilvie has the appreciation of every one of the Members of this body. I join in expressing my heartfelt appreciation to him and his family as they begin the next chapter in their lives.

A Senate chaplain was once asked: You pray for the Senate? He replied, no, I look at those Senators as I stand on the dais and I pray for the country.

For the last 8 years, Lloyd Ogilvie has done a lot of praying—for our Nation, for the Members of this Senate, and for our families, for our staffs, and all the people who work in this building, and for those who come to visit the Senate from all over the world. He has prayed for us and with us. For many of us, he has been a source of guidance and support. We are grateful to him for his wisdom, for his friendship, and for his service to this Senate and our Nation.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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The Senate has been through many challenges these last 8 years, as the majority leader has noted. During those challenges, many of us have found hope and direction in Dr. Ogilvie's words. He comforted us and led us through the deaths of three of our colleagues, our friends John Chafee, Paul Coverdell, and Paul Wellstone. He consoled us when two fine, brave members of the Capitol Police, officers J.J. Chestnut and Detective John Gibson, were murdered guarding this building. He helped us find courage and faith after our Nation was attacked on September 11, and again after the anthrax attack that closed the Hart Building. He has helped many of us grapple with the profound moral and spiritual questions that underscore all questions of public policy.

One lesson Dr. Ogilvie has always stressed is the importance of keeping our priorities straight. In his words: Put God first, then family, then Nation, then career, and things will turn out as they are meant to.

Now Dr. Ogilvie is living that lesson. He is putting his family ahead of his career and returning to California to be with and care for another treasured member of our Senate family, his wife Mary Jane. As much as we will miss him, we respect his decision greatly.

Everyone who knows Lloyd Ogilvie knows he has a special place in his heart for St. Andrew. That seems fitting for two reasons. The first and most obvious reason is that St. Andrew is the patron saint of Scotland, and we all know how proud Dr. Ogilvie is of his family's roots in that beautiful country. The other reason is St. Andrew never got the attention he deserved. In the Bible, it was Andrew's brother, Peter, who got the headlines, even though it was Andrew who first recognized that Jesus was an extraordinary teacher. It was Andrew who told Peter to pay attention to Jesus' words.

Here in the Senate, it is Senators who get most of the headlines. But for many of us for the last 8 years it is Lloyd Ogilvie who has been there to remind us of the important lessons.

Our thanks and our prayers will go to Lloyd Ogilvie as he returns to California. We wish him and Mary Jane, their children, Andrew, Scott and Heather, and their grandchildren, much happiness in the days, months, and years ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I know a vote was scheduled and many wish to speak, but I ask unanimous consent the vote may be delayed so I may speak at this time. I feel compelled to ask for that time so I may speak about our friend, Lloyd Ogilvie.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. The first time I heard Lloyd Ogilvie speak, it was in a prayer, and I remember looking up because I thought I had just heard what God's

voice must sound like. What a magnificent voice he has. What a magnificent prayer he always prayed. But as Benjamin Franklin said:

Well done is better than well said.

In spite of the magnificent messages he has delivered on this floor, his prayers, and our private counsel sessions with him, what he has done has been even more valuable; the way he has come to us all in times of great celebration and times of stress and times of despair. In the good times and the bad times he has been there for me and for many of us—all of us, at one time or another. In spite of all the good things he said, what he has done will be what will stay with us the longest.

Each morning I get up, the first thing I read is "One Quiet Moment," a passage from the Bible and a brief prayer that Lloyd Ogilvie prepared for all of us. It begins my days in the right way. Many nights, just before I go to sleep, I pray for Lloyd and Mary Jane, I pray for their safety, and for their future.

He has been a magnificent influence on this body and on me personally.

This morning I looked up the definition of "chaplain," and it is not enough to describe what he did. He wasn't just a person who was a counselor to this institution and our whole family. I looked up "pastor"—maybe that was the right word. That wasn't sufficient either because he was more than just a pastor to a flock in a narrow area.

No, he has been a spiritual counselor in the broadest sense. The Bible says, in Proverbs:

Where there is no vision the people perish.

That, of course, refers to the way we really should think about the vision. I think it is true for a country, a country that seeks democracy and freedom and liberty. But it also is true in the broader sense. Lloyd has given us a vision of what life is really about. Thank you, Lloyd John Ogilvie. Well done—ay.

#### COMMENDING THE SERVICE OF DR. LLOYD J. OGILVIE, THE CHAPLAIN OF THE UNITED STATES SENATE

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I send a resolution to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (Res. 83) commending the service of Dr. Lloyd J. Ogilvie, the Chaplain of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, we had the opportunity this morning to hear the last prayer of our Senate Chaplain, Lloyd Ogilvie, a man who has touched each of our lives in a different and very special way. All of us in here

have reached an age where if we took a few moments and tried to list the people outside of our immediate families who really had an impact on us, it would probably be a pretty short list, if we were candid with ourselves.

I have been doing a bit of that the last couple of days, thinking about Lloyd, his contribution here, and the fact he is now going home to take up the challenge of providing care for his wonderful wife Mary Jane.

I have decided my list would be very short, indeed, outside of my immediate family. On that list would, indeed, be Lloyd Ogilvie, who has had a powerful impact on my life. I will never, ever forget him.

We all love him and we care for him. Even though we will not see him as much in the coming years, I hope each of us for whom he has made such a difference will make an extra effort to stay in touch with our dear friend in the coming years.

So, Lloyd Ogilvie, thanks for all you did for all of us. Good luck in the future. Thanks for making a difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I join the distinguished Senator from Kentucky in saying a word about the Chaplain, Lloyd Ogilvie.

I am a new Senator, as is the Presiding Officer, and there have been a great many wonderful things about coming to the Senate. But nothing has surpassed the privilege of getting to know Lloyd Ogilvie in these first couple of months. I have watched him and listened, and I have learned from him. I have been comforted by him. I am deeply grateful for that.

This month in Billy Graham's publication, "Decision," Lloyd Ogilvie's picture is on the front, and there is an interview with him about his 8 years in the Senate. It is a clue about why he has been such an inspiration to so many Senators. The questioner notes:

A current Senator remarked that your prayers often "make reference to specific turmoil" in the Senate.

The questioner goes on:

I understand that sometimes following your opening prayer you sit through the Senate sessions.

And Lloyd's answer was:

The task of any spiritual leader is to listen. You can't minister to individuals or to a group unless you know what is going on. That is the reason that I have to be there.

Lloyd Ogilvie has been a counselor. He is a minister. He is a listener—maybe a listener above all. I have found in my conversations with him that I suspect he knows more about the Senate than any other individual because he knows the hearts of the Senators.

So I rise to thank him, to wish him the very best with his wife Mary Jane, and to let him know that one more Senator has been touched by his presence here in a very short period of time.

I ask unanimous consent to have printed in the RECORD the interview with Dr. Ogilvie that appears in the March 2003 edition of "Decision," the Billy Graham publication.

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

After serving eight years as U.S. Senate Chaplain, Lloyd John Ogilvie is retiring this month. He has provided spiritual guidance to senators, to Senate staff and to families during some of the most tumultuous events in the history of the United States. Decision recently spoke with Ogilvie about his Senate experiences and about where God is leading him now.

Q: Describe a typical day in the life of Lloyd John Ogilvie.

A: I usually get up around 6 a.m. and walk for my exercise. As I walk around the Capitol, I pray for 20 senators each day. I cover all 100 senators in a week. Often God puts on my mind and heart people who have needs or concerns. Then, during the day, I often have an opportunity to talk with those people.

After walking, I have my own personal Bible study, and then I walk to work. I live on the Hill—it's 10 minutes from my breakfast table to the floor of the Senate. I give the opening prayer for the Senate. I write the prayers in segments, perhaps a month ahead of time, and as crises change in the nation or in the world or in the life of the Senate, I can change the prayers to that they are current and relevant.

The opening prayer is an extremely important part of my day, because it is on the Senate floor that I speak a work about God that is crucial to American history and to our future. That word is sovereign. As I studied the prayers of those who founded this nation, a word they frequently used for God is Sovereign, because they came to this country seeking a land where God could be the Sovereign of the land.

So very often in my prayers, I use the word sovereign in describing God's nature and His lordship over this nation. Then I pray for God's power and direction and specifically for the needs that I know might be coming up that day.

I usually spend the rest of the morning in preparation for my Bible studies. I have five Bible studies during the week: for the senators, for senators' spouses, for the chiefs of staff of the senators' offices, and two studies for the Senate staff. It makes for a busy schedule, but I feel that my task is to lower the plumb line of God's justice and righteousness and mercy on the issues that we are facing in the nation. And I can do that by teaching the Bible.

Q: How do you make the Gospel relevant to the issues that our nation and world face?

A: I believe that the Holy Spirit, who inspired the writing of the Scripture, is present in the room as I teach the Scripture. That's awesome, when you stop and think of it. It forces you to study and pray and get ready, because there is a Word from the Lord, and He will speak through the Scriptures if we are faithful to communicate them.

Q: What is one message that we need to hear today?

A: We need to know that God is the Sovereign of this nation. We have a responsibility to trust Him, to seek His will and to live in accordance with His righteousness and justice.

As you trace U.S. history, it is fascinating to see how our founders were very clear about wanting God to guide them. In the First Continental Congress, Samuel Adams stood up and said, "I believe we need to

pray," and they went down and got the pastor of Christ Church Philadelphia to come to Carpenters' Hall to pray. Then, when there were deadlocks in the Constitutional Convention, crucial people stood up and said, "We cannot make it without God's power."

Q: You have led the Senate spiritually during some extremely trying times, including the impeachment hearings and the Sept. 11 tragedy. What were those times like?

A: I can't imagine that in eight years we've been through all of this. I think of the impeachment, for example, when it was so important to reaffirm God's sovereignty and His grace. As I was standing outside the Chamber, the senators and leaders would go by and say, "What are you going to pray today?" Then Chief Justice William Rehnquist would say, "What have you got to say to God today?" Then at the end of the prayer, he would give an "Amen" with gusto. But it was a painful time. I'm so thankful that when the Senate leaders got together prior to the impeachment, they opened their meeting with prayer. Trent Lott was majority leader at that time, and he constantly called them back to trust God.

Then, of course, the aftermath of Sept. 11 was a time of helping people to realize that God has not caused that tragedy. He did not send that on America in judgment. But it did bring us to a place of asking what He had to say through all of this.

We had the long process of healing and taking care of people who were traumatized by that event. We had many different services during that period. I remember one in particular, when the senators went over to the National Cathedral to take part in a time of prayer following 9/11. I had the feeling that I should stay here at the Capitol; the staff needed someone to take care of them. So I asked for a large room that seated 300 people, and I made a simple announcement that we would have a prayer time. When I arrived, people were standing in the room, squeezed in shoulder to shoulder. Instead of 300 people, there were 600 in the room and out in the hall. By the end, 1,000 people had come.

Q: A current senator remarked that your prayers often "Make reference to specific turmoil" in the Senate.

A: I feel that this is part of my responsibility as chaplain. Answers to unasked questions are foolish, but Biblical answers to the real questions people are asking are powerful. It is our task to listen, to be sensitive to where people are and then to respond to what's going on inside of them and around them.

When the senators are under a great deal of pressure and stress, I'll pray about that and talk about the pressure cooker of politics. When they are at odds with each other, I can ask God to bring understanding and peace for the good of the American people and for His glory, and to help us depend on Him to bring understanding, to break deadlocks.

Q: I understand that sometimes following your opening prayer you sit through the Senate sessions.

A: The task of any spiritual leader is to listen. You can't minister to individuals or to a group unless you know what is going on. That is the reason that I have to be there. When I sense there is great tension or frustration, I go down on the floor, slip into the chair where I sit, and pray for those who are in conflict. Afterwards, I often go to them individually, talk with them about what's happened and see if I can bring them together.

I am pleased when I see greatness emerge in the senators and they reach beyond their parties and their own particular persuasions to have deep communication with each

other. I see that in our Bible studies on Thursdays, when members of both parties study the Scriptures together and try to come to grips with what God might be saying.

Q: Our culture is heavily saturated with the message of separation of church and state, but you have often said that there is no separation of God and state. What do you mean?

A: There is no statement in the literature of U.S. history that is more misunderstood than this phrase, "separation of Church and State." It was included in a letter by Thomas Jefferson to the Danbury Baptists in Danbury, Conn. He was trying to protect the church from government and was establishing the fact that he was a different kind of leader than the sovereigns of Europe. The phrase, however, stuck and has been used to diminish the role of God in American life and in politics.

I believe that there is no separation between God and State. We need God in the affairs of government, and those who are involved in leadership desperately need Him and His guidance and direction. If we take God out of the affairs of government, we are left to our human devices without the empowerment that comes through a relationship with God.

I was very gratified when the Senate dealt with the recent question raised about the phrase "one nation under God." All of the Senators were in their seats, and we gave the Pledge of Allegiance together. No one was missing in affirmation of the fact that they all really believe in this historic declaration that we are a "nation under God."

Q: How can we pray for the Senators and their families?

A: Pray that they will know God, that they will trust God, that they will depend on supernatural power rather than on human talents, that they will pray for and receive the gift of courage, and that they will speak with boldness and dare to give the leadership that's necessary.

Q: What has led you to retire as Senate Chaplain on March 15?

A: My wife, Mary Jane, contracted a bad case of bacterial pneumonia last April, and it lodged in some scar tissue in her lungs from a previous cancer operation. They had such a hard time getting that dislodged that in the process they had to put her on a respirator. That was eight months ago, and she has been in three different hospitals since then struggling to get off the respirator, to get back to breathing on her own and to get back to health.

I'm so thankful for the way she has trusted God in this dark, dark valley of suffering. I realized that it would be much better for her to be near our family in California. She is in a respiratory hospital there that specializes in just the kind of illness she has. I thought I would go back and forth as frequently as I could and stay as long as I could, but I realized this was not adequate. For eight years, I have asked the senators to put God first, family second, the Senate third and ambition fourth.

It was time for me to live any message. So I told the officers of the Senate that I needed to be with my wife. Just as soon as she's strong enough, I'll be available to preach and to teach and to speak, here and around the world.

Mr. McCONNELL. Mr. President, if I may before the Senator from Tennessee leaves, he may not have been in the Senate very long—a couple of months—but the Senator from Tennessee has picked up the essence of Lloyd Ogilvie and why he is so widely admired, respected, and loved around here.



I thank the Senator from Tennessee for his contribution.

Mr. ALEXANDER. I thank the Senator.

Mr. COCHRAN. Mr. President, the retirement of our Senate Chaplain, Lloyd Ogilvie, leaves me with a profound sense of loss. He has been a personal friend to me, as well as a wise counselor and adviser. I know I will miss him greatly. He has served the Senate with great distinction. His daily prayers were works of art and poetry, delivered in his deep rich voice, with conviction and a seriousness of purpose.

He has warmed our hearts with his genuine concern for our spiritual well-being and reached out to touch the souls of staff members and Senate employees, as well, who sought his advice and his message of hope and reassurance. We have all been richly blessed by the presence and the ministry of Lloyd Ogilvie. Our thoughts and sincerest best wishes and our love go with him.

Mr. HOLLINGS. Mr. President, I have been in the Senate more than 36 years and there is no question that Dr. Lloyd John Ogilvie has been the best Senate Chaplain I've ever seen, by far. On this his last day, I join my colleagues in thanking him for the spiritual care he has provided to all of us and our families, and especially for his daily prayers as we tackle the monumental responsibilities before us.

My wife, Peatsy, and I pray for the health of his loving wife Mary Jane. And we are confident that as the Chaplain leaves Washington and returns to California good things await him. For in Psalm 92 it is written that the righteous shall flourish like the palm-tree and that in maturity they shall bring forth fruit and be full of vitality and richness. There is no more worthy son of the Creator to flourish in retirement than Dr. Ogilvie.

Mr. BENNETT. Mr. President, I take this opportunity to pay tribute to Lloyd Ogilvie, our Chaplain. I have told him of the deep affection that I and my wife Joyce have for him and Mary Jane. I wish I could reach as deeply into the writings of Robert Burns as he is able to and come up with exactly the right epigram.

I will point out that he and I share the common experience of living in Scotland as young men. He, there while he was studying for the ministry, and I, there while I was serving as a missionary for my church. In that experience, each of us gained deep respect for the Scottish people and Scottish traditions.

That is why you find me today sporting the tartan of my family, the Wallace tartan. My father served in this body as Wallace Bennett, coming from a long line of Wallaces, including one William Wallace. Whether it was the William Wallace who morphed as Mel Gibson onto the silver screen or not, I am not sure.

Lloyd Ogilvie has made his mark here in a tremendous way, and he de-

serves all of the wonderful things everyone has said about him. I simply quote a hymn that we sing often in our church. I don't think it is unique to our church, but we sing at this time when young men go out in the circumstance I have just described—go off to a foreign land or to a foreign part of the world to preach the gospel. We sing to them:

God be with you till we meet again;  
When life's perils thick confound you;  
Put His arms unfailing round you;  
God be with you till we meet again.

This is what I say to Mary Jane and Lloyd Ogilvie, from all of us. God be with you till we meet again.

Ms. MURKOWSKI. Mr. President, I rise today to speak of the contributions and service to the Nation, the U.S. Senate, to my family and myself made by Dr. Lloyd J. Ogilvie as Chaplain of the U.S. Senate. I joined the U.S. Senate just over three months ago and I am repeatedly impressed and reminded about the history and tradition of this body. The Office of the Chaplain has served the Senate each day with prayer strongly reaffirming this institution's commitment to faith in God and our recognition of God being the ultimate sovereign over this Nation. The daily guidance and reminder of our Maker helps us all keep perspective on our duties and activities as we debate and make decisions of weighty issues confronting our country.

The Chaplain of the Senate has been an integral part of the U.S. Senate since 1789 when the first Senate elected the first Chaplain. The daily prayers of the Chaplains have been published over the years. In times of great turmoil and in times of the mundane the Chaplain reminds us of our obligation to keep the moral compass pointed in the right direction. This body has been brought together in times of conflict with the help of the Chaplain. Dr. Ogilvie has served us well as the sixty-first Chaplain since 1995.

Just last week the U.S. Senate passed a resolution reaffirming that the term "under God" was an essential part of the pledge of allegiance. I am confident that Dr. Ogilvie could have contributed to our insight and debate, but there is no dispute that this body and this Nation remain under the graceful guidance of God. We have been helped to understand this grace by the spiritual guidance of Dr. Ogilvie.

I have known of the Chaplain Ogilvie for longer than my service in the U.S. Senate. My parents, Senator Frank Murkowski and Nancy Murkowski, share a warm and special relationship with Dr. Ogilvie and his wife Mary. Through them I learned about Dr. Ogilvie and his compassion and commitment to his faith. They join me in sending their prayers, best wishes and expressions of warmth to him upon his retirement.

Dr. Ogilvie will be missed by all his flock and all who know him in his role as Chaplain in the U.S. Senate. He has served this institution in the tradition of this body with honor and excellence.

Ms. MIKULSKI. Mr. President. Eight years ago today, Dr. Lloyd Ogilvie became our Senate Chaplain. Today, as he leaves the Senate, I wish to thank Dr. Ogilvie for his spiritual guidance and friendship.

Dr. Ogilvie is a great scholar and preacher. Yet he has been so much more to our Senate family. I am particularly grateful for the hospitality Dr. Ogilvie has shown to all religions. He hosted Jewish seders. He invited Cardinals to the Senate. He made sure that religious leaders of all faiths have led the Senate in prayer.

I also appreciate the creative and energetic way he reached out to the entire Senate family. He has led Bible study groups and prayer meetings for Senators and staff. He has provided individual counseling for anyone who has asked for it.

Since September 11, our Nation and our Senate have faced great stress and uncertainty. On September 11, during the anthrax attacks, and now as our Nation prepares for a possible war, Dr. Ogilvie has helped the Senate family to become stronger through faith and prayer.

I also wish to thank Reverend Ogilvie's wife, Mary Jane, who has been such an important partner to him and such a dear friend to all of us in the Senate. I wish the Ogilvies well as they move to California to begin a new chapter in their lives. They will always be in my thoughts and prayers.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 83) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 83

Whereas Dr. Lloyd J. Ogilvie became the 61st Senate Chaplain on March 13, 1995, and has faithfully served the Senate for 8 years as Senate Chaplain;

Whereas Dr. Ogilvie is the author of 49 books, including "Facing the Future without Fear"; and

Whereas Dr. Ogilvie graduated from Lake Forest College, Garrett Theological Seminary of Northwestern University and New College, University of Edinburgh, Scotland, and has served as a Presbyterian minister throughout his professional life, including being the senior pastor at First Presbyterian Church, Hollywood, California: Now, therefore, be it

*Resolved*, That—

(1) the Senate hereby honors Dr. Lloyd J. Ogilvie for his dedicated service as the Chaplain of the United States Senate; and

(2) the Secretary transmit an enrolled copy of this resolution to Dr. Ogilvie.

#### SCHEDULE

Mr. FRIST. Mr. President, I will be very brief in our opening script this morning. We will have the opportunity during morning business later this morning for further comments to express our appreciation to Dr. Ogilvie for his 8 years of service to this body.

We will have two votes this morning and then we will have that period of morning business. Following some time for a bill introduction, there will be time available for the Senators to express their gratitude.

The next vote, following the two votes which are about to begin, will begin at 12:30, and will be on invoking cloture on the Estrada nomination. Additional votes will occur this afternoon. I will update Members later this morning.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent to have printed in the RECORD prior to the vote on S. 3, four letters from specialists in maternal fetal medicine in response to the letter the Senator from California had printed in the RECORD yesterday.

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

ROCKFORD HEALTH SYSTEM, DIVISION OF MATERNAL-FETAL MEDICINE,

Rockford, IL, March 12, 2003.

Hon. RICK SANTORUM,  
U.S. Senate Office Building,  
Washington, DC.

DEAR SENATOR SANTORUM: I am writing to contest the letter submitted to Senator Feinstein by Philip D. Darney, MD supporting the "medical exemption"; to the proposed restriction of the partial birth abortion (or as abortionists call it "intact D&E").

I am a diplomate board certified by the American Board of Obstetrics and Gynecology in general Obstetrics and Gynecology and in the sub-specialty of Maternal-Fetal Medicine. I serve as a Visiting Clinical Professor in Obstetrics and Gynecology, University of Illinois at Chicago, Department of Obstetrics and Gynecology, College of Medicine at Rockford, Rockford, Illinois; as an Adjunct Professor of Obstetrics and Gynecology, at Midwestern University, Chicago College of Osteopathic Medicine, Department of Obstetrics and Gynecology; and as an Adjunct Associate Professor of Obstetrics and Gynecology Uniformed Services University of Health Sciences, F. Edward Herbert School of Medicine, Washington, D.C. I have authored over 50 peer review articles in the obstetrics and gynecologic literature, presented over 100 scientific papers, and have participated in over 40 research projects.

In my over 14 years as a Maternal-Fetal Medicine specialist I have never used or needed the partial birth abortion technique to care for my complicated or life threat-

ening conditions that require the termination of pregnancy. Babies may need to be delivered early and die from prematurity, but there is never a medical need to perform this heinous act.

I have reviewed both cases presented by Dr. Darney, and quite frankly, do not understand why he was performing the abortions he indicates, yet alone the procedure he is using. If the young 25 year old woman has a placenta previa with a clotting disorder, the safest thing to do would be to place her in the hospital, transfuse her to a reasonable hematocrit, adjust her clotting parameters, watch her closely at bed rest, and deliver a live baby. If the patient had a placenta previa, pushing laminaria (sterile sea weed) up into her cervix, and potentially through the previa, is contraindicated. It is no surprise to anyone that the patient went, from stable without bleeding, to heavy bleeding as they forcibly dilated her cervix to 3 centimeters with laminaria. The use of the dangerous procedure of blinding pushing scissors into the baby's skull (as part of the partial birth abortion) with significant bleeding from a previa just appears reckless and totally unnecessary.

Regarding the second case of the 38 year old woman with three cesarean sections with a possible accreta and the risk of massive hemorrhage and hysterectomy due to a placenta previa, it seems puzzling why the physician would recommend doing an abortion with a possible accreta as the indication. Many times, a placenta previa at 22 weeks will move away from the cervix so that there is no placenta previa present and no risk for accreta as the placenta moves away from the old cesarean scar. (virtually 99.5% of time this is the case with early previas). Why the physicians did not simply take the woman to term, do a repeat cesarean section with preparations as noted for a possible hysterectomy, remains a conundrum. Dr. Darney actually increased the woman's risk for bleeding, with a horrible outcome, by tearing through a placenta previa, pulling the baby down, blindly instrumenting the baby's skull, placing the lower uterine segment at risk, and then scraping a metal instrument over an area of placenta accreta. No one I know would do such a foolish procedure in the mistaken belief they would prevent an accreta with a D&E.

Therefore, neither of these cases presented convincing arguments that the partial birth abortion procedure has any legitimate role in the practice of maternal-fetal medicine or obstetrics and gynecology. Rather, they demonstrate how cavalierly abortion practices are used to treat women instead of the second medical practices that result in a live baby and an unharmed mother.

Sincerely,

BYRON C. CALHOUN, MD.

MARCH 13, 2003.

Hon. RICK SANTORUM,  
U.S. Senate Office Building,  
Washington, DC.

DEAR SENATOR SANTORUM: I have reviewed the letter from Dr. Darney describing two examples of what he believes are high risk pregnancy cases that show the need for an additional "medical exemption" for partial birth abortion (also referred to as intact D&E). I am a specialist in maternal-fetal medicine with 23 years of experience in obstetrics. I teach and do research at the University of Minnesota. I am also co-chair of the Program in Human Rights in Medicine at the University. My opinion in this matter is my own.

In the rare circumstances when continuation of pregnancy is life-threatening to a mother I will end the pregnancy. If the fetus is viable (greater than 23 weeks) I will rec-

ommend a delivery method that will maximize the chance for survival of the infant, explaining all of the maternal implications of such a course. If an emergent life-threatening situation requires emptying the uterus before fetal viability then I will utilize a medically appropriate method of delivery, including intact D&E.

Though they are certainly complicated, the two cases described by Dr. Darney describe situations that were not initially emergent. This is demonstrated by the use of measures such as dilation of the cervix that required a significant period of time. In addition, the attempt to dilate the cervix with placenta previa and placenta accreta is itself risky and can lead to life-threatening hemorrhage. There may be extenuating circumstances in Dr. Darney's patients but most obstetrical physicians would not attempt dilation of the cervix in the presence of these complications. It is my understanding that the proposed partial birth abortion ban already has an exemption for situations that are a threat to the life of the mother. This would certainly allow all measures to be taken if heavy bleeding, infection, or severe preeclampsia required evacuation of the uterus.

The argument for an additional medical exemption is redundant; furthermore, its inclusion in the legislation would make the ban virtually meaningless. Most physicians and citizens recognize that in rare life-threatening situations this gruesome procedure might be necessary. But it is certainly not a procedure that should be used to accomplish abortion in any other situation.

Passage of a ban on partial birth abortion with an exemption only for life-threatening situations is reasonable and just. It is in keeping with long-standing codes of medical ethics and it is also in keeping with the provision of excellent medical care to pregnant women and their unborn children.

Sincerely,

STEVE CALVIN, MD.

REDMOND, WA,  
March 12, 2003.

Hon. RICK SANTORUM:  
U.S. Senate Office Building,  
Washington, DC.

DEAR SENATOR SANTORUM: The purpose of this letter is to counter the letter of Dr. Philip Darney, M.D. to Senator Diane Feinstein and to refute claims of a need for an exemption based on the health of the mother in the bill to restrict "partial birth abortion."

I am board certified in Maternal-Fetal Medicine as well as Obstetrics and Gynecology and have over 20 years of experience, 17 of which have been in maternal-fetal medicine. Those of us in maternal-fetal medicine are asked to provide care for complicated, high-risk pregnancies and often take care of women with medical complications and/or fetal abnormalities.

The procedure under discussion (D&X, or intact dilation and extraction) is similar to a destructive vaginal delivery. Historically such were performed due to the risk of cesarean delivery (also called hysterotomy) prior to the availability of safe anesthetic, antiseptic and antibiotic measures and frequently on a presumably dead baby. Modern medicine has progressed and now provides better medical and surgical options for the obstetrical patient.

The presence of placenta previa (placenta covering the opening of the cervix) in the two cases cited by Dr. Darney placed those mothers at extremely high risk for catastrophic life-threatening hemorrhage with any attempt at vaginal delivery. Bleeding from placenta previa is primarily maternal, not fetal. The physicians are lucky that their interventions in both these cases resulted in living healthy women. I do not

agree that D&X was a necessary option. In fact, a bad outcome would have been indefensible in court. A hysterotomy (caesarean delivery) under controlled non-emergent circumstances with modern anesthesia care would be more certain to avoid disaster when placenta previa occurs in the latter second trimester.

Lastly, but most importantly, there is no excuse for performing the D&X procedure on living fetal patients. Given the time that these physicians spent preparing for their procedures, there is no reason not to have performed a lethal fetal injection which is quickly and easily performed under ultrasound guidance, similar to amniocentesis, and carries minimal maternal risk.

I understand the desire of physicians to keep all therapeutic surgical options open, particularly in life-threatening emergencies. We prefer to discuss the alternatives with our patients and jointly with them develop a plan of care, individualizing techniques, and referring them as necessary to those who will serve the patient with the most skill. Nonetheless I know of no circumstance in my experience and know of no colleague who will state that it is necessary to perform a destructive procedure on a living second trimester fetus when the alternative of intrauterine feticide by injection is available.

Obviously none of this is pleasant. Senator Santorum, I encourage you strongly to work for passage of the bill limiting this barbaric medical procedure, performance of D&X on living fetuses.

Sincerely,

SUSAN E. RUTHERFORD, MD.

UNIVERSITY OF SOUTHERN CALIFORNIA, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,

Los Angeles, CA, March 12, 2003.

Hon. RICK SANTORUM,  
U.S. Senate Office Building,  
Washington, DC.

DEAR SENATOR SANTORUM, I am writing in support of the proposed restrictions on the procedure referred to as "partial birth abortion," which the Senate is now considering.

I am chief of the Division of Maternal-Fetal Medicine in the Department of Obstetrics and Gynecology at the University of Southern California in Los Angeles. I have published more than 100 scientific papers and book chapters regarding complications of pregnancy. I direct the obstetrics service at Los Angeles County Women's and Children's Hospital, the major referral center for complicated obstetric cases among indigent and under-served women in Los Angeles.

I have had occasion to review the cases described by Dr. Philip Darney, offered in support of the position that partial birth abortion, or intact D&E, was the best care for the patient in those situations. Mindful of Dr. Darney's broad experience with surgical abortion, I nevertheless disagree strongly that the approach he describes for these two cases was best under the circumstances. Such cases are infrequent, and there is no single standard for management. However, it would certainly be considered atypical, in my experience, to wait 12 hours to dilate the cervix with laminaria while the patient was actively hemorrhaging, as was described in his first case. Similarly, the approach to presumed placenta accreta, described in the second case, is highly unusual. Although the mother survived with significant morbidity, it is not clear that the novel approach to management of these difficult cases is the safest approach. It is my opinion that the vast majority of physicians confronting either of these cases would opt for careful hysterotomy as the safest means to evacuate the uterus.

Although I do not perform abortions, I have been involved in counseling many women who have considered abortion because of a medical complication of pregnancy. I have not encountered a case in which what has been described as partial birth abortion is the only choice, or even the better choice among alternatives, for managing a given complication of pregnancy.

Thank you for your consideration of this opinion.

Sincerely,

T. MURPHY GOODWIN, M.D.,

Chief, Division of Maternal-Fetal Medicine.

Mr. SANTORUM. Madam President, I ask unanimous consent that a letter from Dr. Daniel J. Wechter be printed in the RECORD.

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

SYNERGYMEDICAL  
EDUCATION ALLIANCE,  
Saginaw, MI, March 13, 2003.

Hon. RICK SANTORUM,  
U.S. Senate Office Building,  
Washington, DC.

DEAR SENATOR SANTORUM, I am writing in response to the letter from Dr. Philip Darney which was introduced by Senator Feinstein.

I have cared for pregnant patient patients for almost 29 years, and have worked exclusively in the field of Maternal-Fetal Medicine (high risk pregnancy) for over 15 years. I am board certified in Obstetrics & Gynecology, and also in the subspecialty of Maternal-Fetal Medicine. I am an assistant professor in Obstetrics & Gynecology for the Michigan State College of Human Medicine, and co-director of Maternal-Fetal Medicine in Saginaw Michigan.

I have never seen a situation in which a partial birth abortion was needed to save a mother's life. I have never had a maternal death, not ever.

I am familiar with Dr. Darney's letter describing two of his cases. My comments are not meant as a criticism of Dr. Darney as a person or as a physician. I have great respect for anyone in our field of medicine, which is a very rewarding specialty but which requires difficult decisions on a daily basis. We are all working to help mothers and their children make it through difficult pregnancies. Still, I do disagree with his stand that the legal freedom to do partial birth abortions is necessary for us to take good care of our patients. For example, in the second case he describes, I believe that patient could have carried the pregnancy much further, and eventually delivered a healthy child by repeat caesarean section followed by hysterectomy. Hemorrhage is always a concern with such patients, but we have many effective ways to handle this problem, which Dr. Darney knows as well as I. Blood vessels can be tied off at surgery, blood vessels can be occluded using small vascular catheters, cell-savers can be used to return the patients own blood to them, blood may be given from donors, pelvic pressure packs can be used for bleeding following hysterectomy, and other blood products (platelets, fresh frozen plasma, etc) can be given to treat coagulation abnormalities (DIC). His approach of placing laminaria to dilate the cervix in a patient with a placenta praevia is not without it's own risk.

If Dr. Darney performed the partial birth abortion on this patient to keep from doing another c-section, or even to preserve her uterus, I'm hopeful he counseled the patient that if she becomes pregnant again, she will once again have a very high risk of having a placenta praevia and placenta accreta.

Lastly, I believe that for some abortionists, the real reason they wish to preserve

their "right" to do partial birth abortions is that at the end of the procedure they have only a dead child to deal with. If they were to abort these women by either inducing their labor (when there is no placenta praevia present), or by doing a hysterotomy (c-section), they then need to deal with a small, living, struggling child—an uncomfortable situation for someone who's intent was to end the child's life.

Sincerely,

DANIEL J. WECHTER, M.D.,  
Co-Director of Maternal-Fetal Medicine,  
Synergy Medical Education Alliance.

Mr. BURNS. Mr. President, the Partial-Birth Abortion Ban Act of 2003 is not about a woman's right to choose to have an abortion. Regardless of one's views on abortion in general, the partial-birth abortion procedure should have no place in a civilized society such as ours. Partial-birth abortion is an undeniably abhorrent procedure, and most physicians believe it is never medically necessary. The American Medical Association, the largest association of doctors in the United States, and the medical community at large, has endorsed banning this late-term abortion procedure. It is time for the Congress to follow suit.

Since 1995, at least 31 States have enacted laws banning partial-birth abortion. On June 28, 2000, the U.S. Supreme Court invalidated a Nebraska statute that prohibited the performance of partial-birth abortions. The Supreme Court determined that the Nebraska statute was unconstitutional because it failed to include an exception to protect the health of the mother, and because the language defining the prohibited procedure was too vague. We must not allow the Partial-Birth Abortion Ban Act to be diluted by amendments that would limit the application of this bill to a time after a child is determined to be viable. Such language would allow this procedure to continue being performed as late as the sixth month of pregnancy. Additionally, such amendments would create loopholes allowing this cruel procedure to be used even as late as the third trimester of pregnancy, a time at which many babies can sustain life outside the womb.

Passing the Partial-Birth Abortion Ban Act would prohibit any physician or other individual from knowingly performing a partial-birth abortion, except when necessary to save the life of a mother who is endangered by a physical disorder, illness, or injury. Experts have estimated that the partial-birth abortion procedure is used 3,000-5,000 times annually, and that the vast majority of these procedures are performed on a healthy mother and a healthy fetus. The Physicians' Ad Hoc Coalition on Truth—PHACT—a group of over 600 physicians-specialists—has spoken out to dispute the claims that some women need partial-birth abortions to avoid serious physical injury. In September 1996, former Surgeon General C. Everett Koop and other PHACT members said:

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.

Banning partial-birth abortion has been addressed in every Congress since the 104th session, and banned in both the 104th and 105th sessions. We now have a President in office who has vowed to sign this Partial-Birth Ban Act when it comes before him without hostile amendments that would allow the continuance of this procedure. It is our moral duty to ban this repulsive practice once and for all, and it is my sincere hope that Congress will be able to finally pass the Partial-Birth Abortion Ban Act of 2003.

Mr. GRASSLEY. Mr. President, I rise today in support for the Partial-Birth Abortion Ban Act of 2003.

As a father of five, a grandfather of nine, and a proud great-grandfather, I regard life as a precious gift. During my tenure in the Congress—that is, since 1974—I have long supported policies that stand up for life and protect the unborn.

We made great strides in the 104th, 105th, and 106th Congresses on banning partial-birth abortions. It was unfortunate that President Clinton vetoed the ban. Not once, but twice.

Then, in 2000, the Supreme Court considered and struck down as unconstitutional the Nebraska State law making partial-birth abortion illegal. In *Stenberg v. Carhart*, the Court believed that the Nebraska law (1) did not contain an exception for the health of a mother, and (2) was too broad and could be construed to cover other types of procedures. The bill before us specifically addresses the Supreme Court's concerns.

I am disappointed and sickened that these abortion procedures are legal in the United States of America. I'm not alone. According to a recent Gallup poll, 70 percent of Americans want a ban.

My constituents want a ban on partial-birth abortions:

A woman from Tabor, IA, wrote, "I'm horrified that under current law, thousands of partial-birth abortions are committed in America every year."

A man from Atlantic, IA wrote, "I believe that when women would see that they would be terminating a life then they would opt 'no' to abortion."

A woman from Nora Springs wrote, "Abortions are actually murder because even though the child may not be out of the womb, it's still developing into a person."

A woman from Waverly, IA, wrote, "Partial-birth abortions are never medically necessary."

A young man in the 6th grade from West Union, IA, wrote, "A child might die, and in the future that small child could grow up to create a cure for a disease, or be a fireman and save many lives. Just think, you could have been aborted."

It's time for us to stand up against such an extreme medical practice that stops the beating heart of an unborn child.

Most medical professionals would agree that this specific abortion procedure is outrageous. In fact, the American Medical Association supported a ban in 1999.

You will hear many on the other side argue about a woman's health and reproductive rights. As the bill states, 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. His testimony waters down their theory that this procedure is necessary in certain situations to preserve the mother's health.

If we know that the procedure can pose a threat to both a woman's immediate health and future reproductive capacity, why do you want to expose women to the risks?

Condoning partial-birth abortion is bad medicine, and bad policy.

When abortion advocates say that abortion is a matter just between a woman and her doctor, they are rejecting the rights of an innocent human being.

The unborn baby is alive from the moment of fertilization, the unborn baby has a heartbeat at 3 weeks and brain waves at 6 weeks, the unborn baby has 46 chromosomes in the cells of his or her body, the unborn baby is a living human being.

Dr. Seuss said it just right: A person is a person, no matter how small.

Let's pass this bill to protect the innocent and unborn.

Mr. CORZINE. Mr. President, I rise in opposition to this legislation because I believe it is unconstitutional, and because its language is so broad that it effectively would ban standard and safe abortion procedures. I am concerned that, if approved, this bill would not only undermine a woman's right to choose, but it would endanger the lives of thousands of women who no longer would have access to safe abortion procedures when their health or their life is in jeopardy.

Before I go further, let me say that I fully understand the very real and legitimate concerns of those who support this legislation. The issue of abortion raises the most profound of moral and ethical dilemmas. These are emotional issues. They raise many hard questions. And the practical reality of abortion, all types of abortion, is hard for all involved.

Speaking for myself, I support a woman's right to choose. And I support it strongly. As I see it, a decision about abortion generally should be made by a woman and her doctor, not by politicians.

Having said that, I recognize that men and women of good faith can and will reach different conclusions about the difficult ethical questions involved in the debate on this legislation. And, I share concerns raised by many bill proponents about some of the most disturbing examples of procedures con-

ducted post-viability. That's why I intend to support an amendment to restrict such procedures. The legislation I am supporting, however, is much more carefully crafted than the underlying bill, and it complies with the constitution by providing an exception where the health of the woman is at stake.

While I understand the genuine concerns of many advocates for this legislation, the language of the bill actually goes well beyond a ban on late-term abortions. In fact, its real effect would be to deny women's access to some of the safest abortion procedures at all stages of pregnancy. Because the legislation omits any mention of fetal viability, it bans abortions throughout all stages of pregnancy. And it bans one of the safest abortion methods—the "intact D&E"—that is used when a woman's life and health are in danger and for severe fetal anomalies.

I hope my colleagues will think long and hard about the implications of the legislation before us. We need to be very careful to avoid returning to a period in which abortion was illegal and the only choice women had was to seek an illegal and unsafe abortion. In those days, thousands of women died each year as a direct result of these legal prohibitions. And it would be tragic if this Congress were to forget the lessons of that history.

It also would be unconstitutional. In *Roe v. Wade*, the Supreme Court held that a woman has the right to choose legal abortion until fetal viability. States have the authority to ban abortion post-viability, so long as exceptions are made to protect a woman's life and health. And, indeed, 41 States have chosen to ban postviability abortions in instances in which a woman's life and health are not at stake. But, under no circumstances do the Congress or the States have the authority to ban medical procedures that are essential to preserving a woman's life or health, nor do they have the authority to completely ban access to abortion previability. This is a constitutionally protected right.

Unfortunately, the majority leader has brought to the Senate floor an abortion ban that has been struck down by courts in 21 States, including my State of New Jersey, and the Supreme Court. Based on that precedent, there is little doubt that, if this bill is enacted, it also will be struck down, and therefore it won't reduce the number of abortions at all. It makes you wonder: Why are we even spending our time debating this legislation?

If we really are interested in reducing the number of abortions in this country, we should ensure that all women have access to the full array of family planning services, including prescription contraception, emergency contraception, and prenatal care. We also should support an expansion of comprehensive sex education. I fully support the amendment offered by Senator MURRAY and REID that would have addressed these issues.

Every week, 8,500 children in our country are born to mothers who lacked access to prenatal care. Too many of these children are born with serious health problems because their mothers lacked adequate care during their pregnancies. As a result, 28,000 infants die each year in the United States. That, Mr. President, is the real tragedy. And we ought to act immediately to address this issue by expanding access to prenatal care, as several of my colleagues and I have proposed.

What we should not do, however, is pass legislation that we know is unconstitutional, that would ban a common and safe form of abortion at all stages of pregnancy, and that would increase maternal mortality—all without improving the health of a single child.

For these reasons, I urge my colleagues to oppose this bill.

I ask unanimous consent to print in the RECORD two letters, one from Physicians for Reproductive Choice and Health, and the other from Mr. Felicia Stewart, Professor of Obstetrics and Gynecology at the University of California. I believe these letters describe better than I the important medical reasons for voting against this bill.

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

PHYSICIANS FOR REPRODUCTIVE  
CHOICE AND HEALTH,  
New York, NY, March 12, 2003.

Hon. JON S. CORZINE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR CORZINE: We are writing to urge you to stand in defense of women's reproductive health and vote against S.3, legislation regarding so-called "partial birth" abortion.

We are practicing family physicians; obstetrician-gynecologists; academics in obstetrics, gynecology and women's health; and a variety of other specialties in medicine. We believe it is imperative that those who perform terminations and manage the pre- and post-operative care of women receiving abortions are given a voice in a debate that has largely ignored the two groups whose lives would be most affected by this legislation: physicians and patients.

It is misguided and unprincipled for lawmakers to legislate decision-making in medicine. We all want safe and effective medical procedures for women; on that there is no dispute. However, the business of medicine is not always palatable to those who do not practice it on a regular basis. The description of a number of procedures—from liposuction to cardiac surgery—may seem distasteful to some, and even repugnant to others. When physicians analyze and refine surgical techniques, it is always for the best interest of the patient. The risk of death associated with childbirth is about 11 times as high as that associated with abortion. Abortion is proven to be one of the safest procedures in medicine, significantly safer than childbirth, and in fact saves women's lives.

While we can argue as to why this legislation is dangerous, deceptive and unconstitutional—and it is—the fact of the matter is that the text of the bill is so vague and misleading that there is a great need to correct the misconceptions around abortion safety and technique. It is wrong to assume that a specific procedure is never needed; what is required is the safest option for the patient, and that varies from case to case.

#### THE FACTS

(1) So-called "partial birth" abortion does not exist.

There is no mention of term "partial birth" abortion in any medical literature. Physicians are never taught a technique called "partial birth" abortion and therefore are unable to medically define the procedure.

What is described in the legislation, however, could ban all abortions. "What this bill describes, albeit in non-medical terms, can be interpreted as any abortion," stated one of our physician members. "Medicine is an art as much as it is a science; although there is a standard of care, each procedure—and indeed each woman—is different. The wording here could apply to any abortion patient." The bill's language is too vague to be useful; in fact, it is so vague as to be harmful. It is intentionally unclear and deceptive.

(2) Physicians need to have all medical options available in order to provide the best medical care possible.

Tying the hands of physicians endangers the health of patients. It is unethical and dangerous for legislators to dictate the details of specific surgical procedures. Until a surgeon examines the patient, she does not necessarily know which technique or procedure would be in the patient's best interest. Banning procedures puts women's health at risk.

(3) Politicians should not legislate medical decision-making.

To do so would violate the sanctity and legality of the physician-patient relationship. The right to have an abortion is constitutionally-protected. To falsify scientific evidence in an attempt to deny women that right is unconscionable and dangerous.

The American College of Obstetricians and Gynecologists, representing 45,000 ob-gyns, agrees: "The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous."

The American Medical Women's Association, representing 10,000 female physicians, is opposed to an abortion ban because it "represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients."

#### THE SCIENCE

We know that there is no such technique as "partial birth" abortion, and we believe this legislation is a thinly-veiled attempt to outlaw all abortions. Those supporting this legislation seem to want to confuse both legislators and the public about which abortion procedures are actually used. Since the greatest confusion seems to center around techniques that are used after the first trimester, we will address those: dilation and evacuation (D&E), dilation and extraction (D&X), instillation, hysterectomy and hysterotomy (commonly known as a c-section).

Dilation and evacuation (D&E) is the standard approach for second-trimester abortions. The D&E is similar to first-trimester vacuum aspiration except that the cervix must be further dilated because surgical instruments are used. Morbidity and mortality studies indicate D&E is preferable to labor induction methods (instillation), hysterotomy and hysterectomy because of issues regarding complications and safety.

From the years 1972-76, labor induction procedures carried a maternal mortality rate of 16.5 (note: all numbers listed are out of 100,000); the corresponding rate for D&E was 10.4. From 1977-82, labor induction fell to 6.8, but D&E dropped to 3.3. From 1983-87, induction methods had a 3.5 mortality rate, while D&E fell to 2.9. Although the difference between the methods shrank by the mid-1980s, the use of D&E had already quickly outpaced induction.

Morbidity trends indicate that dilation and evacuation is much safer than labor induction procedures and for women with certain medical conditions, labor induction can pose serious risks. Rates of major complications from labor induction, including bleeding, infections, and unnecessary surgery, were at least twice as high as those from D&E. There are instances of women who, after having failed inductions, acquired infections necessitating emergency D&Es as a last resort. Hysterotomy and hysterectomy, moreover, carry a mortality rate seven times that of induction techniques and ten times that of D&E.

There is a psychological component which makes D&E preferable to labor induction; undergoing difficult, expensive and painful labor for up to two days can be extremely emotionally and psychologically difficult, much more so than a surgical procedure that can be done in less than an hour under general or local anesthesia. Furthermore, labor induction does not always work: Between 15 and 30 percent or more of cases require surgery to complete the procedure. There is no question that D&E is the safest method of second-trimester abortion.

There is also a technique known as dilation and extraction (D&X). There is a limited medical literature on D&X because it is an uncommonly used variant of D&X. However, it is sometimes a physician's preferred method of termination for a number of reasons: It offers a woman the chance to see the intact outcome of a desired pregnancy, to speed up the grieving process; it provides a greater chance of acquiring valuable information regarding hereditary illness or fetal anomaly; and D&E provides a decreased risk of injury to the woman, as the procedure is quicker than induction and involves less use of sharp instruments in the uterus, providing a decreased chance of uterine perforations or tears and cervical lacerations. The American College of Obstetricians and Gynecologists addressed this in their statement in opposition to so-called "partial birth" abortion when they said that D&X "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based on the woman's particular circumstances, can make this decision."

It is important to note that these procedures are used at varying gestational ages, both D&E and D&X are options for surgical abortion prior to viability. D&E and D&X are used solely based on the size of the fetus, the health of the woman, and the physician's judgment, and the decision regarding which procedure to use is done on a case-by-case basis.

#### THE LEGISLATION

Because this legislation is so vague, it would outlaw D&E and D&X (and arguably techniques used in the first trimester). Indeed, the Congressional findings—which go into detail, albeit in non-medical terms—do not remotely correlate with the language of the bill. This legislation is reckless. The outcome of its passage would undoubtedly be countless deaths and irreversible damage to thousands of women and families. We can safely assert that without D&E and D&X, that is, an enactment of S. 3, we will be returning to the days when an unwanted pregnancy led women to death through illegal and unsafe procedures, self-inflicted abortions, uncontrollable infections and suicide.

The cadre of physicians who provide abortions should be honored, not vilified. They are heroes to millions of women, offering the opportunity of choice and freedom. We urge you to consider scientific data rather than partisan rhetoric when voting on such far-

reaching public health legislation. We strongly oppose legislation intended to ban so-called "partial birth" abortion.

Sincerely,

Nassim Assefi, MD, Attending, Women's Clinic and Adult Medicine, Harborview Medical Center, Seattle, WA.

Jonathan D. Berman, MD, Columbia River Mental Health Services, Vancouver, WA.

Elizabeth Bianchi, MD, Spokane, WA.

Paul D. Blumenthal, MD, MPH, Associate Professor, Department of Gynecology and Obstetrics, Johns Hopkins University, Director, Contraceptive Research and Programs, Johns Hopkins Bayview Medical Center, Baltimore, MD.

Fredrik F. Broekhuizen, MD, Professor Obstetrics and Gynecology, Medical College of Wisconsin, Madison, WI.

Herbert Brown, MD, Clinical Associate Professor, Obstetrics and Gynecology, University of Texas Health Science Center at San Antonio, San Antonio, TX.

Wendy Chavkin, MD, MPH, Professor of Clinical Public Health and Ob-Gyn, Columbia University, School of Public Health.

Philip A. Corfman, MD, Consultant in Reproductive Health, Bethesda, MD.

Anne R. Davis, MD, MPH, Assistant Clinical Professor of Obstetrics and Gynecology, Columbia College of Physicians and Surgeons, Columbia University, New York, NY.

Quentin B. Deming, MD, Jacob A. and Jeanne E. Barkey, Professor of Medicine, Emeritus, Albert Einstein College of Medicine, New York, NY.

Paul M. Fine, MD, Medical Director, Planned Parenthood of Houston and Southeast Texas, Houston, TX.

Marilynn C. Frederiksen, MD, Associate Professor of Obstetrics and Gynecology, Northwestern University Medical School, Chicago, IL.

Susan George, MD, Family Physician, Portland, ME.

Richard W. Grady, MD, Assistant Professor, Children's Hospital and Regional Medical Center, Seattle, WA.

Laura J. Hart, MD, Alaska Urological Associates, Seattle, WA.

Paula J. Adams Hillard, MD, Professor, OB-Gyn and Pediatrics, University of Cincinnati College of Medicine, Cincinnati, OH.

Sarah Hufbauer, MD, Country Doctor Community Clinic, Seattle, WA.

Robert L. Johnson, MD, FAAP, Pediatrician and Adolescent Medicine Specialist, Orange, NJ.

Harry S. Jonas, MD, Past President, The American College of Obstetricians and Gynecologists, Lee's Summit, MO.

Deborah E. Klein, MD, Swedish Physician Division, Seattle, WA.

Julie Komarow, MD, Covington Primary Care, Covington, WA.

Kim Leatham, MD, Clinical Instructor, University of Washington, Dept. of Family Medicine, Medical Director, Virginia Mason Winslow, Bainbridge Island, WA.

David A. Levine, MD, Associate Professor of Clinical Pediatrics, Morehouse School of Medicine, Atlanta, GA.

Sara Buchdahl Levine, MD, MPH, Resident, Social Pediatrics, Children's Hospital at Montefiore, Bronx, NY.

Scott T. McIntyre, MD, Seattle Family Medicine, Aurora Medical Services, Planned Parenthood of Western Washington Medical Advisory Committee, Seattle, WA.

Catherine P. McKegney, MD, MS, Hennepin County Medical Director, Department of Family Practice, Minneapolis, MN.

Deborah Oyer, MD, Medical Director, Aurora Medical Services, Clinical Assistant Professor in Family Medicine, University of Washington, Seattle, WA.

Warren H. Pearse, MD, Ob/Gyn, Mitchellville, MD.

Natalie E. Roche, MD, Assistant Professor of Obstetrics and Gynecology, New Jersey Medical College, Newark, NJ.

Roger A. Rosenblatt, MD, MPH, Professor and Vice Chair, Department of Family Medicine, Rural Underserved Opportunity Program Director—School of Medicine University of Washington School of Medicine Seattle, WA.

Courtney Schreiber, MD, Chief Resident, Obstetrics and Gynecology, University of Pennsylvania Health System, Philadelphia, PA.

Jody Steinauer, MD, Clinical Fellow, Dept. of Obstetrics, Gynecology and Reproductive Sciences, University of California, San Francisco, CA.

Steven B. Tamarin, MD, St. Luke's/Roosevelt Medical Center, Attending Assistant, Department of Pediatrics, New York, NY.

Katherine Van Kessel, MD, Attending Physician, Harborview Medical Center, Department of OB/Gyn, University of Washington Medical Center, Seattle, WA.

Gerson Weiss, MD, Professor and Chair, Department of Obstetrics, Gynecology and Women's Health, New Jersey Medical College, Newark, NJ.

Beverly Winikoff, MD, MPH, President, Gynuity Health Projects, New York, NY.

And the board of Physicians for Reproductive Choice and Health.

MARCH 5, 2003.

Hon. BARBARA BOXER,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BOXER: I understand that you will be considering Senate S. 3, the ban on abortion procedures, soon and would like to offer some medical information that may assist you in your efforts. Important stakes for women's health are involved: if Congress enacts such a sweeping ban, the result could effectively ban safe and common, pre-viability abortion procedures.

By way of background, I am an adjunct professor in the Department of Obstetrics, Gynecology and Reproductive Sciences at the University of California, San Francisco, where I co-direct the Center for Reproductive Health Research and Policy. Formerly, I directed the Reproductive Health program for the Henry J. Kaiser Family Foundation and served as Deputy Assistant Secretary for Population Affairs for the United States Department of Health and Human Services. I represented the United States at the International Conference on Population and Development (ICPD) in Cairo, Egypt, and currently serve on a number of Boards for organizations that promote emergency contraception and new contraceptive technologies, and support reducing teen pregnancy. My medical and policy areas of expertise are in the family planning and reproductive health, prevention of sexually transmitted infections including HIV/AIDS, and enhancing international and family planning.

The proposed ban on abortion procedures criminalizes abortions in which the provider "deliberately and intentionally vaginally delivers a living fetus . . . for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus . . ." The criminal ban being considered is flawed in a number of respects:

It fails to protect women's health by omitting an exception for women's health;

It menaces medical practice with the threat of criminal prosecution;

It encompasses a range of abortion procedures; and

It leaves women in need of second trimester abortions with far less safe medical options: hysterotomy (similar to a caesarean section) and hysterectomy.

The proposed ban would potentially encompass several abortion methods, including

dilation and extraction (d&x, sometimes referred to as "inact d&e), dilation and evacuation (d&e), the most common second-trimester procedure. In addition, such a ban could also apply to induction methods. Even if a physician is using induction as the primary method for abortion, he or she may not be able to assure that the procedure could be effected without running afoul of the proposed ban. A likely outcome if this legislation is enacted and enforced is that physicians will fear criminal prosecution for any second trimester abortion—and women will have no choice but to carry pregnancies to term despite the risks to their health. It would be a sad day for medicine if Congress decides that hysterotomy, hysterectomy, or unsafe continuation of pregnancy are women's only available options. Williams Obstetrics, one of the leading medical texts in Obstetrics and Gynecology, has this to say about the hysterotomy "option" that the bill leaves open: "Nottage and Liston (1975), based on review of 700 hysterotomies, rightfully concluded that the operation is outdated as a routine method for terminating pregnancy." (Cunningham and McDonald, et al, Williams Obstetrics, 19th ed., (1993), p. 663.)

Obviously, allowing women to have a hysterectomy means that Congress is authorizing women to have an abortion at the price of their future fertility, and with the added risks and costs of major surgery. In sum, the options left are less safe for women who need an abortion after the first trimester of pregnancy.

I'd like to focus my attention on that subset of the women affected by this bill who face grievous underlying medical conditions. To be sure, these are not the majority of women who will be affected by this legislation, but the grave health conditions that could be worsened by this bill illustrate how sweeping the legislation is.

Take for instance women who face hypertensive disorders such as eclampsia—convulsions precipitated by pregnancy-induced or aggravated hypertension (high blood pressure). This, along with infection and hemorrhage, is one of the most common causes of maternal death. With eclampsia, the kidneys and liver may be affected, and in some cases, if the woman is not provided an abortion, her liver could rupture, she could suffer a stroke, brain damage, or coma. Hypertensive disorders are conditions that can develop over time or spiral out of control in short order, and doctors must be given the latitude to terminate a pregnancy if necessary in the safest possible manner.

If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible for some women who have underlying medical conditions necessitating a termination of their pregnancies, including: death (risk of death higher with less safe abortion methods), infertility, paralysis, coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

Legislation forcing doctors to forego medically indicated abortions or to use less safe but politically-palatable procedures is simply unacceptable for women's health.

Thank you very much, Senator, for your efforts to educate your colleagues about the implications of the proposed ban on abortion procedures.

Sincerely,

FELICIA H. STEWART, M.D.

Mr. SANTORUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.



The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "no".

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 51 Leg.]

#### YEAS—64

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Carper	Hollings	Smith
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Johnson	Sununu
Conrad	Kyl	Talent
Cornyn	Landrieu	Thomas
Craig	Leahy	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	
DeWine	Lugar	

#### NAYS—33

Akaka	Durbin	Lieberman
Baucus	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Cantwell	Harkin	Reed
Chafee	Inouye	Rockefeller
Clinton	Jeffords	Sarbanes
Collins	Kennedy	Schumer
Corzine	Kohl	Snowe
Dayton	Lautenberg	Stabenow
Dodd	Levin	Wyden

#### NOT VOTING—3

Biden	Edwards	Kerry
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#### CHANGE OF VOTE

Mr. DURBIN. Madam President, on the previous rollcall vote on S. 3, I inadvertently cast a vote I did not intend to cast. On rollcall vote No. 51, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is ordered.

(The foregoing tally has been changed to reflect the above order.)

The bill (S. 3), as amended, was passed, as follows:

#### S. 3

*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 2003".

#### 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.* (46 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, 105th, and 107th 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, 105th, and 107th 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, abortion, 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 date of enactment of this chapter.

"(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".**  
**SEC. 4. SENSE OF THE SENATE CONCERNING ROE V. WADE.**

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

Mr. SANTORUM. I move to reconsider the vote.

Mr. ROBERTS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Madam President, I rise today to applaud this body for passing S. 3, the Partial-Birth Abortion Ban Act of 2003. I know the people of my home State of Utah share my sentiments because they recognize, as I do, that the practice of partial-birth abortion is immoral, offensive and impossible to justify. This procedure is so heinous that even many that consider themselves pro-choice cannot defend it.

While we have passed a similar measure before, it was never certain to be signed into law. Today it is. It saddens me that this legislation was even necessary, and even more that it took 7 years to achieve. I thank the Senator from Pennsylvania for his outstanding leadership in bringing this about. I hope he knows he has my admiration and respect.

Basic human decency has prevailed. I pray that never again will it be legal in this country to perform this barbaric procedure. Unfortunately, I am sure that opponents of this measure will seek to challenge the law in court—where I hope good judgment will ultimately prevail. Even in *Stenberg v. Carhart* the Supreme Court confirmed, and I quote, "By no means must physicians [be granted] 'unfettered discretion' in their selection of abortion methods."

There are those who consider every type of abortion sacrosanct and will oppose any effort to apply common-sense reasoning to the debate. I don't know how to get through to these people, except by forcing them to witness this barbaric procedure. A baby is almost fully delivered with only her head remaining inside the birth canal when the doctor stabs scissors into the base of her skull to open a hole through which he then sucks out her brain and collapses her skull. I honestly don't know how anyone can avoid being truly sickened when they see a baby being killed in this gruesome manner. It is not done on a mass of tissue but to a living baby capable of feeling pain and, at the time this procedure is typically performed, capable of living outside of the womb.

All this bill would do is ban this one procedure. We are not talking about the entire framework of abortion rights here, but just one procedure. The fact is that there is no medical need to allow this type of procedure. It is never medically necessary, it is never the safest procedure available, and it is morally reprehensible and unconscionable.

In recent years, we have heard about teenaged girls giving birth and then dumping their newborns into trash cans. One young woman was criminally charged after giving birth to a child in a bathroom stall during her prom, and then strangling and suffocating her child before leaving the body in the trash. Tragically, there have been several similar incidents around the country in the past few years.

This is what happens, when we continue to devalue human life.

William Raspberry argued in a column in the *Washington Post* several years ago that "only a short distance [exists] between what [these teenagers] have been sentenced for doing and what doctors get paid to do." How right he is.

When you think about it, it's incredible that there is a mere 3 inches separating a partial-birth abortion from murder.

Partial-birth abortion simply has no place in our society and rightly should be banned. President Bush has described partial-birth abortion as "an abhorrent procedure that offends human dignity." I wholeheartedly agree.

Mr. DASCHLE. Madam President, few issues divide our country more markedly than the issue of abortion.

This debate is a difficult one, and I commend those on both sides of the issue who have given their time on the floor to express their very deeply held views on this matter. While the debate has had some unfortunate low points, it has also had some very high ones.

In particular, I commend those on the Democratic side Senators BOXER, MURRAY, DURBIN, HARKIN, and FEINSTEIN—who have helped manage the floor this week. Each of them has worked diligently to ensure these difficult issues were given the honest, constructive attention they deserve. I know very well how thankless that job can be, and I am grateful for their efforts.

I am personally opposed to abortion, and I oppose Federal funding of abortion except in cases of rape, incest, or medical necessity. Far too many abortions are performed in this country, and I want to do everything reasonable to discourage abortion.

That is why I support efforts to facilitate and promote adoption as an alternative to abortion, and that is why I support voluntary family planning, including improved access to contraception and research on improved contraceptive options for both men and women. That is why I supported Senator MURRAY's amendment.

Every abortion is a tragedy. But I recognize that there are extraordinary medical circumstances that make abortion necessary to save the mother's life or prevent grave harm to her health.

I also recognize and respect the Supreme Court's clear message on abortion stated first in the landmark *Roe v. Wade* decision and later in *Planned Parenthood v. Casey*.

The Court consistently upheld two basic tenets. First, before the stage of fetal viability—when the fetus is capable of living outside the womb with or without life support—a woman has a constitutional right to choose whether or not to terminate her pregnancy. Second, a woman's health must be protected throughout her pregnancy.

The Court has not, as the junior Senator from Pennsylvania has wrongly suggested, endorsed "abortion anywhere at any time." In *Casey*, the Court clearly drew a distinction between abortions performed before fetal viability and those performed after viability, clearly allowing the Government to restrict abortion after fetal viability.

While I am deeply troubled by the procedure described in S. 3, and voted again to ban it, I have real concerns that S. 3 is not the most effective means of limiting the late-term abortions the bill's sponsors claim to target.

Like many of my colleagues, I would prefer to ban all post-viability abortions, regardless of the procedure used. In 1997, in an effort to find a constitutional compromise that would actually stop far more abortions than the bill we have been debating today, I offered

a broader ban much like the one offered by the Senator from Illinois yesterday.

The Durbin amendment, like the earlier Daschle amendment, banned all post-viability abortions, allowing an exception only if an abortion is absolutely necessary to protect the mother.

An ironic fact that the sponsors of S. 3 don't readily acknowledge is that, if their statements are accurate, S. 3 will not stop a single abortion. In contrast, the Durbin amendment would stop all post-viability abortions except those that are absolutely medically necessary. This may seem counterintuitive, so let me explain why this is true.

The sponsors of S. 3 answer the Supreme Court's concern that their legislation is too vague to meet constitutional muster by claiming that their legislation bans only one procedure and that it is clearly defined. They also claim that the ban does not restrict a woman's Court-affirmed right to choose because all other abortion procedures are allowed under S. 3. Finally, they claim their legislation avoids the Court's concerns about protecting the life and health of the mother because the procedure described in their legislation is never necessary to protect the mother; thus, other available procedures could be employed interchangeably.

If all those statements are true and I confess I am not confident that they are—then S. 3 will not stop a single abortion; it will merely cause women and doctors to choose a different abortion procedure. While I am deeply disturbed by this procedure, I oppose any unnecessary abortion once a fetus becomes viable.

If our true desire is to protect viable fetuses whenever possible, I think we can do better than S. 3.

An across-the-board ban on all post-viability procedures with a constitutional life and health exception is the only way to achieve that broader goal, and I deeply regret that the Senate has yet again failed to do so. It is a principle that would win the support of the American people and the Supreme Court, and it would actually reduce the number of abortions in this country. Yesterday's outcome is one I will never understand.

There is yet another reason S. 3 may fail to meet its objective. The Supreme Court has struck down what many experts claim is a "legally identical" bill, the Nebraska law banning this procedure. In previous Congresses, I have expressed my concern that this legislation may not withstand an inevitable constitutional challenge.

Now that the Court has ruled in the Nebraska case, that concern is even greater. But the sponsors of this bill have chosen to take that gamble, claiming their "20 word changes" have resolved the constitutional concerns. Those 20 words, by the way, are allegedly powerful enough to change the outcome in the Supreme Court, but not significant enough to merit a hearing in the Judiciary Committee.

If the sponsors of S. 3 are wrong, then this week's exercise will serve only to delay meaningful progress toward restrictions on not only this procedure, but all post-viability abortions. It will also fuel the unnecessary bitterness surrounding this debate.

At this point, it is my hope that this Senate bill will go quickly to the President so that the Supreme Court can rule on it. If the Court strikes it down, then I hope people on both sides of this issue will be willing to work together to stop all post-viability abortions except those that are absolutely necessary to protect a woman's life and health.

Finally, I want to say a few words about the women whose lives are impacted by our actions this week. One of the saddest aspects of this debate is the suggestion that countless women, for frivolous reasons, are choosing unnecessary abortions in the last few weeks of their pregnancies. That just isn't true.

Anyone willing to listen has heard the tragic stories of women and families who have had to terminate their pregnancies either because their own health was threatened, or their child was the victim of severe fetal anomalies often inconsistent with life outside the womb. These are not unwanted pregnancies, and these are not abortions of convenience.

Regardless of one's ultimate decision on this legislation, I hope that in the future the Senate will show greater respect for these women and the tragic circumstances they have faced. As they have so poignantly said, you or someone you love could face similar circumstances, and you would deserve better than these women and their families have gotten.

Mr. HARKIN. Madam President, I wanted to discuss my votes on S. 3 and its amendments. I have long supported a ban on late term abortions. However, S. 3 would not do that because it would be struck down by the U.S. Supreme Court because it does not contain a health exception. Both in 1973 and in 2001, the Supreme Court ruled that a government may regulate late term abortions with an exception to both life and health of the woman. The Court specifically ruled in the 2001 decision in *Carhart*—that Nebraska's law was too vague and did not contain the required health exception. Therefore, I supported the amendments offered by Senator FEINSTEIN and Senator DURBIN to ban late term abortions because they both contained the requisite health exceptions, and which I believe the Supreme Court would uphold.

I am also pleased the Senate passed my amendment, 52 to 46, affirming *Roe v. Wade*. A woman's constitutional right to make a private decision in these matters is no more negotiable than the freedom to speak or the freedom to worship. As a father, I have struggled with this issue. However, I do not believe that it is appropriate to insist that my personal views be the law of the land.

So what should Congress do? Pass a late term abortion ban that the Supreme Court will uphold; increase funding for family planning and abstinence-only education and mandate insurance coverage for contraception. All of these fall within the rules under *Roe v. Wade*—that established a woman's fundamental right to choose.

Mr. DODD. Mr. President, the Senate had an opportunity this week to find common ground on an issue that has too often been an ideological battleground: abortion.

As the Senate debated the partial Birth Abortion Ban Act of 2003, I co-sponsored a bipartisan amendment authored by Senator Durbin that could have actually reduced the number of abortions in our country while at the same time protecting a woman's life, health, and her constitutional right to choose. While the amendment was defeated, I remain hopeful that it will ultimately prevail someday as the most sound and moderate approach to addressing the troubling issue of late-term abortions.

The Durbin amendment struck a reasonable middle-ground approach on an issue that has frequently been dominated by the extremes. There are those who would universally ban all abortions. Others would universally allow all abortions. I respect the views of the people in each camp, but I disagree with them both.

Abortions ought to be legal, safe, and rare. That is my fundamental view, and it's the view that the Supreme Court has affirmed and reaffirmed for the past three decades since its decision in *Roe vs. Wade*. Abortions have never been—and should not be—available at any time for any reason. As *Roe* held, once a fetus achieves the point of viability, abortions may be regulated, but States must allow abortions to preserve a woman's life or health.

Forty-one States have already enshrined this standard, or one like it, into their State statutes. The Durbin amendment would have written it into Federal law. It would have respected a woman's constitutional right to choose while appropriately curbing choice after the point of viability where abortions are only necessary to preserve a woman's life or health.

This proposal was reasonable, it was constitutional and sensitive to the wrenching circumstances that families typically face when they must contemplate a late-term abortion. Unfortunately, it was adamantly opposed by those seeking a ban on so-called partial-birth abortions. Their proposal had two serious flaws that made it impossible for me to support.

First, the ban on partial-birth abortions bans just one medical procedure. It will not stop all late-term abortions from being performed, because an alternative procedure might be found. The Durbin amendment, on the other hand, would have limited all constitutionally-unprotected abortions without regard to a specific procedure. Why?

Because the wisdom of using a given medical procedure is best left with medical professionals. We are legislators, not doctors.

Second, the partial-birth ban contained in this legislation will not protect a woman's health. The few women who might require this procedure to protect their health from severe injury will be completely barred from receiving it. A pregnancy gone awry is a tragedy. The partial-birth abortion ban will only compound that tragedy by forcing a woman to forego a safer procedure.

The partial-birth abortion ban, as its supporters readily admit, is intended not to find common ground and reduce unnecessary abortions, but to lead to a ban of any and all abortions in America—regardless of whether they are needed to protect a woman's life and health. I find this argument simply unacceptable and blatantly unconstitutional in light of *Roe vs. Wade*. Therefore, it is for this reason and the reasons stated above that I voted against final passage of the Partial Birth Abortion Ban Act of 2003.

While the Durbin amendment would not have ended the national debate over abortion, it respected the deeply held views of people on both sides of this issue. It offered the Senate and our country an opportunity—not to debate our differences, but to affirm our similarities. It would have allowed us to come together in a bipartisan fashion, pro-life and pro-choice—and offer something that would have reduced the number of abortions while preserving a woman's life, health and constitutional freedom.

Mr. ROCKEFELLER. Mr. President, I want to talk about the debate in the Senate this week regarding late-term abortion. I am a strong opponent of late-term abortions, and I know many Americans find them as deeply troubling as I do.

As I have done in the past, I voted this week to support a comprehensive ban on late-term abortions. The comprehensive ban I supported—offered as an amendment by Senator DURBIN would have put an end to all late-term post-viability abortions, unlike Senator SANTORUM's proposal, including but not limited to those performed using the procedure known as "partial birth." The Durbin ban also would have included a very narrow exception for the rare case when a woman's life or health is threatened by a troubled pregnancy, as required by the United States Supreme Court and the Constitution.

I want to end unnecessary late-term abortions, and I also agree with the Supreme Court that it is not right for a woman who faces grievous injury, or even death, to have no protection under the law. In those rare cases of a serious threat to a woman's life or health, the Durbin amendment would have allowed the woman, her family and no less than two physicians to pursue the best medical options. Except in

an emergency, the two physicians—to include her attending physician and an independent non-treating physician—would have been required to certify in writing that in their medical judgment continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Grievous injury was carefully defined as a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy, or an inability to provide necessary treatment for a life-threatening condition.

I want to emphasize that if we are serious about ending the practice of late-term abortions then we must pass a law that will be upheld by our courts. The U.S. Supreme Court has been quite clear that to be deemed constitutional, any law banning late-term abortions must be narrowly focused and must include an exception for the health of the mother. Several previous bans ignored these tests and were struck down, and consequently there has been no end to this troubling practice. Senator SANTORUM's bill does not adequately meet the Court's requirements for constitutionality and will almost surely meet the same fate.

The Durbin amendment, on the other hand, was a clear and comprehensive ban that does comply with the constitutionality tests set forth by the U.S. Supreme Court. It would have ended the practice of late-term abortions, with a narrow exception for protecting a woman from grievous injury to her life or health. In those rare and extraordinarily difficult situations, the Durbin amendment would have ensured that a woman—not by the dictates of the Congress, but with the private counsel of her family, her doctors, and her clergy—makes the final decision.

I deeply regret that a majority of my Senate colleagues did not recognize the Durbin amendment was a more effective ban than Senator SANTORUM's proposal. I continue to hope that in the end we will find a way to enact a comprehensive ban on late-term abortions that meets the demands of the U.S. Supreme Court and Constitution by protecting the life and physical health of the mother in extreme situations.

#### EXECUTIVE SESSION

#### NOMINATION OF THOMAS A. VARLAN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to vote on Executive Calendar No. 53, which the clerk will report.

The legislative clerk read the nomination of Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Mr. HATCH. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 52 Ex.]

YEAS—97

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	
Dodd	Lott	

NOT VOTING—3

Biden Edwards Kerry

The nomination was confirmed.

Mr. HATCH. Madam President, I am pleased the Senate has confirmed Thomas Varlan for the United States District Court for the Eastern District of Tennessee. Mr. Varlan's distinguished record of service in both the private and public sectors makes him a great addition to the Federal bench.

Mr. Varlan graduated Order of the Coif from Vanderbilt University School of Law, where he served as managing editor for the Vanderbilt Law Review. In his 11 years in private practice, Mr. Varlan has focused on governmental relations, civil litigation, labor and employment law, and representation of quasi-governmental corporations and schools.

Mr. Varlan's impressive accomplishments include serving as law director for the city of Knoxville for a decade. In that capacity, he headed a department of 25 employees who represented the city in a variety of cases and provided legal advice to city officials.

Mr. Varlan's wealth of experience has made him an excellent nominee who is well prepared to handle the rigors of the Federal bench. Clearly, Mr. Varlan is the right choice to be a judge in the Eastern District of Tennessee. I am pleased my colleagues joined me in voting to confirm him.

Mr. FRIST. Mr. President, I am in strong support for the confirmation of Thomas Varlan to be a United States District Judge for the Eastern District of Tennessee.

Tom grew up in Knoxville, TN as a second-generation Greek-American. His parents, Alexander and Constance Varlan, instilled in their son the time-honored ideals of commitment to hard work, involvement in the community, and love for country.

He put those ideals to work in his studies of Political Science and Economics at the University of Tennessee in Knoxville, and at Vanderbilt University's School of Law, where he was the managing editor of the Vanderbilt Law Review. From there, Tom practiced law in Atlanta from 1981 to 1987. In 1988, Tom began ten years of service as Law Director for the City of Knoxville where he was responsible for a wide range of legal issues. In this role, Tom demonstrated his keen legal mind and temperament suited to judicial office.

Tom's current position as a partner at Bass, Berry and Sims has enhanced his solid background in the law. Tom Varlan is a skilled attorney who is known for his fairness, integrity and dedication to the law.

Tom has worn many hats in his professional life, but he has never wavered from the ideals that he grew up with. In fact, his nomination fulfills not only the dreams of his first-generation American parents, I believe it epitomizes the American dream as well.

I am convinced that Mr. Varlan will make an ideal judge, and he has my highest recommendation and unqualified support. I urge my colleagues to vote for his confirmation.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business.

The Senator from Illinois.

#### CASTING OF 10,000TH VOTE

Mr. FRIST. Madam President, I wish to announce to my colleagues that a truly impressive milestone was just reached with this last vote. Senator LUGAR, on this vote just announced a few moments ago, cast his 10,000th vote as a U.S. Senator. That is a feat accomplished by just 21 other Senators in the history of this institution, the Senate.

Senator LUGAR's vote places him in the company of a distinguished list of Members which includes eight current Senators: Senators BIDEN, BYRD, DOMENICI, HOLLINGS, INOUE, KENNEDY, LEAHY, and STEVENS.

Most importantly, Senator LUGAR's achievement is a testament of his tremendous service, not only to his home State of Indiana but to the United States of America.

I ask all of my colleagues to join me in congratulating Senator LUGAR for his important milestone.

(Applause.)

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I join the distinguished Republican leader in expressing my heartfelt congratulations to the senior Senator from Indiana, our colleague, DICK LUGAR.

He was sworn in on January 3, 1977. Over the course of these 10,000 votes cast, he has served as the chairman of the Senate Agriculture Committee and now serves as the chairman, as we all know, of the Foreign Relations Committee.

With those 10,000 votes, he has made a major impact on American history. I would be willing to bet that for every vote he has cast, he has made at least one more friend over all of these years. He may be a Republican and I may be a Democrat, but I have never been so appreciative of a relationship as a Senator as I have with Senator LUGAR. He has many more than 10,000 friends since he came to the Senate in 1977. So we congratulate him. We tell him of his great service to this country and our appreciation for that service. We hope that there will be many thousands more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I congratulate our dear colleague, Senator DICK LUGAR from Indiana, for his remarkable service to our country in many ways, not just through his leadership and years and votes in the Senate; prior to his time in the Senate, his service to our country in the U.S. Navy and all the other contributions he has made. It is a remarkable morning for our country to recognize this remarkable individual.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I am overwhelmed by the thoughtfulness and graciousness of both leaders, my friends BILL FRIST and TOM DASCHLE. I thank both of them for those very wonderful comments.

I will take a moment, if I may, to thank some other people, people of Indiana, who made it possible for me to be in the Senate to cast the 10,000 votes, those who gave me their confidence, their support, and their prayers throughout the years.

I especially thank the Lord above for giving me good health throughout that period of time and who made it possible to do this.

I must pay tribute, as we all are doing today, to Lloyd Ogilvie whose personal counsel and support to me and my family during the past 8 years has meant so much.

Of course, behind all of this is the confidence and love of my wife Charlene, our boys, and their wives, who have really sustained me, who said this is something we ought to be doing, a commitment of our time and our lives in a way that has been exciting for me and I hope for them.

My staff has made it possible for me to get to the Chamber for all of these votes. Wherever we are in the country, in Washington or at the airport, each one of us is indebted to staff who tell us when the votes are going to occur and give us some reasonable idea about what is being voted on. I pay tribute to each one of those persons.

I pay tribute to colleagues who have sustained me each day with their loyal friendship, likewise the sheer vigor of the experience. I feel each day it is an adventure, and I am sure that is shared by each of the colleagues who are present today.

I want to mention specifically Senator ROBERT BYRD, who was the majority leader when I first came. One of the reasons my vote total escalated so rapidly was that in 1977 I think Senator BYRD created an all-time record of roll-call votes. I am certain he will remember exactly how many, but I recall there were at least 650, which was a substantial amount for a freshman Senator to start out with. So we have had some money in the bank ever since, thanks to Senator BYRD.

Finally, I want to thank the pages. They have played a very special role in these votes because, as some of my colleagues know, occasionally I go running out on The Mall. On several occasions I have been caught as far away as 14th Street or the Washington Monument when the beeper went off. I had to run swiftly. Fortunately, my pace is sufficient to get the mile and a half back to the Capitol during the time of the vote to scramble up the back stairs, but in a disheveled condition I have prevailed upon the pages to crack open the door, and the reading clerk has been kind enough to read my name so that I can peak through and keep this voting record alive.

So I thank all of you. I appreciate very much this moment today.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Madam President, while the two leaders are in the Chamber, it is my understanding that the leaders

are going to provide an opportunity for people who wish to give statements regarding Pastor Ogilvie—that the chairman of the Appropriations Committee is going to put that in booklet form. So is it fair to announce to everyone that they need not come now to give speeches regarding Pastor Ogilvie, that they will have an opportunity to give a speech later or insert something in the RECORD so Dr. Ogilvie will have all of these in one book?

Mr. FRIST. Madam President, that is correct. There has been an outpouring of feeling for our Chaplain on this very special day, 8 years after he first gave a prayer in this Chamber. With that outpouring of respect, people will be given the opportunity to provide their written statements. Of course, they are welcome to come and make statements, but we are encouraging people to make their written statements part of a permanent book that we will be giving him. We will have morning business and people can come to the Chamber. There will be other morning business conducted as well, but most of the tributes will be going into written form, and we encourage people to do just that.

The PRESIDING OFFICER. Under the previous order, the first 20 minutes shall be equally divided between the Senator from Nebraska and the Senator from North Dakota, with the rest of the time until 11:30 a.m. to be equally divided between the two leaders or their designees.

The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent that during the 20 minutes I be notified when I have consumed 5, after which the Senator from Nebraska will be recognized for 5 minutes, following which the Senator from South Dakota, Mr. JOHNSON, for 5 minutes, following that Senator BROWNBACK from Kansas for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE NEW HOMESTEAD ACT

Mr. DORGAN. Madam President, at a time when there is so much discussion about partisanship, let me describe legislation introduced in the Senate yesterday now called S. 602, which is truly bipartisan. We call it the New Homestead Act. Senator HAGEL, Senator JOHNSON, Senator BROWNBACK, I, and many others, Republicans and Democrats, have introduced legislation to address a very serious problem in the heartland of our country.

I will describe this problem by something a Lutheran minister from New England, ND, told me. She said: In this small town in southwestern North Dakota, in my church I officiate at four funerals for every wedding.

What does that describe? It describes a small town in a rural State where the population is getting older, where they have few young people, few marriages and few births, and where they are suffering from the out-migration of people.

I will describe what is happening in the heartland of America with this chart. The red on this chart shows the rural counties across America that have experienced greater than 10-percent net out-migration over the last 20 years. There is a relentless engine of depopulation in the heartland of our country. It is from North Dakota to Texas in an eggshell shaped form.

My home county is right in the southwestern corner of North Dakota. It is slightly larger than the State of Rhode Island. When I left it, there were 5,000 citizens living in that wonderful county. Now there are 2,700 citizens, and the demographers say by the year 2020 it will have 1,800 citizens. Trying to do business in that county and so many others in the heartland is like doing business in a deep recession.

Nearly a century and a half after we populated the heartland of America by something called the Homestead Act, which said, move here, become a part of this land, and we will give you the land, we are seeing this relentless depopulation. In these areas, we have communities that are wonderful places in which to live. In fact, people aspire to recreate what we have in other parts of the country—strong schools, a great place to raise kids, safe streets, and wonderful communities. Yet, these rural areas are being ravaged by the out-migration of people. It is ruining their economy.

The question is: Should we care? Do we care? Well, when our cities were decaying and America's cities were in trouble, as a national policy we rushed to say, let's save America's cities with the Model Cities Program, an urban renewal program. We pumped significant resources into those cities to save them.

The question now is: Will we save the heartland in our country? Does it matter? S. 602, bipartisan legislation called the New Homestead Act, says it matters.

What the heartland contributes to America is very important. We need to give people the tools to help rebuild their economies in the heartland. That is what our legislation does.

We do not have land to give away anymore. But we say to individuals and businesses, if you stay there, if you come there, if you build there, if you invest there, here are financial incentives for you. We can turn this around. That is what S. 602 is about. S. 602 says to people, it is in your interest to help us rebuild the economies of the States in the heartland.

The New Homestead Act offers tax and other financial rewards for individuals who commit to live and work in high out-migration rural areas. It provides help paying college loans, offers tax credits for home purchases, protects home values, and establishes Individual Homestead Accounts, the economic equivalent of giving them free land as we did a century ago.

S. 602 provides tax incentives for businesses to expand or locate in high

out-migration areas. Investment tax credits. Micro-enterprise tax credits. Accelerated depreciation.

Finally, a new homestead venture capital fund will help ensure that entrepreneurs and companies in these areas get the capital they need to start and grow their businesses.

We can do one of two things with respect to this problem in the heartland of America. We can sit here and gnash our teeth and wring our hands and say, this is awful. We can watch this depopulation continue for the next 20 or 50 years, and lose a significant and important part of our country's economy, or we can decide we are not going to let this happen, we are not going to be the frog in the pan of water on the stove only to find at this time it is too late to get out.

That is what this is all about. I am proud to work with my colleagues, Republicans and Democrats alike, to offer this legislation.

Mr. HAGEL. Madam President, I rise this morning to join my friend and colleague from North Dakota, Senator DORGAN, in introducing the new Homestead Act. We have heard from Senator DORGAN as to why many believe this issue, this challenge, needs attention. He laid some of those reasons out rather clearly.

Senator DORGAN and I and others introduced this legislation last year. The intent of this legislation is simple. It aims to help reverse the trend of population decline in rural areas and provide growth and opportunities in rural America. Many communities in rural America have not shared in the boom that has brought great prosperity to urban America. Instead, this out-migration of individuals and resources is taking a high toll on rural America. Over the last 50 years, nonmetropolitan counties in the Nation lost more than a third of their population, about 34 percent. Contrast this with the fact that during the same period the number of people living in metropolitan areas grew by over 150 percent.

Today, Nebraska is one of the States hardest hit by out-migration. Of 93 counties in Nebraska, 56 have lost at least 10 percent of residents due to out-migration over the past 2 years. According to the University of Nebraska report, most of these counties will see similar population losses over the next 2 decades without an expansion of non-agriculture industry.

Why are people leaving rural America? It is rather simple: For jobs and opportunities. One of the main provisions of our legislation addresses this issue by providing incentives to small businesses and other enterprises to locate and expand in rural areas. Small businesses are a critical element of the rural economy, as they are to all of America, accounting for nearly two-thirds of all rural jobs.

Our legislation builds upon the same spirit of the Homestead Act of 1862 which gave land to individuals who were willing to live and work in unsettled areas of the country. In fact, the



first claim made under this act was just outside Beatrice, NE.

Our bill targets three different categories: Individuals, businesses, and capital formation. For individuals who live in or move to high out-migration counties, the legislation provides, as Senator DORGAN mentioned, three basic things: The college loan repayments and home tax credits, individual homestead accounts, rural investment tax credits, and a venture capital fund.

Last year, in the Senate Finance Committee, Senators GRASSLEY and BAUCUS called the bill a big idea. Indeed, it is a big idea. But it is the kind of big idea we need to help reverse the decline of rural America—not just the Midwest—but all of rural America.

I am proud of the fact our bill has the bipartisan support of 10 cosponsors and it has the endorsement of a diverse coalition of organizations across this country, all kinds of organizations. I am pleased again to be working with my friend, Senator DORGAN, in reintroducing this legislation. I ask my colleagues in this body to learn more about the aim, the specifics of this legislation, and that they would help and join us in addressing the challenges facing rural areas across our country.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise today to express my support for the New Homestead Act and I want to thank Senator DORGAN and Senator HAGEL for their leadership on the critically important issue. I am pleased to cosponsor this bipartisanship legislation.

America was originally a rural place. Many of our citizens lived and worked on farms or in rural towns throughout our country. During the turn of the century, towns and communities sprang up on railroad lines and river crossings. They served as regional trade centers and seats of local government. Opportunity was available for the children of these communities. Too often that is no longer the case. A changing economy from agriculture to technology has reduced opportunity in rural America and certainly rural South Dakota. Out-migration is decimating many communities in my home State of South Dakota. Currently, 63 percent of South Dakota counties are considered high out-migration counties—averaging a 10 percent population loss over the past 20 years. In these counties there is also a 16 percent reduction in youth population, 6 percent increase in the elderly population, and 25 percent of these counties had more deaths than births. Once proud communities that were self sufficient are slowly withering away.

I believe that in order to forestall these trends Congress must now prioritize rural America. That is one reason why I am so supportive of this legislation. The New Homestead Act hopes to address out-migration by offering individuals who make a commit-

ment to live and work in rural areas to get a college degree, buy a home, start a business and build a nest egg for the future. This legislation will also provide incentives for businesses to relocate or develop in high out-migration areas. This comprehensive, approach is needed to address this huge problem. While the bill will not save every community, it will provide communities with the tools they need to survive. Rural communities provide businesses and families many benefits. Good schools, low crime rates, a high level of civic involvement and a talented and committed workforce are just some of the benefits (specifics) that rural America provides this country. It is a way of life worth fighting for, and our Nation's commitment to this lifestyle is long-standing.

In fact, in 1862 our government made a commitment to populate rural America. The original Homestead Act made a deal with settler's willing to travel to the midwest; if you stay and work the land for 5 years we will offer you a quarter-section of land. This was a hugely popular and successful program. I know this first hand because my great-grandfather used this legislation to homestead near Centerville, SD.

Today we can offer tax incentives and financial rewards to individuals to move into out-migration counties. A generation ago the United States used a similar approach addressing the needs of our metropolitan areas. At that time, our country's cities were facing population and job losses, crumbling infrastructure—many of the same problems our rural areas face today. Billions of dollars were committed to housing, transportation, and job creation in urban areas.

As a Senator from a rural area, I was proud to participate and join in that effort. But now many of our metropolitan areas that were struggling thrive. We need this kind of commitment for our rural communities at this point in our history.

While this comprehensive legislation takes aim to remedy many of the problems facing small towns, I believe this forward-thinking bill is also important for farmers and ranchers who make a living from the land. It is critical to understand that prosperity in production agriculture can lead to robust conditions in Main Street rural America. As such, a decline in the farm economy causes economic hurt for rural businesses as well. This downturn in the rural economy is one we know all too well in South Dakota. Volatile market conditions for crops and livestock, unfair foreign trade, and the disastrous forces of Mother Nature, have all taken a toll on our farmers and ranchers in recent years.

Consider the sobering economic damage to South Dakota resulting from the ongoing drought: South Dakota State University, SDSU, economists estimate \$1.4 billion has been eroded from the State's economy due to the drought. The impact includes \$642 mil-

lion in direct losses for livestock and crops, which is about one-sixth, or 17 percent of the average annual cash intake for agriculture.

I believe the New Homestead Act provides the kind of commitment and opportunity that our nation must be willing to once again make in order to sustain and grow prosperity for farmers, ranchers, and rural America.

Our entire Nation suffers when rural America suffers. Some of our country's most prized virtues, like good school systems, low crime rates, and high levels of civic participation, are alive and well in these areas, yet many are fighting for their survival. There is no doubt in my mind that these areas are worth saving. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I am pleased to join colleagues in the introduction of the New Homestead Act. I am very pleased to be a supporter along with my colleagues from North Dakota, Nebraska, and South Dakota.

Alexander Hamilton once made a statement I think is particularly applicable to the current situation we are discussing—what is happening in rural America, particularly in a swath of rural America from Texas north to the Canadian border that includes the State of the Presiding Officer and a number of States throughout the Midwest. He said:

To cherish and stimulate the activity of the human mind, by multiplying the objects of enterprise, is not among the least considerable of the expedients by which the wealth of a nation may be promoted.

We listen to that and say: What does he mean? In other words, we must encourage and support intellectual activity and enterprise, and the area in which this has been most neglected has been in our rural communities. We must change this before some of these precious entities wither away.

Every year, rural communities become emptier and more desolate as fewer and fewer people remain. This out-migration of youth to more urban areas is due to the simple fact of a lack of economic opportunity within these beautiful settings.

Although America was originally rural, with most of its people living in rural areas and working on farms, that has changed dramatically over the course of the past century. Today, after decades of decline, less than 2 percent of the Nation's population live on farms in rural areas. In my State alone, over half of the counties are suffering from this youth drain and out-migration.

I have a map I want to show to my colleagues. These are counties in Kansas. We have 105 counties. These are the counties that would qualify for the New Homestead Act; that is 10-percent population decline or more over the last 20 years. You can see a huge swath of our State that has extensive out-migration.



You can say a lot of different factors caused this. One has been the concentration and growth in agriculture, where there are fewer farmers farming larger tracts of land. That is certainly accurate.

It is also the fact that a number of people in agriculture have, because of a lack of income, had to get off-farm jobs. There are not major urban areas in a lot of these places, so they have not been able to find that and they have had to move to major urban areas. So you have had this combination of difficulty in agriculture, difficulty of a lack of jobs on an off-farm basis. It has led to this huge out-migration.

If this were just Kansas, it would be problematic enough, but instead of a whole swath, particularly in the Middle West, from Texas sweeping up north all the way to Montana and Minnesota, you have a number of counties like this.

I believe nearly 90 percent of counties in North Dakota qualify because of the same feature: Concentration in agriculture, fewer off-farm job opportunities, and people saying: We simply don't have anyplace to work. We would love to live here. We would love to be able to stay here. We have to have a job. We have to be able to make a reasonable income.

This is the total population. If you look at the school-age population, it is even worse. It is even a more steep decline. I have been in cities in Rawlins County and far Northwest Kansas where the school-age population has declined nearly a fourth over the last 5 years. So while the overall population is going down like this, the school-age population is plummeting. As young people don't move back in the area, there are not the jobs and opportunities. They are saying: I would love to live here, but I can't.

I have been around a lot of rural development efforts that tried to push people back to rural areas. To me, this is a way to pull people back to rural areas, by providing economic incentives, the likes of which we did to populate the region in the first place. This is a region that was populated by the Homestead Act in the first place, telling people, if they will stay there and work 160 acres for 5 years, it is theirs.

We had people self-selected. It wasn't people saying: You are going to go, and we will select you, we won't pick you—it was the great American way. This is the opportunity. If you want to do it, it is your choice. You don't have to do it. People took it and moved out.

The New Homestead Act is recognizing the new economic realities and saying what can we do to pull people into these areas. These are ideas we tried in major urban areas, we tried them in Washington, DC, and a number of other places where we were having the hollowing out of urban areas, and they have attracted people back to the core in these urban areas. We are trying to take those same proven models,

proven tests, to another area that has been hollowed out in the United States.

That is why I am excited about this bill. I am hopeful it is something we can move in total, or in part, quickly. We need to do so. We need to move this forward aggressively.

It is providing new hope and new vision in areas where a lot of people were of a mind that: I guess nobody is listening or paying attention, and we are going to have difficulty making it. Our community is not going to make it.

Here we are saying, no, we want to provide this new hope and opportunity with the New Homestead Act. I hope our colleagues, if they have other ideas that could strengthen this bill, will bring those forward as well.

It is a very difficult issue for our State. I am delighted to be supportive of this effort. My colleagues and I are going to push aggressively here and in the House to make it happen.

It is simple: rural America—our history, our founding lifestyle—is suffering and the Congress must not turn our backs. Take, for example, the town of Nicodemus, KS, in Graham County. This town was started more than a century ago when some 350 freed slaves left Kentucky and made a new beginning for themselves on the plains of Kansas. For a while, the town prospered, showing a new life to these newly-freed slaves. Unfortunately though, the railroad never moved in—a devastating lost opportunity that was followed by drought, depression, and, finally, a post-war exodus. Suddenly, the town itself and its population seemed almost ghost-like. Today, Nicodemus is without a school, and there is only one full-time farmer left in the area.

Unfortunately, this story is not an isolated one, as hard times have hit throughout America. In fact, this kind of situation is happening across our heartland, and we are here today to provide the much needed incentives to preserve rural America and the values instilled there.

We must revitalize within our heartland that spirit of creativity and enterprise that has always allowed our nation to grow and adapt. It has long been the key to our success both philosophically and in the wealth of our nation. For example, Americans who once held jobs that relied on the production of natural resources, such as farming, now work in service or technology industries. As a result of new technologies, American industries, including agriculture, have become more profitable with fewer employees. We in the Congress have an obligation to ensure the economic viability of these rural communities, even in light of the major problems and out-migration these areas are suffering.

In 1862, the Homestead Act inspired many to move to places like Kansas with promises of 160 acres of free land to those settlers who would farm and live there for five years. Today, we are introducing the New Homestead Act.

While we aren't offering 160 acres, we are rewarding those individuals willing to take a risk and locate in a high out-migration county with the opportunity to get a college degree, buy a home, and build a nest egg for the future. Through loan repayment, small entrepreneurship credits, home tax credits, protecting home values, and individual homestead accounts, this bill reaches out to a new generation of Americans.

And it is this new generation of Americans that will help rejuvenate rural America. Since our founding, a strong and vibrant rural America has been essential to a strong nation—and this principle remains only more true today. Our continued national well-being depends as much, if not more, on the condition of our less populated areas as on our urban areas.

It is my hope that the Senate will take a serious look at this bill and move quickly to implement the provisions we have set forth. I appreciate the work that my colleagues Senators HAGEL and DORGAN have done on this bill. Their vision and drive have brought this bill to where it is today, and I hope that the same spirit will help propel this bill through the Senate so that we can start helping our rural communities as quickly as possible.

For, as we struggle through economic hard times nationwide, it would be wise to remember a comment George Washington made:

A people . . . who are possessed of the spirit of commerce, who see and who will pursue their advantages may achieve almost anything.

I know our rural communities are not only our history, but still have much to offer our nation today. Therefore, let us enable that spirit of commerce, and put these communities on the path to recovery.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. BROWNBACK. Mr. President, as in executive session, I ask unanimous consent that the cloture vote on the Estrada nomination occur at 2:15 today; provided further the order for debate remain from 11:30 to 12:30; I further ask unanimous consent at 12:30 the Senate begin consideration of Calendar No. 36, the Bybee nomination as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. 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. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON  
CALENDAR—S. 607

Mr. McCONNELL. Mr. President, I understand that S. 607 is at the desk and due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time by title.

The senior assistant bill clerk read as follows:

A bill (S. 607) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Mr. McCONNELL. Mr. President, I object to further proceedings.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. McCONNELL. 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. TALENT. 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. TALENT. Mr. President, I ask unanimous consent that I be recognized in morning business for a period of up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COVER THE UNINSURED WEEK

Mr. TALENT. Mr. President, this is "Cover the Uninsured Week" and there have been press events—and I guess you can call them rallies—around the country designed to inform America about the problem of the uninsured. I guess I am glad that is happening. It seems as though it happens a lot. We have been talking about the uninsured for a long time.

I think it is time we do something about the uninsured instead of just telling everybody that we have. And we can do that. I would suggest we are on the brink of doing it. We in the Senate just have to choose between the employees of the small businesses around the country, who are most of the uninsured, and the big insurance companies that have them under their thumb currently.

There are about 41 million uninsured people in the country at any given time. About 60 percent of those uninsured people are either owners of small businesses or employees of small businesses, or dependents of somebody who owns or works for a small business. Most of the people who are uninsured are working people. The reason they are uninsured and the reason they are not getting health insurance through their small business is that the small businesspeople are caught. They are stuck on a dysfunctional market. They are caught because all they bring to that market is a unit of 4 or 5 people, or maybe 20 or 30, or maybe 60 or 70.

And they have very few choices. They consistently pay higher costs for health insurance premiums, and they get lower quality insurance than people who work for big businesses or people who work for the Federal Government, as we do.

I have seen this all over the State of Missouri and, indeed, all over the country. I chaired the Small Business Committee for two terms in the House. In that capacity and since then, I have visited personally with hundreds and hundreds of small businesspeople and with thousands of their employees. This is their No. 1 issue. It is not fair for them to be laboring under impediments that the rest of us do not have.

I was in Farmington, MO, over the weekend. I stopped by an optometrist's office run by a couple of optometrists, and a couple of their employees were there. They gathered around and told me a very familiar story. In 1999—I think it was—they said, we just felt we had to start providing health insurance to our people, as expensive as it was and as difficult as it was.

They had to spend hours and hours soliciting bids, maneuvering, and trying to get insurance for their people. So they started it.

They said: When we started, it was a little over \$200 a month per employee. Now, 4 years later, it is over \$500 a month per employee.

They are not able to give wage increases to their people because health insurance costs are increasing so fast.

Everywhere I go, small business health insurance costs are going up 20 or 25 percent a year.

There is a further human side to this story. One of their employees—a really neat lady—I talked with for a while. She is a single mom and a cancer survivor. She is trapped, and the small business is trapped with her, because if they drop the insurance, she will never get reinsured anyplace else. They feel a moral obligation to continue that insurance for her. The other employees are doing without wage increases and dealing with substandard insurance in order to help their fellow employee.

I have seen this story over and over again. And it is not necessary. We can do something about it, and we need to.

Here is what we can do.

The House passed several times in the 1990s—and the President now supports the plan—a plan that would simply allow small businesses to pool through their national trade associations or their professional associations and get health insurance on the same terms and under the same regulatory apparatus as the big businesses, the unions, and the Government currently do.

That is all we need to do, just empower the small businesspeople. It will not cost the taxpayers a dime because it is not a Government program. It is just allowing people to do what is already happening all over the United States.

So here is how it would work: Let's say the National Restaurant Associa-

tion would sponsor national health insurance plans. They would start an employee benefit side, just like the big companies do. They would contract with national insurance companies. They would have a self-insured side. And then, if you are a restaurant employee, by joining the restaurant association, you would automatically be entitled to get this insurance. They would have to offer it to you. They could not tell you you could not have it. And you would be part of a pool of 20,000 or 30,000 people instead of in a unit by yourself with two or three or five or ten people, like my brother's situation. He has a little tavern kind of restaurant in St. Louis. Actually, it may be more of a saloon. But, in any event, he could join the National Restaurant Association to get coverage. It is just him and my sister-in-law who run this place. Apart from the money, which is impossible for him, he does not have the time and does not want to incur the risk of going out two or three times a year and soliciting bids.

And then, all of a sudden, what often happens to small businesspeople is they get called up because somebody actually filed a claim. The big insurance company tells them their rates went up astronomically. They have no power in this market. They are caught with few choices, with small groups, with high administrative costs. It is not necessary, and it does not even cost anything for us to fix it.

I was talking about this at a dinner the other day with six or seven people who were there to talk about how we could serve the underserved better with health care. This is part of the answer to it. We had a real good dialog with these folks. Many of them are operating a charitable enterprise where they are helping people get health care.

I laid this out for them, and one of the men said to me: Well, who wouldn't support that? Indeed, who wouldn't support it? I will tell you who doesn't support it: the big insurance companies, who control this small group market now. They are operating like monopolists. Monopolists ratchet down their output and raise their prices. That is what is happening. Fewer and fewer people are covered, and prices are going higher and higher. They are making money, and people around this country do not have health insurance. It is wrong, and it ought to stop.

One argument I hear about this is: Look, if we do this, the association health plans will engage in cherry-picking. What that means is, the healthy small business groups will go into the big plans, the sicker small business groups will prefer to stay out there in the small business market. This is actually an argument that the big insurance companies are raising. It is the exact opposite of the truth.

Common sense tells you if you have a history of illness, if you have cancer or had cancer or diabetes or kidney problems, or something similar to that, and somebody says to you, look, you can be

## EXECUTIVE SESSION

in a small group market, you can work for a small business and be part of a group of 4 or 5 people or 40 or 50 people, or you can work for a big business and be part of a group of 10,000 people, which would you choose?

I have asked that question in small business groups around the country. I have not had a single person say: If I were sick, I would rather be part of the small group. Of course you would rather be part of the bigger group.

This is a haven for small business people who want to help themselves and their employees, and particularly the ones who are sick and need the insurance, such as that lady in the optometrist shop in Farmington. It is a haven for them. And it will cut the cost of their health insurance, on average, 10 to 20 percent and make insurance available to millions of people who currently do not have it. It does not cost the taxpayers anything. It is just like a big co-op.

We have a lot of support in the Senate. I am very pleased about our progress. The chairman of the Small Business Committee, the senior Senator from Maine, Ms. SNOWE, is a strong supporter and is leading the fight. Senator BOND is supportive. The Senator who is presiding over the Senate today is supportive. Senator MCCAIN is supportive. I have been talking with a number of my friends and colleagues on the other side of the aisle. I am hoping to get support there.

In the House, it passed on a strong bipartisan basis. I believe we can do the same. It is just a question of the choices we want to make. We can choose these small businesspeople and their employees who have been telling us, year after year after year: We are working full time; We care about our jobs; We care about our fellow employees; Let us help ourselves, or we can choose the big insurance companies that have a monopoly on this market and are charging higher and higher prices and providing fewer and fewer policies of insurance for people who need it.

I think the choice is clear. I urge the Senate to look at this bill, the association health plans. We can get it passed. We can make a difference, and we can do it now.

I yield back the remainder of my time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

# NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be equally divided between the chairman and the ranking member of the Judiciary Committee or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally between both sides.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is on the Estrada nomination.

Mr. LEAHY. I thank the distinguished Presiding Officer.

## SENATOR GRAHAM'S RETURN

I see the distinguished senior Senator from Florida in the Chamber. First, I will say on a personal basis, I am delighted to see him back. He is looking as healthy as he did before he left. I understand he is even more healthy now. For someone like myself who has probably a couple pounds more than I would like to be carrying, I noticed that he has found a way of losing a little weight. I suspect that what he has gone through is not something that is going to catch on with the various diet fads.

I had a chance to chat with the distinguished senior Senator last night, and he not only sounds even healthier than when he left, but he has the same sense of verve and sense of humor as he had before he left.

I yield to the distinguished Senator from Florida, if he would like to take the floor at this point, such time as he needs.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I extend to you and to my colleagues deep appreciation from me and my family for the many expressions of concern and best wishes which have flowed to us over the past 6 weeks. I report to the Senate that this is my second day back on the job since my operation. I feel increasingly strong and en-

ergetic, sufficiently so that I feel this is the time to come to the Senate floor and talk about the issue before us.

Before I do that, I especially extend my appreciation to the Republican leader and our colleague and friend, Senator BILL FRIST. As we know, before becoming a Senator, it was Dr. BILL FRIST. He happened to be a cardiac surgeon. When it was clear to me I was going to have to have cardiac surgery, and when that fact became known by a number of my friends, I had an almost mountain of suggestions as to what I should do, where I should go, who the surgeon should be.

Finally, my friend and former colleague, Connie Mack, called me and suggested I should talk to Senator FRIST, who actually knows something about this, which I did. He gave me excellent advice and a substantial amount of reassurance. Then after the operation, while I was still in the hospital, he came and visited. That was a touching moment for Adele and myself that he would make that effort.

I particularly thank Senator FRIST for his display of humanity during this period.

I am here to discuss my vote on the motion to invoke cloture on the nomination of Miguel Estrada to the District of Columbia Circuit Court of Appeals.

It will be my vote today to not invoke cloture. I want to explain the reasons for this. There are many issues raised by this nomination. I consider the most fundamental issue is the issue of the independence of the judiciary. That has been a matter of concern to thoughtful Americans from before our country was a country.

In the brilliant and Pulitzer Prize-winning book by David McCullough, "John Adams," John Adams is quoted from a paper he wrote called "Thoughts on Government." This was written before the War for Independence, anticipating that after a successful independence, there would be the need to establish a government. And these were some principles John Adams thought government should contain. Let me read one paragraph:

"Essential to the stability of government and to enable an impartial administration of justice," Adams stressed, "with separation of judicial power for both legislative and the executive, there must be an independent judiciary, men of experience on the laws, of exemplary morals, invincible patience, unruffled calmness, indefatigable application, and should be subservient to none and appointed for life."

Those were the characteristics John Adams laid out as crucial to the essential stability of government and to have an able and impartial administration of justice. Those words, written before the war, then became the guiding star for our Founding Fathers at the Constitutional Convention in 1787.

In order to preserve the political independence of judges, the Constitution provides they shall, as John Adams suggested they should, serve a lifetime appointment. In order to protect from economic intrusion into the

judiciary, this Congress is prohibited from reducing the salary of judges, so that they will be free of intimidation. But maybe the most difficult issue the Constitutional Convention faced—and it was one of the last matters to be resolved by that convention—was how should judges secure their place on the bench. Up until the very end of the Constitutional Convention, the idea was that this Senate would directly appoint Federal judges. However, late concern arose that this very principle of the independence of the judiciary might be at risk if one branch were solely responsible for the appointment of Federal judges. And so a compromise was struck. That compromise was that the President would nominate persons to be Federal judges, and that the role of the Senate would be to advise and then consent, through the confirmation process, to those nominations.

So the issue we are debating today—the relative role of the executive and legislative—is not a trivial issue. It goes to the heart, as John Adams said, of the stability of government, because it goes to the independence of the judiciary.

Having said that and having read some words from the 18th century, I would like to read you some words from the 21st century as printed in the New York Times Magazine of last Sunday. It is an article on one of our Federal intermediate appellate courts, a court of almost, but not quite, the same influence as the DC Circuit Court. One of its justices is J. Michael Luttig. It says this:

Luttig told me that he thinks the politics surrounding judicial appointments makes judges hyperconscious of their political sponsors. "Judges are told, 'You're appointed by us to do these things.' So then judges start thinking, well, how do I interpret the law to get the result that the people who pushed for me to be here want me to get?"

Judge Luttig continued:

I believe that there is a natural temptation to line up as political partisans that is reinforced by the political process. And it has to be resisted, by the judiciary and by the politicians.

Mr. President, I believe we are at a time when we are being called upon to resist an effort to inappropriately utilize the executive power to the exclusion of the legislative role in the appointment of Federal judges. I consider myself to be a pragmatist. I find very few things in life that are black and white. I do not think this issue is black and white.

I have been dealing with this issue in another dimension over the past weeks of recuperation. In my State of Florida, we have had for over 20 years a process of nominating Federal judges through a citizen-based judicial nominating commission. Persons who want to be a Federal judge in Florida submit their application to the judicial nominating commission, which reviews their submission and has personal interviews with those candidates that it believes are eligible for Federal judicial consideration. Then that commis-

sion used to recommend three people to the Senators. Senator Mack and myself worked for over 12 years in a very collaborative, nonpartisan manner to determine what recommendations should be made to the President. Under the system now, the number of persons to be recommended will be increased from three to six, and the role Senator NELSON and I will play—recognizing the fact that we are Democrats and the administration is Republican—is we will review those six nominations and make a judgment as to whether, in our opinion, any of those nominations would have difficulty being confirmed by the Senate. If that is not the case, then all six will go to the President for his consideration.

I highly commend to my colleagues the article I quoted from in The New York Times Magazine of March 9, 2003, written by Deborah Sontag.

I ask unanimous consent that some materials about this recent agreement that has been reached between the White House, the chairman of the Florida Judicial Commission, and Senator NELSON and myself, which I believe will well serve the Federal judiciary and the people of Florida, be printed in the RECORD.

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

[News From Bob Graham]

WHITE HOUSE COMMITS TO HONOR FLORIDA  
NOMINATING SYSTEM

GRAHAM SAYS JUDICIARY NEEDS TO MAINTAIN  
INDEPENDENCE

WASHINGTON (March 12, 2003).—Senator Bob Graham, D-Florida, announced today that the White House has committed to honor Florida's non-partisan process for selecting nominees for federal judgeships, federal prosecutors and U.S. marshals. The agreement culminates months of discussion about the importance of the role of the state's nominating commissions.

"This is an important assurance from Chief of Staff Andy Card that the White House will abide by the nominating process that has allowed the federal court system in Florida to retain public confidence and maintain its independence from political influence," Graham said. "For nearly two decades, this merit-based process has produced judges and other officials of the highest caliber, while allowing our state to outpace the nation in filling vacancies. We need to ensure that this tradition continues."

Graham released a letter from White House Chief of Staff Andrew H. Card Jr., that reads, in part: "I want to reiterate that the President is committed to following the commission process in Florida and intends to abide by the rules of procedure of the Florida Federal Nominating Commission, consistent with 'the Constitutional and statutory powers, duties, or prerogatives of the President of the United States or the Senate in the filling of vacancies by nomination and confirmation' (Rule 30)."

Graham said it was agreed that the White House commitment to following the reformed rules of the nomination process will be prospective, meaning that persons already nominated or who are under consideration for a vacancy will not be subject to the new process.

Upon receiving Card's letter, Graham said he would encourage prompt consideration of

and support before the Senate Judiciary Committee the pending nominee for a District Court judgeship in the Southern District of Florida, as well as the nominees for U.S. marshal in the three federal judicial districts in Florida.

If confirmed, judicial nominee Cecilia M. Altonaga would be the first Cuban-American woman to sit on the federal bench. The pending nominees for U.S. marshal are Dennis A. Williamson in the Northern District; Thomas Hurlburt Jr., in the Middle District; and Christina Pharo in the Southern District.

"My complaint has never been with the qualifications of these individual nominees, but with the fact that the White House deviated from the nominating process which has so well served Floridians," Graham said.

"I am hopeful that, with the White House commitment, we will return to a selection process that gives assurances of merit-based and non-partisan selection of jurists, expedites non-partisan consideration of those jurists by the Senate and maintains the independence of the judiciary."

THE WHITE HOUSE,

Washington, March 12, 2003.

DEAR SENATOR GRAHAM: Thank you for the numerous opportunities to discuss our mutual efforts to ensure that Florida's judicial vacancies are filled through an orderly process.

I know that you and Judge Gonzales have communicated previously about the important work and role of Florida's Federal Judicial Nominating Commission. I want to reiterate that the President is committed to following the commission process in Florida and intends to abide by the rules of procedure of the Florida Federal Judicial Nominating Commission, consistent with "the Constitutional and statutory powers, duties, or prerogatives of the President of the United States or the Senate in the filling of vacancies by nomination and confirmation" (Rule 30).

The Administration shares your desire to promptly fill the federal judicial and United States Marshals vacancies in Florida.

Sincerely,

ANDREW H. CARD, JR.  
Chief of Staff to the President.

COLSON HICKS EIDSON,  
Coral Gables, Florida, March 12, 2003.

Hon. BOB GRAHAM,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRAHAM: I want to thank you for your support of the nomination of Judge Cecilia Altonaga for United States District Court Judge for the Southern District of Florida.

Your substantial personal involvement and leadership in the nomination of Federal Judges, U.S. Attorneys and U.S. Marshals, throughout your years of service in the United States Senate, have been exemplary and have been responsible for the high qualifications of the men and women who serve in the three federal districts in the State of Florida. You have my admiration and respect.

With warm personal regards, I remain,

Sincerely,

ROBERTO MARTÍNEZ.

[From the Miami Herald, Jan. 16, 2003]  
FLORIDA'S JUDICIAL-NOMINATION PROCESS  
UNDER THREAT  
(By Bob Graham)

For more than a decade, through both Democratic and Republican presidencies, Florida had an outstanding record of filling federal judicial vacancies through a non-partisan, merit-based process.

The process was driven by the judicial nominating commissions, which took applications, interviewed candidates and submitted three names for consideration for each judicial vacancy. These commissions, appointed by the two senators, were made up of volunteers who represented a cross-section of our state: lawyers and lay persons, Democrats and Republicans. Both Florida senators interviewed the three finalists and passed their recommendations onto the White House.

The process worked. Over 10 years, we filled 26 District Court vacancies without a single significant controversy. Because of the confidence that the Senate Judiciary Committee vested in the Florida judicial-nominating process, between the 101st and 106th Congress, those vacancies were filled in an average of 108 days. This compares to the average time for all U.S. District Court vacancies of 151 days.

The process attracted highly qualified candidates for federal judicial vacancies. This is sometimes difficult because the open process makes all the information submitted by the candidates publicly available. However, because decisions were made on merit, candidates of the highest quality from private practice as well as the state courts and federal magistrates were attracted to apply.

#### RAISING CONCERNS

After George W. Bush became president, the process changed. Now the governor, along with the most senior Republicans in our state's congressional delegation, are responsible for naming the nominating commission's members.

While Sen. Bill Nelson and I can interview the candidates, we cannot make recommendations to the White House anymore. We can only indicate whether any of the candidates might encounter difficulty in winning Senate confirmation.

Since this new system has taken effect, there have been two instances that raise concerns about the politicization of the judicial-nominating process, threatening to undermine the credibility of our judiciary.

A year ago, the nominating commission announced groups of three finalists to fill three U.S. marshals positions in Florida, including one in the Southern District of Florida. In March 2002, my office was informed that the three finalists for the position in the Southern District were being put aside in favor of a candidate who had not even applied. This candidate has been renominated in the 108th Congress and is now awaiting action by the Senate Judiciary Committee.

In February 2002, the Judicial Nominating Commission announced that it had selected three finalists for a Southern District court vacancy. The candidates included two state circuit-court judges and the sitting U.S. attorney for the Southern District, who were interviewed by the Judicial Nominating Commission and found to be qualified. Nelson and I informed the White House that, if nominated, any of the three would be expeditiously confirmed.

By April, however, the process took a mystifying turn. The nominating commission's chairman informed the fellow commissioners that the White House had requested three additional names, effectively disregarding the three initial candidates. A month later, at the direction of the governor and two U.S. House members, the commission met again and selected three new finalists. A nominee is expected from the White House any day now.

The qualifications of these three new candidates are not to be questioned. Rather, the concern is the deviation from a process that has been successful for more than a decade. The independence and integrity of our judicial system are at stake.

The legal counsel to the president, Alberto Gonzalez, said that the initial panel had been rejected because of inadequate diversity. I found this surprising because half of the federal court officers nominated in Florida by the Republican-appointed Judicial Nominating Commission and selected by the president were minorities.

With this record, if this recent set of recommendations by the Judicial Nominating Commission was found by the president to be insufficient, what recommendation would Gonzalez make to satisfy the diversity sought by the president?

#### PROUD TRADITION

We must live up to the words said by former Florida Bar President Herman J. Russamanno about our federal courts: "Florida has been blessed with competent, experienced, compassionate and highly professional judges. These distinguished individuals bring to the court the highest standards and strong commitments to the administration of justice."

I am committed to this proud tradition, which is why we must honor a system of non-partisanship and cooperation in the selection of Florida's federal judges.

Mr. GRAHAM of Florida. Having said that, I believe the standard for the kind of information the Senate has a right and a need for in order to be able to carry out its advise and consent function is not an ideological or even a precedential standard but, rather, a pragmatic standard. If a person has been, for instance, an academic and has written, as they typically do, extensive articles or books, there is some means by which you can get below and beneath the resume and get some feel of the person who is being considered.

Similarly, if a person has been a judge at the State level, or at other levels within the Federal judiciary, it is likely that they have written opinions or other statements of their jurisprudential feelings which, again, would give you means by which to evaluate and cast an informed vote to consent to a Presidential nomination.

I have been away from the Senate most of the time this matter has been under consideration. I do not serve on the Judiciary Committee, but colleagues whose judgment I respect have indicated they do not feel that as of today we have the information to, in an informed manner, provide that consent.

I believe this is an issue upon which honorable men and women can reach agreement, just as after a series of negotiations, Senator NELSON and I have reached an agreement on the means by which the Florida judicial nominating process will be ordered and respected.

I urge those of my colleagues who have been particularly involved in this to not see today's vote as the last chapter but, rather, as a call to find an honorable way to provide us with the information, given the status of this nominee and the dearth of information which might otherwise be available.

Let me say, Mr. President, I find some irony in the issues with which this Senate is currently dealing. We may be at war as early as next week. This Senate has already voted to authorize that war. There have been a

number of rationales submitted for the war.

One of the rationales that has been recently advanced with a great deal of intellectual fervor has been the concept that by taking down Saddam Hussein, we could create a new climate throughout the region of the Middle East and that in that new climate could sprout the seeds of democratic institutions which would, in turn, lead to democracy. That would be a very admirable consequence.

The irony is that at the same time we are hoping that our actions of war will lead to democracy in a region of the world thousands of miles away which has little history of democracy, we are today debating a process that, in my judgment, if not carefully balanced between the executive and legislative branches, has the prospect, as John Adams suggested, of destabilizing one of the key institutions of our more than two centuries of democracy.

I return to my hope that people of good will can find a way to provide to this institution the information that it legitimately requires, and which the Constitution imposes upon us, to make an informed consent to the President's nomination.

I offer as an example of that spirit of cooperation the good deeds that were extended to me by Senator FRIST. Maybe some people who observe this debate observe the Senate in other highly partisan conflicts, such as the one we voted on earlier today, to believe that we are warring armies. Yes, we are people who have strong views and opinions, and we will express those views and support them with our votes. But we also are people who have a respect for our colleagues and a humanity towards them. I think this is the time to draw upon that respect and appreciation for humanity, as well as our responsibilities under the Constitution, to see if we can find a means to close this impasse and move on to the other important business of the Senate.

Mr. President, I appreciate this opportunity. I again thank you and my colleagues for all the expressions of good will during my absence.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my good friend from Florida for his statement. I again welcome him back. I heard in his absence statements from both Republicans and Democrats worried about him. I am glad to see him back. The Senator and his wife are dear and close friends of mine and my wife.

Sometimes people forget the Senate is a family. There are only 100 of us. We tend to know each other and spend time with each other. No matter what political positions we take, we worry about each other's health. We talk about each other's children and where they are going to school.

This is an example of those who were concerned about a very popular Senator. I am glad to see him looking in such great health. I welcome him back.

I thank him, of course, for his very thoughtful statement. I am glad to hear the quotes from a book that I probably enjoyed as much as any in the last 10 years, David McCullough's book on John Adams. I do not own the publishing company or anything else, but I recommend that book to anyone who wants to read it.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. REID. Mr. President, this is not a question, but I wish to say, Senator GRAHAM and I came to the Senate together. I have been so impressed with BOB GRAHAM his entire tenure in the Senate because he never does anything halfway; it is always all the way. Whenever he comes to the floor to speak, he is prepared and has thought about what he is going to talk about. Today is no different.

Of course, I am happy to see him back stronger than ever and certainly wish him well in his ambitions politically, even though he may have had a slight setback, but knowing how hard the Senator from Florida works, I am sure he will catch up with the pack.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it was just 2 days ago we welcomed the Vice President to the Senate for debate scheduled by the majority. I said at that time that I am always glad to see the Vice President here, even though it is a rare appearance for a Vice President of either party.

I wish he had been here for debate about the impending war with Iraq. We are probably the only parliamentary body in the democratic world that has not had a major debate during the past few weeks on Iraq and the war. Or he might have been here for debate on terrorism or homeland defense or the need for action to stimulate the economy and improve the lives of the millions of Americans who have lost jobs over the last 2 years. Actually, there are more Americans losing jobs in a 2-year period than I think has occurred since I have been old enough to vote. Or the Senate might have been acting on a prescription drug benefit for seniors.

Apparently, we are not here to have that debate today nor did the majority schedule debate in the Senate on Tuesday on those important matters. Instead, we are here to hear again the arguments about Mr. Estrada. But not much has changed since last week or since this Tuesday. The administration's obstinacy continues to impede Senate consideration of this nomination.

The distinguished Democratic leader, Senator DASCHLE, pointed a way out of this impasse in a letter to the President on February 11. It is regrettable the President did not respond to that reasonable letter to resolve the issue. Instead, the letter sent this week to the distinguished majority leader, Senator FRIST, was not a response to Senator DASCHLE's realistic approach, but

a further effort to minimize the Senate's role in this process by proposing radical changes in Senate rules.

I have great respect for the Office of the Presidency, for whoever holds it. One thing I have learned in 29 years is that Presidents come and Presidents go. The Office of the Presidency exists with its responsibilities, its duties, its rules, its traditions. Just as Senators come and go. No Senator holds a seat for life. No Senator owns a seat in the Senate. But the Senate stays, and the Senate has its rights, and it has its privileges, and it also has its obligations. It has its constitutional duties.

I have been in the Senate with six different Presidents. I have never been in the Senate with a White House that seems to have less understanding of the role of the Senate or more of a desire to overturn well over 200 years of practice and procedures in the Senate. I have never known a White House that thinks more just for the moment and not for the long term.

This may be why we are fast approaching the point where, as some suggest, the White House may get half of its goal of regime change, but they may get it in Great Britain. But I digress.

The real double standard in the matter of the Estrada nomination is that the President selected Mr. Estrada in large part based upon his 4½ years of work in the Solicitor General's Office, as well as for his ideological views. The administration undoubtedly knows what those views are and have seen those work papers. They know what he did. They picked him based on that, but they said even though we picked him based on that, we do not want the Senate to know what it was. We in the Senate cannot read his work, the work papers that would shed the most light on why this 41-year-old should have a lifetime seat on the Nation's second highest court.

We are to a point where the White House simply says, trust us, we know what he wrote and how he thinks and will make decisions, but we do not want you to know what he wrote, just rubberstamp him.

Actually, I would remind them of that made-up quote that President Reagan used to such effect—I happen to agree with President Reagan on it—trust but verify. We would like to verify. President Reagan said, "Trust but verify." They say, trust us. We say, let us verify.

So actually this whole matter is in the hands of the White House. They could move forward with Mr. Estrada easily if they wanted to. Instead, the White House has taken on the attitude that they want to carry out the responsibilities of the Presidency, as awesome as they are, but they also want to carry out the responsibilities of the Senate.

I think they have their hands full carrying out the duties of the White House, with the impending war. We have millions of Americans out of

work. We have a stock market that has tanked. We have runaway budget deficits. This is an administration that inherited the largest surpluses in history, and they are about to create the largest deficits in history; an administration that inherited a robust stock market, and we are about to see the stock market go to an all-time low. They have enough to worry about. Let us worry about carrying out the duties of the Senate.

If they would simply cooperate, we could go forward with Mr. Estrada. I mention this because I do not want anybody to make a mistake. The control and the scheduling of whether there will be a vote on Mr. Estrada is in the hands of the White House.

There seems to be a perversion to require the Senate to stumble in the dark about Mr. Estrada's views when he shared these views quite freely with others, and when the administration selected him for this high office based on these views.

Justice Scalia wrote just last year:

Even if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. Proof that a Justice's mind at the time he joined the Court was complete *tabula rasa* in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias.

It was just a week ago that I thanked the Democratic leader and assistant leader and Democratic Senators for speaking and voting in favor of preserving the integrity of the confirmation process. We are acting to safeguard our Constitution and the special role of the Senate in ensuring that our Federal courts have judges who will fairly interpret the Constitution and the statutes we pass for the sake of all Americans.

The administration's obstinacy continues to impede progress to resolve this standoff. The administration remains intent on packing the Federal circuit courts and on insisting that the Senate rubber-stamp its nominees without fulfilling the Senate's constitutional advice and consent role in this most important process. The White House could have long ago helped solved the impasse on the Estrada nomination by honoring the Senate's role in the appointment process and providing the Senate with access to Mr. Estrada's legal work. Past administrations have provided such legal memoranda in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott and Ben Civiletti, and even this administration did so with a nominee to the EPA. Senator DURBIN noted this week that the administration is giving Mr. Estrada bad advice. Instead, the administration should instruct the nominee to answer questions about his views—consistent with last year's Supreme Court opinion by Justice Scalia—and to stop pretending that he has no views.



The White House is using ideology to select its judicial nominees but is trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them. It was not so long ago when then-Senator Ashcroft was chairing a series of Judicial Committee hearings at which Edwin Meese III testified:

I think that very extensive investigations of each nominee—and I don't worry about the delay that this might cause because, remember, those judges are going to be on the bench for their professional lifetime, so they have got plenty of time ahead once they are confirmed, and there is very little opportunity to pull them out of those benches once they have been confirmed—I think a careful investigation of the background of each judge, including their writings, if they have previously been judges or in public positions, the actions that they have taken, the decisions that they have written, so that we can to the extent possible eliminate people eliminate persons who would turn out to be activist judges from being confirmed.

Timothy E. Flanigan, an official from the administration of the President's father, and who more recently served as Deputy White House Counsel, helping the current President select his judicial nominees, testified strongly in favor of "the need for the Judiciary Committee and the full Senate to be extraordinarily diligent in examining the judicial philosophy of potential nominees." He continued:

In evaluating judicial nominees, the Senate has often been stymied by its inability to obtain evidence of a nominee's judicial philosophy. In the absence of such evidence, the Senate has often confirmed a nominee on the theory that it could find no fault with the nominee.

I would reverse the presumption and place the burden squarely on the shoulders of the judicial nominee to prove that he or she has a well-thought-out judicial philosophy, one that recognizes the limited role for Federal judges. Such a burden is appropriately borne by one seeking life tenure to wield the awesome judicial power of the United States.

Although the Senate Judiciary Committee has long recognized correctly, in my view, that positions taken as an advocate for a client do not necessarily reflect the nominee's own judicial philosophy, a long history of cases in which a nominee has repeatedly urged courts to engage in judicial activism may well be probative of a nominee's own philosophy.

Now that the President is not a popularly elected Democrat but a Republican, these principles seem no longer to have any support within the White House or the Senate Republican majority. Fortunately, our constitutional principles and our Senate traditions, practices and governing rules do not change with the political party that occupies the White House or with a shift in majority in the Senate.

Along with this current impasse, the administration has shown unprecedented disregard for the concerns of Senators in taking other unprecedented actions, including renominating both Judge Charles Pickering, despite his ethical lapses, and Judge Priscilla Owen, despite her record as a conservative "activist" judge. Both were rejected by the Senate Judiciary Com-

mittee after fair hearings and open debate last year. Sending these re-nominations to the Senate is unprecedented. No judicial nominee who has been voted down has ever been re-nominated to the same position by any President. This morning the Republican majority took another unprecedented step in holding a hearing on the re-nomination of Judge Owen, whose nomination had been rejected earlier by the committee. The White House, in conjunction with the new Republican majority in the Senate, is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to make the Senate a forum for debate and careful consideration of our nation's foreign policy. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have again here today.

One of the most disconcerting aspects of the manner in which the Senate is approaching these divisive judicial nominations is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our Federal courts. It should concern all of us and the American people that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's Federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution so as to expand Presidential power. What I find unprecedented are the excesses that the Republican majority and this White House are willing to indulge to override the constitutional division of power over appointments and long-standing Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading the Constitution to suit their purposes of the moment rather than as it has functioned for over 200 years to protect all American through checks and balances.

The Democratic Leader pointed the way out of this impasse again in his letter to the President on February 11. It is regrettable that the President did not respond to that reasonable effort to resolve this matter. Indeed, the letter he sent this week to Senator FRIST was not a response to Senator DASCHLE's reasonable and realistic approach, but a further effort to minimize the Senate's role in this process by proposing radical changes in Senate rules and practices to the great benefit of this administration. A distinguished senior Republican Senator saw the reasonableness of the suggestions that the Democratic leader and assistant leader have consistently made during this debate when he agreed on February 14 that they pointed the way out of the impasse. Sadly, his efforts and judgment were also rejected by the administration.

More recently, in its edition for next Monday, March 17, a writer in *The Weekly Standard* suggests that other Senate Republicans, "several veteran GOP Senate staffers" and "a top GOP leadership aide" asked the White House to shown some flexibility and to share the legal memoranda with the Senate to resolve this matter, but were rebuffed. I ask unanimous consent that a copy of the article from *The Weekly Standard* be printed in the RECORD.

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

[From the *Weekly Standard*, Mar. 17, 2003]  
FILBUSTER SI, ESTRADA NO!—THE GREAT REPUBLICAN DIVIDE OVER HOW TO FIGHT FOR BUSH'S JUDICIAL NOMINEE

(By Major Garrett)

It's not clear whether the constitutional definition of "advice and consent" will become a casualty of Miguel Estrada's fight for a seat on the D.C. Circuit Court of Appeals, but the possibility is serious and sobering. In a 55-44 vote, Democrats last week defeated a Republican attempt to break their unprecedented partisan filibuster of Estrada's nomination, opening the way for the simple-majority standard for Senate confirmation of judicial nominees to be replaced with a super-majority requirement. The Republic isn't there yet. But it's close.

"If we go very much further there will be obvious consequences," said Sen. Jon Kyl, an Arizona Republican. "This standard will have to be applied to both parties and by both parties. This is very close to the point where you can't pull it back."

The strain on the Constitution and Senate precedent is now obvious. Less obvious is the toll the Estrada fight has taken on the relationship between the new Senate GOP leadership team and the Bush White House. While GOP senators are loath to admit it, the Estrada debate has drifted on this long because the White House and the GOP leadership could not fashion a cohesive strategy.

Estrada is not the first fight new majority leader Bill Frist would have chosen—at least not under the restrictions imposed by the White House. Senate Republicans believe the White House has severely limited their room to negotiate.

Early on, several veteran GOP Senate staffers warned the White House and Justice Department to prepare for a brawl. They then gingerly asked two questions: Would Estrada answer more questions from Democrats? And was there any flexibility in the



White House's objection to releasing the working memos Estrada wrote while deputy solicitor general in the Clinton Justice Department?

Senior Senate GOP staff told White House and Justice Department officials that cutting a deal on limited Democratic access to Estrada's working papers could lead to his confirmation. The White House refused. There would be no access to Estrada's working papers. Period. This adamant posture, in the eyes of some in the Senate GOP leadership circles, handcuffed Frist.

"There's some frustration," said a top GOP leadership aide. "From the very beginning we told them that was the only way out and a face-saver for everyone. But it came down to the fact that no one on the White House or Justice team wanted to walk into the Oval Office and say to the president, 'You might have to give up these memos.'"

The administration's position on the memos reflects its deeply held ethic of aggressively defending executive branch prerogatives. Though the White House has never characterized the Estrada matter as one of executive privilege (it is more akin to lawyer-client privilege), it falls into the broad category of executive branch muscularity. And while most Republicans generally support this posture, some Bush allies on and off Capitol Hill have come to question the administration's fastidiousness in the Estrada fight.

"I understand the principle, and I support it, but on this one it feels belligerent," said a longtime Republican lobbyist and ally of the Bush White House.

When a reporter last week asked Sen. Rick Santorum, the GOP conference chairman, if opposition to divulging Estrada's Justice Department memos was permanent, he snapped, "Ask the White House."

Conservatives like Sen. Kyl see the Estrada fight as purely ideological and strongly oppose cutting any deal on access to his working papers.

"It's a phony issue, a manufactured issue," said Kyl. "We want to win this, but you don't win it by breaking a principle that has served this nation well for 200 years. And if we deal on the papers, it will be something else."

But Sen. Harry Reid, the Senate's No. 2 Democrat, has said he will support Estrada if the papers are turned over and nothing objectionable emerges. Enough Democrats to break the filibuster would surely follow Reid, senior Democratic sources say.

"Their guy's not going to get confirmed without them," said a top Democratic lawyer who backs Estrada. "This is not complicated. The White House is not going to confirm him without paying a price."

If that price seems too high, the White House may want to reexamine the price of the alternative, an increasingly bitter filibuster fight. While protecting the privacy of internal memos at the Justice Department, the White House may be sacrificing the 50-vote majority as the historic benchmark of constitutional fitness for the federal bench. Some Senate Republicans believe a new 60-vote standard for judicial appointments could severely hamper this president and all future presidents. And some Senate Republicans wonder why it's more important to protect executive privilege than a president's power to have judicial nominees confirmed by simple majority vote.

The White House wants the fight to drag out and political pressure to build on centrist Democrats. The White House likes the Hispanic dimension of the Estrada fight and is counting on the weight of editorial and public opinion to turn the tide.

But numerous Republican senators say the Estrada fight, for all its constitutional im-

plications, has yet to resonate with the public. Democratic senators report no political backlash at home and see it as their duty to defend Daschle.

"This is an ideological fight, and this is a fight for Daschle to be taken seriously," said a senior aide to a Democratic senator who has teamed up with the White House on economic policy. "And my boss is with Daschle. He knows he's taken, and will take, enough flak on fiscal policy. This is a fight he's prepared to stick with."

Absent a deal on the working memos, all Estrada can bank on is White House and Republican promises to fight until they prevail. But no one in the GOP Senate leadership or the Bush White House can explain how or when that will happen.

Mr. LEAHY. It is too bad that the White House will not listen to reason from Senate Democrats or Senate Republicans. If they had, there would be no need for this cloture vote. The White House is less interested in making progress on the Estrada nomination than in trying to make political points and to divide the Hispanic community.

The Supreme Court, in an opinion authored by none other than Justice Scalia, one of this President's judicial role models, instructs that judicial ethics do not prevent candidates for judicial office or judicial nominees from sharing their judicial philosophy and views.

With respect to "precedent," Republicans not only joined in the filibuster of the of Abe Fortas to be Chief Justice of the United States Supreme Court, they joined in the filibuster Stephen Breyer to the 1st Circuit, Judge Rosemary Barkett to the 11th Circuit, Judge H. Lee Sarokin to the 3rd Circuit, and Judge Richard Paez and Judge Marsha Berzon to the 9th Circuit. The truth is that filibusters on nominations and legislative matters and extended debate on judicial nominations, including circuit court nominations, have become more and more common through Republicans' actions.

Of course, when they are in the majority Republicans have more successfully defeated nominees by refusing to proceed on them and have not publicly explained their actions, preferring to act in secret under the cloak of anonymity. From 1995 through 2001, when Republicans previously controlled the Senate majority, Republican efforts to defeat President Clinton's judicial nominees most often took place through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them and eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes.

Beyond judicial nominees, Republicans also filibustered the nomination of Executive Branch nominees. They successfully filibustered the nomination of Dr. Henry Foster to become Surgeon General of the United States

in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nomination to be Surgeon General also required cloture but he was successfully confirmed.

Other Executive Branch nominees who were filibustered by Republicans included Walter Dellinger's nomination to be Assistant Attorney General and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never confirmed to his position as Solicitor General because Republicans had made clear their opposition to him. In addition, in 1993, Republicans objected to a number of State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Republicans successfully filibustered the nomination of Sam Brown to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President Clinton without Senate action. Also in 1994, two cloture petitions were required to get a vote on the nomination of Derek Shearer to be an Ambassador. And it likewise took two cloture petitions to get a vote on the nomination of Ricki Tigert to chair the FDIC. So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, they must be reminded that they recently filibustered many, many qualified nominees.

Nonetheless, in spite of all the intransigence of the White House and all of the doublespeak by some of our colleagues on the other side of the aisle, I can report that I believe the Senate will by the end of this week have moved forward to confirm 111 of President Bush's judicial nominations since July 2001. That total would include 11 judges confirmed so far this year and of those, seven would be confirmed this week. With the time agreement on the controversial nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit in place for later today, it also includes a circuit judge. Those observing these matters might contrast this progress with the start of the last Congress in which the Republican majority in the Senate was delaying consideration of President Clinton's judicial nominees. In 1999, the first hearing on a judicial nominee was not until mid-June. The Senate did not reach 11 confirmations until the end of July of that year. Accordingly, the facts show that Democratic Senators are being extraordinarily cooperative with a Senate majority and a White House that refuses to cooperate with us. We have made progress in spite of that lack of comity and cooperation.

Indeed, by close of business today, we will have reduced vacancies on the federal courts to under 55, which includes

the 20 judgeships the Democratic-led Senate authorized in the 21st Century Department of Justice Appropriations Authorization Act last year. That is an extremely low vacancy number based on recent history and well below the 67 vacancies that Senator HATCH termed "full employment" on the federal bench during the Clinton Administration.

Our D.C. Circuit has special jurisdiction over cases involving the rights of working Americans as well as the laws and regulations intended to protect our environment, safe work places and other important federal regulatory responsibilities. This is a court where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty, as well as the lives of their children and generations to come.

If a nominee's record or responses raise doubts or concerns, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's fairness and experience. No one should be rewarded for stonewalling the Senate and the American people. Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we confirm will be fair judges to all people and in all matters.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so that we could proceed to an up-or-down vote. Some on the Republican side seem to prefer political game playing, seeking to pack our courts with ideologues and leveling baseless charges of bigotry, rather than to work with us to resolve the impasse over this nomination by providing information and proceeding to a fair vote. I was disappointed that Senator BENNETT's straightforward colloquy with Senator REID and me on February 14, which pointed to a solution, was never allowed by hard-liners on the other side to yield results. I am disappointed that all my efforts and those of Senator DASCHLE and Senator REID have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter reasonably and fairly. Republicans would apparently rather engage in politics.

The Republican majority is wedded to partisan talking points that are light on facts but heavy on rhetoric. There has often been an absence of fair and substantive debate and a prevalence of name calling by the other side.

I urge the White House and Senate Republicans to end the political warfare and join with us in good faith to make sure the information that is needed to review this nomination is provided so that the Senate may conclude its consideration of this nomina-

tion. I urge the White House, as I have for more than two years, to work with us and, quoting from a recent column by Thomas Mann of The Brookings Institute, to submit "a more balanced ticket of judicial nominees and engag[e] in genuine negotiations and compromise with both parties in Congress."

The President promised to be a uniter not a divider, but he has continued to send us judicial nominees that divide our nation and, in this case, he has even managed to divide Hispanics across the country, unlike any of the prior nominees of both Democratic and Republican presidents. The nomination and confirmation process begins with the President, and I urge him to work with us to find a way forward to unite the nation on these issues, instead of to divide the Nation.

The presiding officer. The Senator from Utah.

Mr. HATCH. Mr. President, this is the fifth week of debate on Mr. Estrada's nomination. My Democratic colleagues have had unlimited opportunities to make their case. Some of them oppose him; others support him. But one thing has remained clear through this debate: There is no good reason to continue this route of obstruction by denying Mr. Estrada an up or down vote.

If my count is accurate, we have sought more than 17 times to come to an agreement with the Democratic leadership for a time to vote on Mr. Estrada's nomination. Each time, they rejected our efforts.

Yet, the Democratic leadership has complained that the Senate should move on to consider other important matters. All the while, they have continued to fight voting on Mr. Estrada's nomination—the very thing that would allow the Senate to focus its energies on other matters.

This filibuster of Mr. Estrada's nomination is just another step in a calculated effort to stall action on President Bush's judicial nominees. A few weeks ago, I spoke at length on the Senate floor about the Senate Democrats' weapons of mass obstruction. I mentioned that when the Democrats controlled the Senate, we saw them bottle up nominees in committee despite more than 100 vacancies in the federal judiciary. They have continued to try to inject ideology into the confirmation process by demanding that nominees like Miguel Estrada answer questions that other nominees rightly declined to answer, but were nevertheless confirmed. They have sought production of all unpublished opinions of nominees who are sitting Federal judges—a demand that has resulted in the production of hundreds of opinions and required the expenditure of a significant amount of resources, money, effort, the time. Most recently, they have demanded that a nominee, Mr. Estrada, produce confidential internal memoranda that are not within his control. Although this tactic made its

debut with Mr. Estrada, I expect that we will see it repeated with other nominees.

Each of these weapons of obstruction were at their most potent when Democrats controlled the Judiciary Committee. Now things have changed, and Democrats can no longer keep nominees like Miguel Estrada bottled up in committee while they made demands for answers to questions that are unanswerable, and for confidential documents that are not subject to production. Democrats no longer control the committee, and as a result Miguel Estrada nomination has made it to the Senate floor. This means that the obstructionists among the Senate Democrats have turned to their ultimate weapon—the filibuster.

Filibusters of judicial nominees allow a vocal minority to prevent the majority of Senators from voting on the confirmation of a Federal judge—a prospective member of our third, co-equal branch of Government. It is tyranny of the minority, and it is unfair to the nominee, to the judiciary, and to the majority of the Members of this body who stand prepared to fulfill their constitutional responsibility by voting on Mr. Estrada's nomination.

I have taken to the floor time and time again, for Democratic and Republican nominees alike, to urge my fellow Senators to end debate by voting to invoke cloture, which requires the vote of 60 Senators. Most, if not all, of these occasions did not represent true filibusters, but were situations in which nominees were nevertheless forced to overcome the procedural obstacle of a cloture vote. And no lower court nominee has ever been defeated through use of a filibuster—all previous lower court nominees who endured a cloture vote were ultimately confirmed.

I am not alone in my disdain for forcing judicial nominees through a cloture vote. I think that it is appropriate at this point to note that many of my Democratic colleagues argued strenuously on the floor of the Senate for an up-or-down vote for President Clinton's judicial nominees.

The distinguished minority leader himself once said:

As Chief Justice Rehnquist has recognized: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." An up or down vote, that is all we ask . . .

The ranking member of the Judiciary Committee echoed these sentiments when he said:

. . . I, too, do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41.

Another one of my Democratic colleagues, Senator KENNEDY, himself a former chairman of the Judiciary Committee, had this to say:

Nominees deserve a vote. If our Republican colleagues do not like them, vote against them. But do not just sit on them—that is obstruction of justice.

The distinguished Senator from California, Mrs. FEINSTEIN, who also serves on the Judiciary Committee, likewise said in 1999:

A nominee is entitled to a vote. Vote them up; vote them down.

She continued:

It is our job to confirm these judges. If we do not like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that do not pass muster, vote no.

My other colleague from California, Senator BOXER, said in 1997:

It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

My colleague from Delaware, Senator BIDEN, also said in 1997:

I . . . respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

I could go on, but I think I have made my point. I had hoped that I could count on each of my Democratic colleagues who made statements supporting an up-or-down vote for President Clinton's judicial nominees to join me in voting for cloture on Miguel Estrada. I had hoped that their remarks in the past were not merely about partisanship, but about the fairness that should be extended to all judicial nominees, regardless of which President nominated them.

Last week, I was wrong. But today, there is a second chance—another chance to set aside partisanship for fairness.

For this cloture vote to succeed, a supermajority of 60 Senators must vote to end the filibuster of Mr. Estrada's nomination. I regret that it has come to this, because forcing a supermajority vote on any judicial nominee is a maneuver that needlessly injects even more politics into the already over-politicized confirmation process. I believe that there are certain areas that should be designated as off-limits from political activity. The Senate's role in confirming lifetime-appointed article III judges—and the underlying principle that the Senate perform that role through the majority vote of its members—are such issues. Nothing less depends on the recognition of these principles than the continued, untarnished respect in which we hold our third branch of Government—the one branch of Government intended to be above political influence.

So I now say once again to my Democratic friends: Vote for Miguel Estrada or vote against him. Do as their conscience dictates you must. But do not prolong the obstruction of the Senate by denying a vote on his nomination. Do not cast their vote against cloture today. Do not continue to treat the third branch of our Federal Government—the one branch intended to be insulated from political pressures—with such disregard that we filibuster its nominees. Do not perpetuate this

campaign of unfairness. Vote for him or vote against him, but just vote.

This first filibuster in the history of the Senate on a substantive judgeship for a circuit court of appeals nominee is unprecedented, something that should never happen, that we prevented from happening when I was chairman of the committee during the Clinton administration. My friends on the other side are using a fiction that they know the administration cannot fulfill, and that is demanding a fishing expedition into all of the papers in the Solicitor General's Office pertaining to Mr. Estrada's recommendations on appeals, certiorari, and amicus curiae. They know the administration cannot do that. They knew that when they wrote the letter making that unreasonable demand. This is what we call fiction, a red herring, so they can justify the filibuster they are undergoing and act very pious, that they are really trying to learn more about this man, in spite of the fact that they conducted the hearings.

The hearings went all day. The transcript is almost 300 pages. They have all of his Supreme Court briefs. They have all of his Supreme Court arguments. They know more about Mr. Estrada than they know about any circuit court of appeals judgeship nominee we have had over the last 27 years that I have been in the Senate, as far as I know. There might be one or two they might know as much about as they do Mr. Estrada, but this is a fiction. It is a red herring. We have a letter from seven former Solicitors General, all living former Solicitors General, from Archibald Cox to Seth Waxman, four of the seven Democrat Solicitors General, three of who worked with Miguel Estrada in the Solicitor General's Office, because he worked, I might add, 4 years for the Clinton administration and 1 year for the Bush administration. Those former Solicitors General say these types of documents should never be given, because it would chill the ability of the Solicitor General to get honest and decent opinions on very important matters for the people's business, and the people's business does not make any delineation between Democrats and Republicans. The Solicitor General represents all of the people.

I will now say a few words about Priscilla Owen before I go back to the hearing.

I rise for the purpose of reading a Dear Colleague letter that I have written and distributed today concerning the nomination of Justice Priscilla Owen of Texas to be a judge on the US Court of Appeals for the Fifth Circuit. I have distributed this to every Senator in the Senate.

DEAR COLLEAGUE: On September 4 of last year I took the unusual step of writing to the entire Senate to express my outrage at the untruthful and misleading attacks made against Justice Priscilla Owen of Texas, who was nominated by President Bush to serve on the Fifth Circuit Court of Appeals. As you know, Justice Owen enjoyed the support of

both of her home-state Senators last Congress, and again enjoys such support. I am writing today so that you have all information related to this important information.

In September, I expressed my concern that a continued pattern of misinformation about a nominee, like the one generated about Justice Owen, could undermine the integrity both of the judiciary and of the branch of government in which we are privileged to serve. A day later, the Judiciary Committee refused to allow Justice Owen a vote by the whole Senate on a party-line vote of 10 to 9.

Notably, one week later The Washington Post joined scores of other newspapers across the country in expressing support for Justice Owen and severely criticized the Committee's conduct. I have enclosed its editorial. The Post described the Committee's vote as "a message to the public that the confirmation process is not a principled exercise but an expression of political power." The Post also noted that although they disagreed with some of her opinions, "none seems beyond the range of reasonable argument."

Despite the independent support of dozens of newspapers, prominent Democrats, and fourteen past Texas bar presidents, critics have portrayed Justice Owen as being "far from the mainstream." Yet Texas voters have twice elected her overwhelmingly to statewide office. The American Bar Association has unanimously rated her well qualified, its highest rating. In fact, Justice Owen was the first judicial nominee with the ABA's highest rating to be voted down by the Judiciary Committee.

In my opinion, Justice Owen is perhaps the best sitting judge I have ever seen nominated. She is brilliant as well as compassionate. Justice Owen's record of applying the law as written is among the very best of any judicial nominee ever presented to the Senate. This is particularly true in her now famous decisions concerning the Texas law requiring parental notification when minor children obtain abortions. In these cases, no one's right to choose was implicated. The only right at stake was the right articulated by the Texas legislature of parents to have knowledge of, and an opportunity for involvement in, one of the most important decisions of their children's lives. In those cases, Justice Owen did exactly what any restrained judge should do: She applied Texas statutory law as directed by Supreme Court's precedent, including *Roe v. Wade*. Ironically, it is Justice Owen's opponents—the same ones who accuse her of being an "activist"—who would have her ignore the legislature and the Supreme Court in order to reach a political result.

Justice Owen is also accused of deciding cases against consumers, workers, and the injured and sick. This charge is not only factually without basis, but also belies the accusation of "activism." Only those obsessed with outcomes, rather than the law governing the facts of a particular case, would be compelled by a mere counting up of wins and losses among categories of parties before a judge.

Working as a judge is like being an umpire; Justice Owen cannot be characterized as pro-this or pro-that any more than an umpire can be analyzed as pro-strike or pro-ball. I hope you will agree that a judge's job is to apply the law to the case at hand, not to mechanistically ensure that court victories go 50/50 for plaintiffs and defendants, consumers and corporations.

Justice Owen was also notably assailed by her critics using incorrectly the words of one of her biggest supporters, Alberto Gonzales, President Bush's White House Counsel. Judge Gonzales served with Justice Owen on the Texas Supreme Court and has written publicly that she is "extraordinarily well

qualified to serve as a judge on the federal appeals court." Rather than focus on his ringing endorsement, however, detractors instead sensationalized a disagreement that Judge Gonzales had not with Justice Owen, but with other dissenting judges in a case involving the Texas parental notification law.

Justice Owen is an excellent judge. Her opinions, whether majority, concurrences, or dissents, could be used as a law school text book illustrating exactly how an appellate judge should think, write, and do the people justice by effecting their will through the laws adopted by their elected legislatures. She clearly approaches these tasks with both scholarship and mainstream American common sense.

As a new Congress takes a fresh look at this nomination, I hope you will join me in informing the American people of the truth about Justice Owen and in warning them of the grave danger posed by an uninformed politicization of the federal judiciary. I hope you will urge our colleagues to do the right thing when Justice Owen is again voted on by the Committee and goes to the Senate floor for confirmation.—Signed, ORRIN G. HATCH.

We are holding a hearing today on Justice Owen's nomination. I invite all of my colleagues to attend. In fact, I encourage them to do so. I want everyone to get to know Justice Owen and have the opportunity to hear from her firsthand. This is a very unusual invitation, I know. But these are unusual times in the Senate for judicial nominations, and Justice Owen is a particularly important and impressive nominee. I urge my colleagues to come to the hearing taking place in Dirksen 106 and see for themselves what an extraordinary person and jurist she is.

We are having difficulty with the President's judicial nominees. Every one of these circuit nominees is being contested, some more than others, but all of them are quite rabidly being contested. Miguel Estrada is a perfect illustration of someone who is totally competent, totally equipped to do the job, honest, decent, has earned his stripes, has the highest rating from the American Bar Association, the gold standard, according to our colleagues on the other side. Yet he is being filibustered here now in the fifth or sixth week.

We have a cloture vote today. I hope my colleagues will consider this. I hope we can get some of the more clear thinking colleagues on the other side to start voting for Mr. Estrada, to start voting for cloture, so we can end this outrageous debate and put a qualified person on the court. Let's not hide behind a fishing expedition to get documents they know no self-respecting administration is going to give to them, and using that as a basic shield to say they are not doing something unjust to Miguel Estrada. They are being very unjust, very unfair. It is not right. We ought to stop it.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Let me take this opportunity, first, to express my appreciation and the appreciation of the Senate for the outstanding work that is being done by Senator HATCH as chairman of

the Judiciary Committee. That is a tough job. It always has been. It seems to be getting tougher with every passing Congress. I know from personal experience during my tenure as the Republican Leader, both in the majority and the minority, of the diligent work and good work that has been done by Senator HATCH to move judicial nominations through the process.

Quite often, it was very difficult in the committee and on the floor. There have been accusations that, perhaps, he had unfairly delayed judges in the past. But I can tell you this: My knowledge was, and memory is, that he worked very hard to move a lot of judges, several of whom were highly controversial but were eventually confirmed anyway.

Yes, at the end of the last term some judicial nominees of the Clinton administration were not completed, but if you compare the number that were left over to similar situations in the past, it was a smaller number. When you look at the number of judges that have been confirmed under the stewardship and leadership of Senator HATCH, it has to be a record in terms of overall numbers compared with previous chairmen and previous administrations.

I will talk more about specifics, but while Senator HATCH is here I wanted to recognize the untiring and patient and effective efforts of the Senator from Utah on this very worthwhile effort.

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. HATCH. I thank my dear colleague for those kind remarks. As he knows, there have been some on our side that did not want hardly any of the Clinton judges, especially the more liberal ones, some of whom have gone to circuit court of appeals.

Mr. LOTT. If the Senator will allow me to interject, I remember the Senator from Utah received some criticism from this side of the aisle, and so did I, as we tried to move some of these judges through the process. We may have voted against them, which I did in at least a couple of instances, but I thought they deserved a vote. And we made sure that those votes took place.

Mr. HATCH. We did that.

I thank my colleague because as the leader he helped me to do the job for the Clinton administration. The President deserved the best we could do. Do we get everything done? No one has ever gotten everything done at the end of anyone's administration.

He is right. Our record was much superior to when the Democrats controlled the committee.

I thank my colleague.

Mr. LOTT. I again thank Senator HATCH for the effort. I remember even last year at one point I think we had approximately 70 judges on the calendar, a large number, and there was disagreement about how to proceed. There was an indication we would have to have a recorded vote on every one of them, even though many of them could be moved on a voice vote with no prob-

lem. It looked like we were not going to be able to move them, but Senator DASCHLE and I kept talking about them and kept working on it, and we began to move them in blocks. We finished the process and we had moved, I think, almost all of them, if not all of them. That was an example of how there can be cooperation in this very important area of confirmation of judges.

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. HATCH. I ask the Senator on our side, when he concludes, Senator KENNEDY has 2 minutes. We yielded our time.

Mr. LOTT. I will be happy to yield to the Senator from Massachusetts when I have finished my remarks.

Mr. LOTT. Let me talk briefly about the situation we find ourselves in, specifically, the nomination of Miguel Estrada to be a DC Circuit Court of Appeals Judge.

I made a brief speech about a month ago saying I thought this was a highly qualified candidate, one who had lived the American dream, having been born in Honduras, coming here when he was 17, and highlighting the phenomenal life he has lived. I thought it was a matter we would do pro forma. I assumed we would have some debate and some disagreement, but since he is a great nominee, I thought he would be confirmed a month ago or more. But here we are still.

I will not go back and recount all of his qualifications. All the Senators know, and most of America knows now, Miguel Estrada is certainly qualified to be a circuit court of appeals judge. He is qualified by education. He went to some of the best schools in America where he was Phi Beta Kappa, a Magna Cum Laude graduate, editor of the Harvard Law Review at that citadel of great conservative legal thinking. Now, he is accused of being conservative; a committed conservative, despite his broad background. He was editor of the Harvard Law Review, if you will. So by education he is qualified.

There are some points and comments from the Federalist Papers, a couple of considerations, that you should look into when you consider a judge. One is whether or not they are fit in the area of character. This is a man that has lived an exemplary life. There is no allegation of impropriety, no allegation of ethical misconduct. None whatsoever. So by education, by character, by ethics, and by experience he is an incredible nominee.

Some say he has not been a lower court judge. That is not always the criteria. We have a lot of people who have gone to the circuit court of appeals, even the Supreme Court, without having earlier been a judge in another court. But he has been involved by working with the Federal judiciary, and by serving as an Assistant to the Solicitor General. He has argued 15 cases before the Supreme Court. I have only been able to witness one case where I sat in the audience and listened to the snail darter case before

the Supreme Court. Listening to the arguments in that one case was enough for me. I left and never returned. But surely, clearly, everyone in this body knows this man is qualified to be a judge on the circuit court of appeals.

So what is the problem? What are they saying?

There is the suggestion that maybe he has a certain philosophy or a certain ideology, and that is a disqualification. If that were a disqualification, there are many judges I voted on during the Clinton years and at other points during my service in this chamber whom I would have voted against. I voted for Justice Ruth Bader Ginsburg even though I didn't agree with her philosophy and knew I probably wouldn't agree with a lot of her decisions, but she was qualified. She was the President's choice.

I think the burden is on the Senate to show why we should not confirm a nominee if they are qualified, have the proper experience, and don't have ethical problems. She met those criteria. I voted for her.

What is the problem here? Some Senators want more questions asked? All right, that is a legitimate point. It is part of the advice and consent role of the Senate. Let's hear what the nominees have to say.

He had a long hearing before the Judiciary Committee. Every question in the world that could be thought of was asked of this nominee. He was asked hypothetical cases to which I personally would not respond. I thought that on a lot of things he was asked, he was very careful in how he responded. You don't want to prejudice your decision. You don't want to pass judgment on a Supreme Court decision on which your future decisions as a judge may be based. The number one factor for the Senate to keep in mind on this point, however, is that he has offered to meet with any Senator personally who wants to meet with him.

Secondly, Senators on both sides have been told if you want to ask more questions, then submit the questions, and he will answer the questions.

Finally, even a day or so ago, Senator FRIST—against some advice that perhaps this pattern should not be started—said Mr. Estrada would be willing to go back to the Judiciary Committee so that interested Senators could ask him some more questions, with an understanding he would get a vote. Unfortunately, that offer was turned down, too. They say they want to ask him more questions, but when they are given a chance to meet with the nominee or a chance to ask more questions, they don't ask them. When we say he is willing to go back for another hearing under these circumstances—no, they don't want that either. What do they say they want? They want internal memos from the time that he was working as an Assistant to the Solicitor General.

I believe that maybe something can be worked out on that. But you cannot

set that precedent. Let me tell you why. If all these internal memos are made public in this instance, I guarantee future young attorneys in the Solicitor's Office, they will not be giving honest advice. No, no, they will pull their punches because they will know, anything I say in this written document may someday be used against me being confirmed as a Federal judge or in some other way. So this is not an insignificant request.

Should we try to find a way to work it out? I think so. But then I have been accused in the past of trying to get things done.

If everybody wants to make a statement around here to make their constituency happy, great. This is the way to do it. The People for the American Way and other liberal organizations—if Estrada is blocked—they will be happy. These political reasons are why many Senators on the other side of the aisle are opposing Mr. Estrada, but I want to point out that there are some notable exceptions, and I hope there will be more.

But on our side, we are able to say: This is an Hispanic nominee, and our core constituency groups are going to be happy. Republicans are happy, with us duking it out for this nominee to be on the Circuit Court of Appeals. Many will say that they are taking a stand, which is great.

How great is it when he is not confirmed? That is the goal here. I am not interested in blaming somebody or appeasing someone on our side. This man is qualified. We have vacancies on this court that should be filled. It is irresponsible for us not to find a way to work this out and get this nominee on the court.

So I say a pox on everybody's house if we are just trying to find a way to score political points with this man's life on hold while we do this thing that we are doing here. I really do think we are setting a dangerous precedent here, one we did not set in the past. We have not filibustered Federal judicial nominees. It is clearly not in the Constitution. I think advice and consent means 51 votes, not two-thirds; not 60—51.

You might say the Constitution doesn't make that clear. In the Constitution, article II, section 2, when the Framers of the Constitution were writing this out, when they intended supermajority votes, they said so. It clearly says in article II, section 2: To make treaties provided two-thirds of the Senators present concur. They specify two-thirds. When they said advice and consent, I believe they intended and expected, unless there were serious problems, that these nominees to the Federal judiciary would be confirmed with a vote, an up-or-down vote of 51.

I think what we are doing here is questionable constitutionally. We have never done this on a district or circuit court nominee before. Now we are about to do it.

Let me tell you what is scary. It may not be just about nominee Estrada.

Next it is going to be Priscilla Owen. They are going to filibuster Priscilla Owen, a qualified woman who is a brilliant Supreme Court Justice in the State of Texas. I am sure they will extend it to other nominees, as well—maybe Sutton, maybe Cook, maybe Pickering. Is this a pattern?

Who in this room, and outside this room, believes that this tit-for-tat will not continue? Do they think that once we, Heaven forbid, ever have another Democrat President, that Republicans are not going to return the favor? We are going to filibuster them.

We have to stop this. I think we, the leaders, the Republicans, the Democrats, past and present, have to assume responsibility for how this has continued to escalate.

Did we do some things during the Clinton years with judges that we should not have done? Yes. But did we take up the cause and try to do the right thing on many occasions? Yes. That is why I am here today, because I do believe I have been a part of the solution and part of the problem in the past. I acknowledge it. But when I was the Majority Leader, I called up nominations that were controversial.

I remember on one occasion we did have a threatened filibuster and a cloture vote which was defeated. I made a speech standing right there saying: My colleagues, we don't want to do this. This was a judge nominated by President Clinton, but really it was a judge whom ORRIN HATCH recommended. His name was Brian Theodore Stewart. Unfortunately, though, cloture was defeated. So we started talking about that, and cooler heads prevailed. Shortly thereafter, we confirmed this judge. That was the only time we came close, during the past 7 years, to having a filibuster on a judge. We got right up to it, but we didn't do it, because we knew we couldn't do it and that it was wrong. So, fortunately we backed away from it.

In terms of what was done in the past, again, I resisted filibusters. I didn't want to have filibusters, even though I voted against Judges Paez and Berzon on their up-or-down confirmation votes. But Senator HATCH and I took a lot of grief. We said, no, they have come out of committee, they deserve an up-or-down vote. They got the vote, and they were confirmed. They each got an up-or-down vote, not a filibuster. Some people thought they should have been filibustered. I didn't think they should have been, and they weren't.

My colleagues, I ask us here today: Where do we go from here? What is next?

The argument can be made that you filibuster a lot of different ways. You don't let them out of committee; I know about that approach. The last Congress, I know two judges who were defeated on a straight party-line vote in the Judiciary Committee. They were not allowed to come to the floor to have a vote, and I believe the Constitution requires they should come here

and have a vote, not be killed by 11 Senators in the Judiciary Committee, or 10, or whatever the number may be.

So, I accept part of the blame. I acknowledge that Republicans have not always handled judges in the right way. But I ask the question again, what next? We are going to kill them in committee? We are going to kill them by filibuster? This is wrong, my colleagues. We should not do this.

We are starting down a trail that is unfair, and it is going to come back to haunt this institution, haunt both parties, and damage the lives of innocent men and women.

I urge my colleagues, find a way to move this judicial nominee, Miguel Estrada. He deserves better. He should be confirmed.

Some people say: Wait, if we don't stop him now, he may be on the Supreme Court. Well let's test him. Let's confirm him. Let's see how he does. We might be surprised. We might even be disappointed. I have been surprised at times. I voted for a couple of Supreme Court Justices and wished I could take the vote back because when they got there, they were not what I thought they were going to be. Men and women can do surprising things when they become Federal judges for life.

So I just felt a need to come down and recall some of the things that have happened, admit some of the mistakes, try to sober this institution up. This is a great institution that does pay attention to precedents. It does, sometimes, start in the wrong direction, but most of the time we pull ourselves back from the brink; we find a way to get it done. I hope and I certainly feel down deep we are going to find a way to not set this precedent and not defeat this qualified nominee with a filibuster.

I yield the floor.

Mr. KENNEDY. Mr. President, I want to make a brief response to the points made by our colleagues on the floor and in the press during the past week.

It is not true that majority rule is the only rule in our country. The purpose of the great checks and balances under the Constitution is to protect the country from the tyranny of the majority. As far as shutting off debate in the Senate is concerned, majority rule has not been the rule since 1806. Even in our presidential elections, majority rule is not the rule, or we would have a different President today.

There is nothing even arguably unconstitutional about the Senate Rule providing for unlimited debate unless and until 60 Senators vote to cut off debate. The same Constitution which gave the Senate the power of advice and consent gave the Senate the power to adopt its own rules for the exercise of all of its powers, including the rules for exercising our advice and consent power.

The Constitution does not say that judges shall be appointed by the President as he wishes. It says that they shall be appointed by the President with the advice and consent of the Sen-

ate. We are not potted plants decorating one end of Pennsylvania Avenue. We play a very special role under the Constitution. The Founders gave us numerous powers to balance and moderate the powers of the President. They gave us longer terms than the President, and staggered our terms, so we would be less subject to the passions of the time. Clearly, we have the power and the responsibility to oppose the President when he refuses to provide us with the only documentation that can tell us what kind of person he has nominated for a lifetime appointment on the Nation's second highest court.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Executive Calendar No. 36, which the clerk will report.

#### NOMINATION OF JAY S. BYBEE, OF NEVADA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The assistant legislative clerk read the nomination of Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 6 hours of debate equally divided in the usual form on the nomination.

The Senator from Nevada.

Mr. REID. Mr. President, Senator LEAHY, the manager of this side, requested that I speak now.

Mr. President, I am pleased that we will be moving forward on the nomination of Jay Bybee for U.S. Court of Appeals for the Ninth Circuit. This is an important job which Jay Bybee will have. It is the largest circuit as far as the number of judges that we have.

The chairman of the Judiciary Committee is here. I would be happy to yield to the chairman of the committee.

Mr. President, the Ninth Circuit is the largest circuit, with a full complement of 28 or 29 judges. It is a circuit that certainly is important to my State, the State of Nevada, and the entire western part of the United States. It is a controversial circuit. There have been efforts made in the past to change the makeup of the court and have States divided so we could create another circuit. No one can take away from the importance of this circuit. The State of California alone, with some 35 million people, is under the jurisdiction of the Ninth Circuit Court of Appeals.

The last time I had a conversation with a member of the Bybee family was on an airplane. Mrs. Bybee was on the plane. She is a lovely woman. Certainly Jay Bybee is a proud husband and father, as well he should be. I commented to Mrs. Bybee, Why does he have to write so much? He has written Law Review articles. He has written lots of articles on very controversial subjects. But the good thing about Jay Bybee is that he can explain why he wrote those

articles. He is a person—while some may disagree with the conclusions that he reached in his large articles—who has the intellectual capacity to explain his reasoning. He has excellent legal qualifications, not only from an educational perspective but from an experience perspective.

He served as legal adviser during the first Bush administration. He has helped to teach a generation of new lawyers as a former professor at the University of Nevada, Las Vegas Boyd School of Law, and he has taught at other places. He is someone who will bring distinction to the Ninth Circuit.

He was favorably reported by the Senate Judiciary Committee on February 28. The swift pace of this nomination demonstrates how the process can work when both sides of the aisle work together, when the President works with Senators of the other party, and when the advise and consent clause of our Constitution is respected.

Senator JOHN ENSIGN and I work closely on all issues that affect Nevada, and on judges it is certainly no different. JOHN ENSIGN is a class act. The way he handles being in the majority is classic. We know the difference, both having served in the majority. It would be certainly easy for him just to submit a name and not run it past me. But, of course, he didn't. When he came up with the name Bybee, I said of course.

I have a lot of reasons for supporting people named Bybee. One reason is—I don't know the lineage—because there are a lot of Bybees in Utah and Nevada. But when I was in college I fought for a man by the name of "Spike" Bybee. He was a police officer in Cedar City, UT. But he devoted long hours of his time training fighters. "Spike" moved to Las Vegas where he became a respected probation officer. But my fondest memories of "Spike" Bybee were during the time he spent with me taking me in Arizona, Utah, and Nevada as my manager. Anyway, just for no other reason than I traveled around the country with someone who helped me through some difficult times—a fine man. He died at a young age from a very bad disease. I have the name Bybee in my mind from some of the times in my youth.

I indicated Senator ENSIGN and I consulted on Mr. Bybee's nomination when Senator LEAHY chaired the Judiciary Committee for a short time. Mr. Bybee was reported out of the Judiciary Committee in compliance with the committee's rules when Senator HATCH was chairman.

The consultation and respect for the rules is why we are here today, moving forward to fill the Ninth Circuit seat held by Proctor Hug, Jr. since 1977.

I must say a few things about Proctor Hug. He is a fine man and a great athlete. He went to Sparks High School. He was an all-star athlete in football, track, and basketball. He ran track in college, was State debate champion. He was student body president at Sparks High School. He met his



future wife, Barbara Van Meter, at Sparks High School. He became student body president at the University of Nevada.

He served his country honorably in the Navy and then went to one of the most prestigious law schools in the entire country, Stanford Law.

He was appointed by President Carter and became Chief Judge of the Ninth Circuit in 1996. He was a good "Chief," as the other judges called him. He came back here a lot of times lobbying as a judge for issues important to the Ninth Circuit and the Federal judiciary.

Judge Proctor Hug set a fine example of what it means not only to be a judge but to serve your community and your country.

To show what great judgment Proctor Hug has, two of my sons were his law clerks, and one was his administrative assistant when he was chief judge. He signed up with Judge Hug for 2 years. He was a fine administrative assistant.

I expect Jay Bybee will follow in the evenhanded and impartial path set by his predecessor, Judge Proctor Hug.

The point is that where there is consultation, the nominating process works well. When consultation was the rule, where blue slips were issued and made public, the body swiftly confirmed 100 judges, as my friends know.

Talking about the 100 judges, when we were in control of the Senate—even over here in the minority, 11 judges by the end of today will have been approved for the circuit court, the trial court, and the Court of International Trade. In the last 24 hours we will have approved five judges—a circuit court judge, two trial court judges yesterday, and two today. We are moving along quite well.

I am not going to get into we did this and they did that. The fact is whoever did what, we are still filling a lot of judicial vacancies around the country.

I think it is important that we proceed to recognize we have a problem with Mr. Estrada. I know my dear friend, the junior Senator from Mississippi, the majority and minority leader during my time here in the Senate, recognizes that if he is going to get Estrada done, something different has to be done than what we have been doing.

I read in today's New York Times where the junior Senator from Mississippi said—I am paraphrasing, but he basically says: If we—talking about the Republicans—want to get Estrada done, then we are going to have to do something different. And, obviously, what we want done is to have supplied the records when he was in the Solicitor's Office and reconvene the committee and have the hearing.

Now, there are people who may vote for Estrada, if we could get through that process—Democrats. I think there would be a number of them. But until we get that information, and find out if something is being hidden—maybe

there has been a perusal of all those documents, and maybe they can't be given to us. Maybe they can't be given to us because he has said things there. Maybe, as Paul Bender said, he is such an ideologue, and maybe he has written about all those things Paul Bender said when he was in the Solicitor General's Office. I don't know. But I would suggest that would be the best way to get over this hump.

The fact is, though, today we should not be dwelling on what we have not been able to do, but we should be talking about what we have done.

Today, we are going to confirm a circuit court judge. We are going to make a man—Uay Bybee—so happy; he was, on more than one occasion during his short tenure at the University of Nevada, Las Vegas—a new law school just accredited—selected as the No. 1 professor, the best professor, at that law school. He was not selected by the other professors. He was selected by the students.

Jay Bybee has a great personality. He has an in-depth knowledge of the law. He comes with a background from a wonderful family. I am so glad we are able today to confirm this man for a lifetime appointment to the Federal judiciary.

We keep talking about the DC Court of Appeals being right under the Supreme Court. So is the Ninth Circuit. It is the highest court you can serve on except for the Supreme Court.

Jay Bybee will serve with distinction and honor, and not only represent the State of Nevada well, and the students he taught at Louisiana and UNLV, but he will also represent the whole country, being a credit to the bar and to the judiciary.

**THE PRESIDING OFFICER.** Who yields time?

**Mr. HATCH.** Mr. President, I yield such time as he needs to the distinguished junior Senator from Nevada.

**THE PRESIDING OFFICER.** The Senator from Nevada.

**Mr. ENSIGN.** Mr. President, I thank the senior Senator from Nevada, my colleague, Mr. REID, for all of the work he has done in helping us shepherd the nomination of Jay Bybee through this nomination process for the Ninth Circuit Court of Appeals. Without his help, with the way things are around here, we know this would not be happening today. That would be a shame because Jay Bybee is incredibly qualified. Everybody who has ever been associated with him understands that.

Mr. President, I rise today to speak to my colleagues about a man of the highest legal distinction, Mr. Jay Bybee. Mr. Bybee's experience and background, and his unquestioned dedication to the fair application of the law, make him an ideal nominee for the Ninth Circuit Court of Appeals.

As many of you know, Mr. Bybee appeared before this body in 2001 as a nominee to serve as Assistant Attorney General in the Office of Legal Counsel at the Department of Justice. He was

confirmed unanimously by the Senate on October 23, 2001.

As head of the Office of Legal Counsel, Jay assists the Attorney General in his role as legal advisor to the President and all the executive branch agencies. The Office is also responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality.

Though a native of the chairman's home State of Utah, Nevada is proud to claim Jay as one of its own. Before his confirmation in the Senate in 2001, Mr. Bybee joined the founding faculty and served as a Professor of Law at the William Boyd School of Law at the University of Nevada, Las Vegas. Mr. Bybee's scholarly interests have focused in the areas of constitutional and administrative law. His dedication to ensuring that young law students learn the highest standards of legal practice resulted in his being named the Professor of the Year in 2000.

Mr. Bybee is known throughout the legal community as one of the foremost constitutional law scholars in the United States. He is regarded as extremely fair minded and adheres to the highest ethical and professional standards. He is admired throughout the legal profession as both a leader and a gentleman. Most importantly, Jay understands the rule of law, and will consistently and carefully consider the arguments on both sides of a legal question with an open mind. Because of Jay's combination of his legal skills along with his commitment to fairness, I have no doubts that he will serve in the best traditions of the federal judiciary.

If confirmed, Mr. Bybee's service will be an invaluable asset to the Ninth Circuit Court of Appeals. As you are aware, the Ninth Circuit is facing an overwhelming caseload, and the seat that Mr. Bybee has been nominated is designated as a "judicial emergency" by the Judiciary Conference of the United States.

Caseloads in the entire federal court system, including in the Ninth Circuit, continue to grow dramatically. Filings in the federal appeals court reached an all time high again last year. The Chief Justice recently warned that the alarming number of vacancies, combined with the rising number of caseloads, threatens the proper functioning of the federal courts. The American Bar Association has called the situation an "emergency."

There are currently four vacancies in the 28-judge court of the Ninth Circuit Court of Appeals, with one more vacancy already announced effective in November 2003. The Judicial Conference has asked for two new permanent and three temporary seats on the Ninth Circuit, just to cope with the caseload. That brings the total to 33 judges that are needed just to handle the caseload on the Ninth Circuit. Today there are only 24 judges doing the job of 33. This situation has to change.



That is why it is extremely important that the Senate approve the nomination of Jay Bybee today, and that the Senate continue to consider each one of the President's judicial nominations as quickly as possible.

I would like to thank the chairman and the entire Judiciary Committee and their staff for their hard work in shepherding this nominee through the process. I urge my colleagues in the Senate to vote in support of Jay Bybee's appointment to the Ninth Circuit today.

Mr. President, I first met Jay Bybee a few years ago. I had previously heard some great things from people in the community of southern Nevada about this legal scholar out at the new UNLV Boyd School of Law. I wanted to sit down and meet with him, to talk to him, and just pick his brain about the Constitution.

I am a veterinarian by profession, so I am not a lawyer and did not attend law school as many of our colleagues have. I thought, the more I could learn from scholars such as Jay Bybee, the educated I would be and therefore the better Senator I would be.

We sat down for over an hour. I could have stayed there all day. He has a fascinating mind. He has incredible knowledge of the Constitution, of this nation's history and of case law.

When I first was elected to the Senate, because President Bush had been elected I knew it would come upon me to recommend judges for the State of Nevada. I didn't have many ties in the legal community, so I had to look to Nevadans on whom I could count on for advice. One of the people I went to was Jay Bybee. He helped me tremendously in the interview process.

I actually felt sorry for the people who were coming before us because of the difficulty and depth of the questions Jay Bybee would ask them. It was because of that experience, when this process came forward, that I sent his name to the White House.

When the White House began to consider Jay Bybee, they realized immediately what a talent he is. That is why the Attorney General's Office took him away from the Boyd School of Law, to the position he is now in, in the Attorney General's Office. He advises the Attorney General on constitutional matters. That is how much they think of his constitutional expertise.

At the Boyd School of Law, and in the legal community in Nevada, there is nobody more highly thought of as a constitutional expert than Jay Bybee—both liberals and conservatives. They understand his expertise and the way he looks at law. Literally, I have talked to students from the far left end of the political spectrum to the far right end of the political spectrum, and they all talk about him with glowing remarks. It is truly amazing. I think it tells a lot to his character and a lot to his intellect.

I think he has the right tools intellectually, the right temperament and

the right character to serve on the 9th Circuit. He has all the qualifications we want for someone to be on the Ninth Circuit—and especially the Ninth Circuit, the most controversial circuit we have in the United States. As you know, this is the circuit that just ruled that the Pledge of Allegiance is unconstitutional, and this body voted unanimously to condemn that and say we do not agree with that interpretation.

The Ninth Circuit needs help. We need qualified judges to give that help. Jay Bybee is exactly the kind of person we need to the 9th Circuit. There are currently four vacancies on the Ninth Circuit, and soon to be a fifth. The Judicial Conference recently also requested two new permanent judges and three temporary judges. They have a huge crisis on the Ninth Circuit because there are so many backlogged cases. It has been said on this floor: Justice delayed is justice denied. That is what is happening in the Ninth Circuit.

So it is important to approve Jay Bybee's nomination today, and to begin our work to appoint other judges to fill those vacancies I mentioned. It is my hope that we can get the new judgeships approved through this body so the Ninth Circuit can catch up on their caseload.

So enthusiastically, Mr. President, I recommend that we vote to confirm this outstanding nominee, Jay Bybee. He is a great family man. He will make a great judge. And he will be there for a long time, God willing, having a positive influence on the Ninth Circuit.

With that, I once again thank the senior Senator from Nevada. I also thank the chairman of the Judiciary Committee for his work in getting Jay Bybee's nomination to the floor. We appreciate all the indulgences. I know the Chairman has to constantly answer to each individual Senator, and we can be kind of a pain sometimes, but we sure appreciate the work done in getting Jay Bybee's nomination to this day when we can finally get him confirmed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my two colleagues from Nevada. You very seldom see two colleagues from different parties working so well together. They are both excellent people.

We all respect Senator REID. He is one of the moderate voices around here who tries to get things to work. And I personally appreciate it. And the distinguished junior Senator from Nevada, Mr. ENSIGN—I have not seen a better Senator in years. He is certainly making a difference on our side. And I believe, working with his colleague on the other side, he is getting a lot of things done for Nevada and for the Intermountain West, and it is terrific. So I pay tribute to both of them.

I am pleased we are considering the nomination of Jay S. Bybee who has

been nominated by President Bush to serve on the United States Court of Appeals for the Ninth Circuit. Professor Bybee has a sterling resume and a record of distinguished public service. I know him personally. I am a personal friend. I know his quality. I know what a good thinker he is. I know what a great teacher he has been. I know what a great job he has done down at Justice. He is a person everybody ought to support because he is a truly wonderful, upright, good, hard-working, intelligent individual.

Professor Bybee is currently on leave from the University of Nevada at Las Vegas William S. Boyd School of Law, where he has served as a professor since the law school's founding in 1999. Since October 2001, he has served as Assistant Attorney General for the Department of Justice Office of Legal Counsel. Notably, this is a post formerly held by two current Supreme Court Justices. As head of the Office of Legal Counsel, Professor Bybee assists the Attorney General in his function as legal advisor to the President and all executive branch agencies. The office also is responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality.

Professor Bybee, a California native, attended Brigham Young University, where he earned a bachelor's degree in economics, magna cum laude, and a law degree, cum laude. While in law school, he was a member of the BYU Law Review.

Following graduation, Professor Bybee served as a law clerk to Judge Donald Russell of the Fourth Circuit Court of Appeals before joining the firm of Sidley & Austin—one of the great law firms. In 1984, he accepted a position with the Department of Justice, first joining the Office of Legal Policy, and then working with the Appellate Staff of the Civil Division. In that capacity, Professor Bybee prepared briefs and presented oral arguments in the U.S. Courts of Appeals. From 1989 to 1991, Professor Bybee served as Associate Counsel to President George H.W. Bush.

Professor Bybee is a leading scholar in the areas of constitutional and administrative law. Before he joined the law faculty at UNLV, he established his scholarly credentials at the Paul M. Hebert Law Center at Louisiana State University, where he taught from 1991 to 1998. His colleagues have described Professor Bybee as a first-rate teacher, a careful and balanced scholar, and a hardworking and open-minded individual with the type of broad legal experience the Federal bench needs.

Professor Bybee comes highly recommended. One of his supporters is Mr. William Marshall, a professor of law at the University of North Carolina. Mr. Marshall served in a number of high-level posts in the Clinton administration including a stint as Deputy White House Counsel and, notably, as a counsel in the Office of Legal Policy at the

Department of Justice, where he participated in the judicial selection process by screening prospective Clinton administrative nominees. In his letter to the committee supporting Professor Bybee, Mr. Marshall said:

The combination of his analytic skills along with his personal commitment to fairness and dispassion lead me to conclude that he will serve in the best traditions of the Federal judiciary. He understands the rule of law and he will follow it completely.

Stuart Green, a law professor at Louisiana State University who describes himself as a "liberal Democrat and active member of the ACLU," said:

I have always found [Jay Bybee] to be an extremely fair-minded and thoughtful person. Indeed, Jay truly has what can best be described as a 'judicious' temperament, and I would fully expect him to be a force for reasonableness and conciliation on a court that has been known for its fractiousness.

This self-described liberal Democrat states that Professor Bybee will bring some balance to the Ninth Circuit. I remind my colleagues that in this court 14 of the 24 active judges, including 14 of the last 15 confirmed, were appointed by President Clinton.

This court was recently in the news with yet another controversial decision. We are all familiar with the Ninth Circuit's recent ruling which held the Pledge of Allegiance to the Flag as unconstitutional under the Establishment Clause because the Pledge contains the phrase "under God."

The Ninth Circuit's high reversal rate by the Supreme Court is well documented, but less well known is the Ninth Circuit's propensity for reversing death sentences, with some judges voting to do so almost as a matter of course. No doubt the Ninth Circuit has some of the nation's most intelligent judges, but some cannot seem to follow the law. Just this term, the U.S. Supreme Court summarily reversed the Ninth Circuit three times in one day and vacated an opinion 9-0.

With two judicial emergencies in the Ninth Circuit, Professor Bybee is the type of judge we need. He is committed to applying and upholding the law. He will be a terrific judge. That circuit represents over 9 million people, the largest in the country. It has the most judges on a circuit court of appeals in the Nation. They need him.

Additional letters in support of Professor Bybee illustrate his professional competence and personal characteristics which will serve him well on the bench. Colleagues at UNLV deserve Professor Bybee as "widely and properly regarded as a leading constitutional law expert, and his expertise extends to many other areas of law as well. . . . Bybee is highly intelligent, industrious, diligent, and responsible. He has outstanding judgment and is a rock of stability. . . . Perhaps above all, he respects and works effectively with persons of diverse perspectives, temperaments, and ideology."

Another colleague of Professor Bybee wrote, "I should note that my personal politics are quite different from

Bybee's, but Jay's tremendous intelligence, work ethic and, above all, his integrity and desire to complete each and every task not only to the best of his ability, but also to do the right thing with it, convinces me that I would rather have him be a federal judge than many or most who share more closely my own politics."

The committee has received similar letters in support of Professor Bybee from law professors and administrators throughout the nation, including the Dean of The George Washington University Law School.

I ask unanimous consent that these supporting Professor Bybee's nomination be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1).

Mr. HATCH. The legal bar's wide regard for Professor Bybee is reflected in his evaluation by the American Bar Association. Based on his professional qualifications, integrity, professional competence, and judicial temperament, the ABA has bestowed upon Professor Bybee a rating of Well Qualified.

This Senate has previously found Professor Bybee worthy of confirmation for a position of high responsibility in the government, and I am confident it will do so again today.

Professor Bybee is providing the Nation with exceptional service in his current position as Assistant Attorney General in charge of the Office of Legal Counsel. This office assists the Attorney General in his function as legal advisor to the President and all the executive branch agencies.

The office drafts legal opinions of the Attorney General and also provides its own written opinions and oral advice in response to requests from the Counsel to the President, the various agencies of the executive branch, and offices within the department. Such requests typically deal with legal issues of particular complexity and importance or issues about which two or more agencies are in disagreement.

The office also is responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality. All executive orders and proclamations proposed to be issued by the President are reviewed by the Office of Legal Counsel for form and legality, as are various other matters that require the President's formal approval.

In addition to serving as, in effect, outside counsel for the other agencies of the executive branch, the Office of Legal Counsel also functions as general counsel for the Department itself. It reviews all proposed orders of the Attorney General and all regulations requiring the Attorney General's approval. It also performs a variety of special assignments referred by the Attorney General or the Deputy Attorney General. In this position, Professor Bybee has performed in an outstanding

manner. He has rendered great service to our Nation, he has earned bipartisan respect and support, and is fully prepared to be a Federal circuit court of appeals judge.

(Ms. MURKOWSKI assumed the chair.)

Mr. HATCH. Madam President, I am confident that as the Senate confirms Professor Bybee, Democrats and Republicans can all share in the pride of a job well done. This Senate will have properly exercised its proper constitutional role of advice and consent. I urge my colleagues to support this nomination.

I yield the floor.

EXHIBIT 1

UNIVERSITY OF NORTH CAROLINA  
SCHOOL OF LAW,

Chapel Hill, NC, January 27, 2003.

Re: Jay Bybee.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Russell Senate Office Building,  
Washington DC.

DEAR CHAIRMAN HATCH: I am writing this on behalf of the nomination of Jay Bybee to the Ninth Circuit Court of Appeals.

First let me introduce myself. I am currently the Kenan Professor of Law at the University of North Carolina School of Law and have taught law for almost 20 years. I also worked in the Clinton Administration as the Deputy Counsel to the President under Beth Nolan and previously as an Associate Counsel to the President under Charles Ruff. In addition, I served under Assistant Attorney General Eldie Acheson in the Justice Department during the spring and summer of 1993 during which my task was to begin the processes of judicial selection for Clinton Administration appointments. I am therefore well familiar with the judicial selection process.

I have come to know Jay Bybee in my work as a law professor both through his writings and through the interactions we have had at numerous legal conferences and academic events. He is an extremely impressive person. To begin with, he is a remarkable scholar. His ideas are creative, insightful, and stimulating and his analysis is careful and precise. I believe him to be one of the most learned and respected constitutional law experts in the country.

He is also an individual with exceptional personal qualities. I have always been struck by the balance that he brings to his legal analysis and the sense of respect and deference that he applies to everybody he encounters—including those who may disagree with him. He is someone who truly hears and considers opposing positions. Most importantly he is a person who adheres to the highest of ethical standards. I respect his integrity and trust his judgement.

Needless to say, I believe that Jay Bybee's professional and personal skills make him an outstanding candidate for a federal judgeship. The combination of his analytic skills along with his personal commitment to fairness and dispassion lead me to conclude that he will serve in the best traditions of the federal judiciary. He understands the rule of law and he will follow it completely. He is an exceptional candidate for the Ninth Circuit and I support his nomination without reservation.

I hope these comments are helpful to you. Please feel free to contact me if you have any further questions.

Sincerely,

WILLIAM P. MARSHALL,  
Kenan Professor of Law.

UNIVERSITY OF GLASGOW  
SCHOOL OF LAW,

Glasgow, Scotland, January 13, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR CHAIRMAN HATCH: I am delighted to have the opportunity to recommend to you my former colleague, Jay Bybee, who has been nominated to a seat on the U.S. Ninth Circuit Court of Appeals. I got to know Jay Bybee during the approximately four years we served together on the Louisiana State University law faculty, where I am a professor of law. (During the 2002-03 academic year, I am on sabbatical, serving as Fulbright Distinguished Scholar to the United Kingdom, in residence at the University of Glasgow.)

Jay is a person of high intelligence, genuine decency, and a strong work ethic. He was an always reliable and generous colleague, a popular and effective teacher, and a creative and insightful scholar. He must surely be regarded as one of the leading constitutional law thinkers in the United States, particularly with respect to questions of separation of powers and the religion clauses of the First Amendment. I have no doubt that he will quickly establish himself as a leading member of the Ninth Circuit Court of Appeals.

Jay and I differ on many issues of politics and law (unlike Jay, I am a liberal Democrat and active member of the ACLU). Yet I have always found him to be an extremely fair-minded and thoughtful person. Indeed, Jay truly has what can best be described as a "judicious" temperament, and I would fully expect him to be a force for reasonableness and conciliation on a court that has been known for its fractiousness.

In short, I am pleased to recommend Jay Bybee enthusiastically and without any reservation to be a judge of the U.S. Ninth Circuit Court of Appeals.

Sincerely,

STUART P. GREEN.

UNIVERSITY OF NEVADA LAS VEGAS,  
WILLIAM S. BOYD SCHOOL OF LAW,  
Las Vegas, NV, January 29, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR CHAIRMAN HATCH: I enthusiastically support the nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit, and I hope that you and your colleagues will confirm his nomination. Professor Bybee is an outstanding teacher, scholar, lawyer, public servant and human being. He will become a splendid judge, exactly the sort who ought to sit on the appellate courts of our country.

I have known Jay Bybee for about five years, since I began to recruit him for a position on the founding faculty of our new law school here at UNLV. We were very fortunate to recruit a faculty member of Jay's quality—he is a superb teacher, a very well-published scholar and a very productive and collegial faculty member—and he, in turn, helped us to hire other members of what has become an excellent faculty. Moreover, in his years on our faculty, Professor Bybee helped us to build an excellent law school, teaching important courses, chairing key committees, producing excellent scholarship, speaking widely in our community, and serving as an example of an excellent public lawyer and scholar. We had hoped that he would return to our faculty at the conclusion of his service as Assistant Attorney General for the Office of Legal Counsel, but those hopes have now been superceded by the needs of

our country, which has called him to the United States Court of Appeals.

Professor Bybee will answer that call excellently. He is very smart, very thorough and very knowledgeable about the demanding legal issues that confront our country and our courts. He is a creative thinker, but one whose creativity is appropriately tempered by rigorous legal analysis. More importantly, he is a compassionate and decent person who will approach his work in humane and very reasonable ways.

While those of us on the Boyd Law School faculty come from many backgrounds and hold a variety of views on important societal issues, I think that we all agree on at least three things: that Jay Bybee is a wonderful colleague who has earned our high esteem; that his departure from our faculty weakens our law school; and that his elevation to the federal judiciary will improve our courts and our country. President Bush has chosen well, and I hope that you will confirm his choice.

Please let me know if you would like further information or comment from me. Thank you for your service to our country.

Best regards.

Very truly yours,

RICHARD J. MORGAN,  
Dean.

UNIVERSITY OF NEVADA LAS VEGAS,  
WILLIAM S. BOYD SCHOOL OF LAW,  
Las Vegas, NV, January 30, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR MR. CHAIRMAN: I write to state my strong support for Jay S. Bybee, who was nominated on January 7 by President George W. Bush to be a judge of the United States Court of Appeals for the Ninth Circuit. I have known Bybee since 2001 when we both were members of the faculty of the William S. Boyd School of Law of the University of Nevada, Las Vegas.

I had the privilege of working directly and substantially with Bybee on Law School committees, in faculty meetings, and in a variety of informal contexts. I also have read much of his published work and have discussed him and his work with numerous other law professors, at the Boyd School of Law and other law schools, and with numerous of his students.

Based on these contacts and associations, I strongly commend Bybee to you. For three reasons, I am confident he would be an outstanding federal appellate judge. First, Bybee clearly has deep and extensive knowledge of the law. He is widely and properly regarded as a leading constitutional law expert, and his expertise extends to many other areas of law as well. By virtue of his private practice, government practice, and academic experience, he is well rounded and superbly knowledgeable in the law.

Second, Bybee's ability to communicate and teach are extraordinary. As a teacher, he is held in near legendary status here. His skill as a teacher established a standard that few other law professors can meet. The importance of federal appellate decisions lies not only in correct outcomes but also in the clarity and explanatory force of the opinions that justify the outcomes reached. Bybee's skill as a communicator and teacher will serve the nation well.

Third, Bybee's exemplary personal qualities will enhance his value as a judge. Bybee is highly intelligent, industrious, diligent, and responsible. He has outstanding judgment and is a rock of stability when seas become stormy. Perhaps above all, he respects and works effectively with persons of diverse perspectives, temperaments, and ideology. He is uniformly respected here by faculty, stu-

dents, and administrators whose views span the political spectrum.

In sum, I have every confidence that Bybee will be an outstanding federal judge. He will contribute positively to the sound application and development of the law and to the wise administration of it. He is exceptionally able and well qualified. I hope that your Committee will act rapidly and positively on his nomination. Please contact me if you have any questions. Thank you.

Sincerely,

STEVE JOHNSON,  
E.L. Wiegand Professor of Law.

UNIVERSITY OF NEVADA LAS VEGAS,  
WILLIAM S. BOYD SCHOOL OF LAW,  
Las Vegas, NV, January 30, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR MR. CHAIRMAN: I write to offer my strongest recommendation that the Senate confirm the nomination of Jay Bybee to be a judge on the Ninth Circuit Court of Appeals. I clerked for a Ninth Circuit Court of Appeals judge in 1979-1980, so I have a pretty strong idea of what is involved in holding this position. I have also known Mr. Bybee since 1987 and have tremendous confidence that he is a person of great legal knowledge and sound judgment. Without question he has the ability and motivation to give cases the careful attention and thought they deserve. I carefully reviewed Jay's legal scholarship when he taught law at Louisiana State University and recommended his promotion and tenure there. His scholarship is very strong and analytical, and it is clear that he brings a careful and thoughtful mind to bear in addressing legal problems.

Jay is also a person of great integrity, and we can be confident that he will represent the nation well in his professional and personal endeavors. In the years I have known Jay, I have felt great confidence that his word was his bond. This is among the reasons why, when in 1999 I reported to join the faculty here at Boyd School of Law at the University of Nevada, Las Vegas, I invited Jay to co-author with me a book on the Ninth and Tenth Amendments—a work we are still working to complete. Jay's interests in legal scholarship reflect the range of interests he has, and he would bring to this position an awareness of the importance of structural issues relating to government powers as well as the fundamental importance of individual rights. Whether I was a member of the executive branch or the legislative branch of government, I would feel greatly reassured in knowing the important issues relating to the scope of governmental powers would be addressed by one with Jay's background, expertise, and judgment.

If I could be of any further assistance to the committee or the Senate in deciding whether to confirm the nomination of Mr. Bybee, I would be happy to do so. I have total confidence that he would be a thoughtful, perhaps even brilliant judge.

Sincerely,

THOMAS B. MCAFFEE,  
Professor of Law.

THE GEORGE WASHINGTON  
UNIVERSITY LAW SCHOOL,  
Washington, DC, January 30, 2003.

Re Nomination of the Honorable Jay S. Bybee to the U.S. Court of Appeals for the 9th Circuit.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR CHAIRMAN HATCH: I write in support of the nomination of the Honorable Jay S.

Bybee to the United States Court of Appeals for the 9th Circuit. I have known Jay in both his professional and governmental capacities and I have little doubt he will be a superb judge.

In the first place, Jay is, simply put, very smart, a highly useful attribute for a judge, in my opinion. He graduated with honors from both college and law school. But even more to the point, that legal work with which I am familiar is outstanding. He has a remarkable ability to digest an extraordinary amount of material and then, sorting the wheat from the chaff, produce a succinct, cogent analysis of the problem at hand. His law review articles are of the highest quality, thoroughly researched, impressively documented, carefully analyzed and gracefully written. His briefs exhibit a complete—and honest—explication of the relevant authorities and a thoughtful marshaling of the evidence in support of his position. They are all models of legal craftsmanship. He will undoubtedly apply these highly honed analytical skills to the inescapably difficult problems federal judges face.

Jay also seems to understand well the amount of energy and efforts necessary to solve complex legal problems. He is a tireless worker producing impressive amounts of work at a very high level of quality. He will bear up well under the extraordinary workload our federal judges face.

I am also impressed with the breadth of Jay's legal experience. He has worked for a year on a court. He has practiced in the private sector. He has worked at both a staff and political level in the government. And he has spent time as an academic, reflecting on the broader purposes of the law. He has been exposed to the operation of the law in almost every imaginable setting. All of this experience will undoubtedly inform his judicial deliberations in highly useful ways.

I have also always found Jay enormously balanced, and fair in both his professional judgments and his personal dealings. He has political views, to be sure, but he is no ideologue. I have even seen him change his mind, something incredibly rare in the academy. I think any petitioner will justifiably have great confidence that his pleas will receive a fair, just and sympathetic hearing.

I also think Jay has a happily well-developed sense of the majesty and dignity of the law. He is well attuned to the importance of the law in protecting our rights, redressing our grievances, and protecting us from the pressure of both our neighbors and, on occasions, the government. At the same time, I think he understands—and understands well—the limits of legal redress. The courts are not legislators and I do not think Jay would ever confuse the two. In short, I think he has a sophisticated and appropriate appreciation of the role of the judge and the courts in our political and legal system. Jay will prove a very good judge, someone we will all be proud to claim, whatever our personal view of the appropriate line between courts and legislators.

Finally, I would be remiss if I did not stress just how extraordinarily decent Jay is. Even on first meeting, it is clear he is a thoughtful, considerate, indeed, kind person. But much more importantly, my every contact has also convinced me he is a person of unshakable integrity. He is clear and entirely transparent about his core values. And they are absolutely the right ones. They revolve around family, community and country. They bespeak a fidelity to law as both a device to ensure that all have the opportunity to reach their fullest capacity, as well as a shield against man's least worthy impulses. He is honest, forthright and entirely respectful of the dignity of everyone he meets.

I have gone on at perhaps too much length, but I strongly support this nomination. Jay has all the professional and, more importantly, in my judgment, personal attributes of a great judge. I sincerely hope he will become one.

Thank you for allowing me to submit this letter in support of Jay.

With best regards,

Sincerely yours,

MICHAEL K. YOUNG,  
Dean.

BOSTON COLLEGE  
LAW SCHOOL,  
Newton, MA, January 22, 2003.

Hon. PATRICK J. LEAHY,  
Ranking Member, Committee on the Judiciary,  
U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR LEAHY: I am delighted that Jay Bybee has been nominated for the 9th Circuit. I have known Mr. Bybee for almost two decades. We both served in Washington in the 1980s, overlapping at the Justice Department in 1984. I have had frequent contact with Mr. Bybee since then, because we both have taught constitutional law, and written articles in many of the same areas. Mr. Bybee is, among legal academics, one of the best known and best respected writers on the subjects of federalism and separation of powers. I have been impressed with his calm and approachable demeanor, his ability to explain difficult legal concepts in understandable terms, and his fairness and open-mindedness in dealing with those who have intellectual disagreements with him.

Mr. Bybee has also had a wealth of significant legal experience since his graduation from law school twenty-three years ago. As a private lawyer he has acquired expertise in issues concerning transportation and communication. In the Civil Division of the Justice Department for five years he acquired a wealth of knowledge about the standard business of the agencies of government. He has handled with considerable skill more than three dozen appellate cases for the United States. He served on the White House staff for two years as associated counsel to the first President Bush. And I think he has done a terrific job of running the Office of Legal Counsel for the past few months. I think that he will be a splendid addition to the 9th Circuit.

Sincerely,

JOHN H. GARVEY,  
Dean.

Mr. LEAHY. Mr. President, in spite of the intransigence of the White House and the overreaching of the Republican majority here in the Senate, I believe the Senate will, by the end of this week, have moved forward to confirm 111 of President Bush's judicial nominations since July 2001. That total would include 11 judges confirmed so far this year and of those 7 would be confirmed this week. Consideration of this controversial nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit is the 18th circuit nomination considered for this President since July 2001. The 17 others were each confirmed, some like Judge Shedd and Judge D. Brooks Smith with significant opposition. Nonetheless, Democrats have moved forward almost twice as promptly on this President's circuit nominees as the Republican majority did on President Clinton's circuit nominees. The Republican majority averaged 7 circuit

judge confirmations a year over the 6½ years it previously controlled this process. By contrast, the Democratic majority confirmed 17 circuit judges in 17 months for President Bush, in addition to 83 district court judges.

In terms of percentages, which is what Republicans love to cite, the percentage of circuit nominees of President Clinton confirmed under the Republican majority in the 107th Congress was 0; the percentage confirmed in the 106th Congress was 44 percent; the percentage confirmed in the 105th Congress was 66 percent; and the percentage confirmed in the 104th Congress was 55 percent. In fact, despite the percentage for a full Congress, in four of their six full years, they confirmed 33 percent or less of President Clinton's circuit court nominees. In less than a full Congress, after assuming the majority in the summer of 2001 and in spite of the 9/11 attacks and the anthrax attacks and all the disruptions and priorities in those 17 months, the Democratically-led Senate not only held hearings on 20 circuit nominees, the Judiciary Committee voted on 19 and the Senate confirmed 17 for a 53 percent confirmation rate of the President's controversial slate of circuit nominees.

Those considering these matters might contrast the progress in which Democrats are assisting with the start of the last Congress in which the Republican majority in the Senate was delaying consideration of President Clinton's judicial nominees. In 1999, the first hearing on a judicial nominee was not until mid-June. The Senate did not reach 11 confirmations until the end of July of that year whereas we will reach that benchmark this year before St. Patrick's Day. Accordingly, the facts show that Democratic Senators are being extraordinarily cooperative with a Senate majority and a White House that refuses to cooperate with us. We have made progress in spite of them.

Indeed, by close of business today, we will have reduced vacancies on the Federal courts to under 55, which includes the 20 judgeships Democrats newly authorized in the 21st Century Department of Justice Appropriations Authorization Act last year. That is an extremely low vacancy number based on recent history and well below the 67 vacancies that Senator HATCH termed "full employment" on the federal bench during the Clinton Administration.

Turning to the nomination now before the Senate, the nomination of Jay S. Bybee for a lifetime appointment to the Ninth Circuit Court of Appeals is a difficult one for me. It is made all the more difficult by the respect I have for the senior Senator from Nevada, who has supported this nomination.

I think that Senator BIDEN made a compelling case against this nomination in his statement to the Judiciary Committee. I know that we intended to and did establish a separate Violence Against Women Office at the Department of Justice and a Director subject

to Senate confirmation when we wrote the Department of Justice authorization legislation and enacted it last year. How Mr. Bybee could misinterpret that measure is beyond me.

Mr. Bybee appeared before the Judiciary Committee in 2001 when he was nominated to serve at the Department of Justice. During that confirmation hearing, Mr. Bybee promised the Judiciary Committee that as Assistant Attorney General, he would "not trample civil rights in the pursuit of terrorism" and that he would "bring additional sensitivity to the rights of all Americans" to his work at the Justice Department. Given the veil of secrecy imposed by the Administration, I have serious concerns about how the Department of Justice has been operating.

Unfortunately, Mr. Bybee's hearing for judicial office took place on a particularly busy morning when many Senators had other committee obligations and during the Secretary of State's address to the United Nations regarding Iraq. Many of us were unable to attend Mr. Bybee's hearing in person that day. At least five of us submitted detailed sets of written questions to ask about the Justice Department and some controversial views he has taken in his academic writings and speeches before the Federalist Society.

I have given a lot of thought to this nomination. I have concerns that Mr. Bybee was chosen to be another in a long line of circuit court nominees from this President who will prove to be an ideologically driven conservative activist if accorded lifetime tenure on the Court of Appeals.

However, Senator REID knows Mr. Bybee and supports his confirmation. Mr. Bybee is obviously conservative, but we've had a chance to review his articles and speeches and no one has called into question his ability and commitment to setting aside his views as a judge.

On the very day that Democrats cooperated in debating and voting on the Bybee nomination in Committee, our cooperation was rewarded by the Republican majority violating our rights. Republicans violated our longstanding Judiciary Committee rules and unilaterally declared the termination of debate on two other controversial circuit court nominations, John Roberts and Justice Deborah Cook that very morning.

Senator DASCHLE termed this unilateral action deeply troubling and a "reckless exercise of raw power by a Chairman," and he is right. He observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic leader noted that faithful adherence to longstanding rules is especially important for the

Senate and for its Judiciary Committee. He noted "how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law," that it acted in conscious disregard of the rules that were established to govern its proceedings. If this is what those who pontificate about "strict construction" mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as "strict constructionists" to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench that respect the rule of law?

In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

As Chairman of the Agriculture Committee, as Chairman of the Subcommittee on Foreign Operations of the Appropriations Committee and as Chairman of the Judiciary Committee, I strove always to protect the rights of the minority. I did not always agree with what they were saying or doing, I did not always find it convenient, but I protected their rights. It was not always as efficient as I might have liked, but I protected their rights. That is basic to this democracy and fundamental to the Senate of the United States. Senators respect other Senators' rights and hear them out.

There is no question that the Senate majority is in charge and responsible for how we proceed. I understand that and always have—I wish Republicans had shared that view when I chaired the Judiciary Committee last year. But in the Senate, the majority's power is circumscribed by our rules and traditional practices. We protect and respect the rights of the minority in this democratic institution for the same reason we steadfastly adhere to the Bill of Rights.

I, too, am gravely concerned about this abuse of power and breach of our committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the Federal judiciary, everyone should be concerned. In violation of the rules that have governed that committee's proceedings since 1979, the chairman chose to ignore our longstanding committee rules and short-circuit committee consideration of the nominations of John Roberts and Justice Deborah Cook. Senator DASCHLE spoke to that matter that day. Judiciary Committee members, Senator FEINSTEIN, Senator SCHUMER, Senator DURBIN and Senator FEINGOLD have also spoken to the Senate about this breach of our rules, as well as a number of other liberties that Republicans have been taking with the rules.

Since 1979, the Judiciary Committee has had this particular committee rule

to bring debate on a matter to a close while protecting the rights of the minority. It may have been my first meeting as a Senator on the Judiciary Committee in 1979 that Chairman KENNEDY, Senator THURMOND, Senator Dole, Senator COCHRAN and others discussed adding this rule to those of the Judiciary Committee. Senator Thurmond, Senator HATCH and the Republican minority at that time took a position against adding the rule and argued in favor of any individual Senator having a right to unlimited debate—so that even one Senator could filibuster a matter. Senator HATCH said that he would be "personally upset" if unlimited debate were not allowed.

Senator HATCH explained:

There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue. I think those rights are far superior to the right of this Committee to rubber stamp legislation out on the floor.

It was Senator Dole who drew upon his Finance Committee experience to suggest in 1979 that the Committee rule be that "at least you could require the vote of one minority member to terminate debate." Senator COCHRAN likewise supported having a "requirement that there be an extraordinary majority to shut off debate in our Committee."

The Judiciary Committee proceeded to refine its consideration of what became Rule IV, which was adopted in 1979 and has been maintained ever since. It struck the balance that Republicans had suggested of at least having the agreement of one member of the minority before allowing the Chairman to cut off debate.

That protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican chairmen had always acted to protect the rights of the Senate minority. The rule has been the committee's equivalent to the Senate's cloture rule in Rule 22. It had been honored by all five Democratic and Republican chairmen, including Senator HATCH—until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was

required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new level when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

The premature and unilateral termination of debate in committee last month was apparently a premeditated act. Senator HATCH indicated that he had checked with the parliamentarians in advance, and he apparently concluded that he had the raw power to ignore our committee rule and so long as all Republicans on the committee stuck with him, he would do so. I understand that the parliamentarians advised Senator HATCH that there is no enforcement mechanism for a violation of committee rules and that the parliamentarians view Senate Committees as "autonomous". I do not believe that they advised Senator HATCH that he should violate our Committee rules or that they interpreted our Committee rules.

I cannot remember a time when then-Chairman KENNEDY or Chairman THURMOND or Chairman BIDEN would have even considered violating their responsibility to the Senate and to the committee and to our rules. Accordingly, we have never been faced with a need for an "enforcement mechanism" or penalty for violation of a fundamental committee rule.

In fact, on the only occasion I can recall when Senator HATCH was faced with implementing Committee Rule IV, he did so. In 1997, Democrats on the committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice.

Republicans were intent on killing the nomination in committee. The committee rule came into play when in response to an alternative proposal by Chairman HATCH, I outlined the tradition of our Committee. I said:

This committee has rules, which we have followed assiduously in the past and I do not think we should change them now. The rules also say that 10 Senators, provided one of those 10 is from the minority, can vote to cut off debate. We are also required to have a quorum for a vote.

I intend to insist that the rules be followed. A vote that is done contrary to the rules is not a valid one.

Immediately after my comment, Chairman HATCH abandoned his earlier plan and said:

I think that is a fair statement. Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right, as the distinguished Senator said.

With respect to the nomination in 1997, Chairman HATCH acknowledged:

Absent the consent of a minority member of the Committee, a matter may not be brought to a vote. However, Rule IV also permits the chairman of the Committee to entertain a non-debatable motion to bring any matter to a vote.

The rule also provides as follows: "The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority."

Thereafter, given the objection, the committee proceeded to a roll call vote whether to end the debate. That was consistent with our longstanding rule. In that case, Chairman HATCH followed the rules of the committee.

At the beginning of our executive business meeting on February 27, I referenced the Committee's rules and during the course of the debate on nominations both Senator KENNEDY and I sought to have the committee follow them. We were overridden.

Last month, the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override Rule IV rather than follow it. He did so expressly and intentionally, declaring: "[Y]ou have no right to continue a filibuster in this committee."

Chairman HATCH decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. I had yet to speak to any of the circuit nominees on the agenda and other Democratic Senators had more to say.

Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the committee. Contrast the statements of Senator HATCH in 1979 when he supported unlimited debate for a single Senator—with Republicans in the minority—with his action overriding the rights of the Democratic minority and his recent letter to Senator DASCHLE in which, now that Republicans hold the Senate majority, he says that he "does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote."

But our committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. Even this minimum protection will no longer be respected by Chairman HATCH.

Contrast Senator HATCH's recognition in 1997 that Rule IV establishes a Judiciary Committee "filibuster right" and that a "[a]bsent the consent of a minority member of the Committee, a

matter may not be brought to a vote," with his declaration last month that there is no right to filibuster in committee.

In his recent letter to Senator DASCHLE, Senator HATCH declares that he "does not believe that Committee filibusters should be allowed." It is Senator HATCH who has "turned Rule 4 on its head" last month, after 24 years of consistent interpretation and implementation by five chairmen. Never before his letter to Senator DASCHLE has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart "an obstreperous Chairman who refuses to allow a vote on an item on the Agenda." After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after-the-fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. It was not even articulated contemporaneously at the business meeting.

I appreciate the frustrations that accompany chairing the Judiciary Committee. I know the record we achieved during my 17 months of chairing that committee, when we proceeded with hearings on more than 100 of President Bush's judicial nominees and scores of his executive nominees, including extremely controversial nominations, when we proceeded fairly and in accordance with our rules and committee traditions and practices to achieve almost twice as many confirmation for President Bush as the Republicans had allowed for President Clinton, and know how that record was mischaracterized by partisans. Those 100 favorably reported nominations included Michael McConnell, Dennis Shedd, D. Brooks Smith, John Rogers, Michael Melloy and many others.

I know that sometimes a chairman must make difficult decisions about what to include on an agenda and what not to include, what hearings to hold and when. In my time as chairman I tried to maintain the integrity of the committee process and to be bipartisan. I noticed hearings at the request of Republican Senators and allowed Republican Senators to chair hearings. I made sure the committee moved forward fairly on the President's nominees in spite of the Administration's unwillingness to work with us to fill judicial vacancies with consensus nominees and thereby fill those vacancies more quickly.

But I cannot remember a time when Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, Chairman HATCH previously, or I, ever overrode by fiat the right of the minority to debate a matter in accordance with our longstanding committee rules and practices.



The committee and the Senate have crossed a threshold of partisan overreaching that should never have been crossed. I urge the Republican leadership to recommit the nominations of Justice Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee.

I urge the Republican leadership to rethink its missteps and urge the chairman and the committee to disavow the misinterpretation and violations of Rule IV that occurred last month.

We have also worked hard to report a number of important executive and judicial nominees in spite of the continued partisanship by the White House and Senate Republicans. As Senator FEINSTEIN recently noted, we have cooperated by not insisting on our rights to seven days notice or seven days holdover on various matters and we have not insisted on three days' notice of items on the agenda. We have proceeded to debate with less than a quorum present and Democrats have been responsible for making quorum after quorum so that this committee could conduct business. Ironically, we did so even last month while our rights were being violated. Order and comity need to be restored to the Judiciary Committee and to the Senate. An essential step in that process is the restoration of our rights under Rule IV and recognition of our rights thereunder.

There are continuing problems caused by the administration's refusal to work with Democratic Senators to select consensus judicial nominees who could be confirmed relatively quickly by the Senate. Despite the President's lack of cooperation, the Senate in the 17 months I chaired the Judiciary Committee was able to confirm 100 judges and vastly reduce the judicial vacancies that had built up and were prevented by the Republican Senate majority from being filled by President Clinton.

Last year alone the Democratic-led Senate confirmed 72 judicial nominees, more than in any of the prior six years of Republican control. Not once did the Republican-controlled committee consider that many of President Clinton's district and circuit court nominees, even though there were often more judicial nominees than that waiting for a hearing. In our efforts to turn the other cheek and treat this President's nominees better than his predecessor's had fared, we confirmed 100 judges in 17 months. Yet, not a single elected Republican has acknowledged this tremendous bipartisanship and fairness. When Chief Justice Rehnquist thanked the committee for confirming 100 judicial nominees, this was the first time our remarkable record had been acknowledged by anyone from a Republican background.

Almost all of the 100 judges we confirmed last Congress are conservative, quite conservative. And with some, the Senate has taken a significant risk that they will be activist judges with lifetime tenure. We nonetheless moved fairly and expeditiously on as many as we could. We cut the number of vacancies on the courts from 110 to 59, despite an additional 50 new vacancies that arose during my tenure. I recall that Senator HATCH took the position in September of 1997 that 103 vacancies, during the Clinton Administration, did not constitute a "vacancy crisis." He also stated repeatedly that 67 vacancies meant "full employment" on the federal courts.

Even with the vacancies that have arisen since we adjourned last year, we remain below the "full employment" level that Senator HATCH used to draw for the federal courts with only 60 current vacancies on the District Courts and Courts of Appeals. Unfortunately, the President has not made nominations to almost two dozen of those seats, and on more than one-half of the current vacancies he has missed his self-imposed deadline of a nomination within 180 days. Of course, several of the nominations he has made are controversial.

Last Congress, we worked hard to keep a steady pace of hearings, even though so many of this President's judicial picks proved to be quite divisive and raised serious questions about their willingness to be fair to all parties. We held hearings for 90 percent of his nominees eligible for hearings, a total of 103 nominees, including 20 circuit court nominees. We voted on 102 of them, two of whom were defeated after fair hearings and lengthy debate. The President has taken this unprecedented action of re-nominating candidates voted down in committee in spite of the serious concerns expressed by fair-minded members of this committee.

This year the committee has had a rocky beginning with a hearing that has caused a great many problems that could have been avoided. The committee proceeded to a vote on the Estrada nomination and to a vote on the Sutton nomination and to votes on the Bybee and Tymkovich nominations—all controversial nominations to circuit courts.

The rushed processing of nominees in these past few weeks has led to editorial cartoons showing conveyor belts and assembly lines with Senators just rubber-stamping these important, lifetime appointments without sufficient inquiry or understanding. What we are ending up with is a pile-up of nominees at the end of this rapidly-moving conveyor belt. There is no way that we can meaningfully keep up with our constitutional duty to determine the fitness of these nominees at this pace. The quality of our work must suffer, and slippage in the quality of justice will necessarily follow. I hope we will do all we can to prevent more of these "I Love Lucy" moments.

All of the Democratic Senators who serve on the Judiciary Committee have asked the Chairman to reconvene the hearing with Justice Cook and Mr. Roberts because of the circumstances under which it was held and not satisfactorily completed. We have also taken the White House up on its offer to make the nominees available with a joint letter seeking an opportunity to make further inquiries of them. Regrettably, last Wednesday the White House withdrew its offer and now refuses to proceed. That change of position by the White House, on top of the inadequate hearing on these important nominations, has created another impasse and unnecessary complication.

That is why the minority, while prepared to debate and vote on the Bybee nomination to the 9th Circuit and nine other presidential nominations on February 27, wished to continue the debate on the Cook and Roberts nominations.

Let me be specific: On January 29, the Judiciary Committee met in an extraordinary session to consider six important nominees for lifetime appointments to the federal bench, including three controversial nominees to circuit courts: Jeffrey Sutton, Justice Deborah Cook and John Roberts. Several Senators only officially learned the names of the nominees on the agenda for that hearing at 4:45 p.m. on January 28, the day before.

On learning that the chairman intended to include three controversial circuit court nominees on one hearing, something virtually unprecedented in the history of the committee, and absolutely unprecedented in this chairman's tenure, Democrats on the committee wrote to the Chairman to protest. We explained that since 1985, when Chairman Thurmond and Ranking Member BIDEN signed an agreement about the pace of hearings and the number of controversial nominees per hearing, there has been a consensus on the committee that members ought to be given ample time to question nominees, and that controversial nominees in particular deserve more time.

We explained that we were surprised by the chairman's rush to consider these three nominees at the same time, considering the pace at which President Clinton's nominees were scheduled for hearings. During the time Republicans controlled the Senate and Bill Clinton was president, there was never a hearing held to consider three circuit court nominees at once. Never.

Finally, we explained the importance of giving Senators sufficient time to consider each nominee and properly exercise their constitutional duty to give advice and consent to the President's lifetime appointments to the federal bench.

But our request went unanswered, and we were expected to question three nominees in the space of a single day. That proved impossible, as was evident throughout that long day. My colleagues and I asked several rounds of questions of Mr. Sutton, and were only



able to ask very few questions of the other two nominees. We asked, during the hearing itself, that the chairman reconsider and ask the other two nominees to return the next day or the next week, and to give them the time they deserved in front of the committee, but he refused.

We asked the same thing after the hearing, and were told that indeed the nominees would make themselves available to meet with each of us, so we wrote to accept those offers, although as we explained, we would have preferred to meet with them altogether, and in a public session. But again, we were rebuffed. I wonder, though, if they were available for one sort of meeting, why were they not available for another. I regret that the White House refused our request to bring closure to those matters.

During the last 4 years of the Clinton administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and committee votes on his qualified nominees to the D.C. Circuit and the Sixth Circuit. Last month, in sharp contrast, this committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

I ask unanimous consent to print a letter in the RECORD.

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

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, February 24, 2002.

Hon. ALBERTO R. GONZALES,  
Counsel to the President, The White House,  
Washington, DC.

DEAR JUDGE GONZALES: As you may know, Democratic Senators on the Judiciary Committee have been offered the opportunity to meet with Justice Deborah Cook and Mr. John Roberts in order to ask questions and discuss issues relevant to their nominations to lifetime appointments to United States Courts of Appeals. We are writing to let you know that some of us would like to accept those offers and meet with both of the nominees together before voting on their nominations.

We are available to meet as early as Wednesday, February 26, 2003, but are amenable to another mutually convenient time. For the purposes of review after the meeting, we will arrange for a stenographer to attend the meeting and record the exchanges with the nominees. We also anticipate that the meeting will be open to the public.

We hope that you and the Department of Justice will work with us to schedule this important meeting. Some of us believe the January 29, 2003, Committee hearing did not provide an adequate opportunity to ask the questions necessary for Senators to effectively carry out their Constitutional duty to advise and consent to judicial nominees. Written questions are not a satisfactory substitute for direct exchanges between Senators and the nominees.

Thank you for your assistance, and we look forward to the meeting we have requested.

Sincerely,

Patrick J. Leahy; Edward M. Kennedy;  
Joseph R. Biden, Jr.; Dianne Feinstein;  
Charles E. Schumer; John Edwards;  
Herbert Kohl; Russell D. Feingold;  
Richard J. Durbin.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, I am here in the Chamber this afternoon to speak to the nomination of Jay Bybee of Nevada to the Ninth Circuit Court.

I call it the Ninth Circuit Court of Western States. I know the State of the Presiding Officer is part of the Ninth Circuit, as is my State of Idaho. It is a circuit that has caused us great frustration over the last good number of years as many of its cases have been overturned. In fact, just this term, the Supreme Court in one day overturned three cases or reversed three cases of the Ninth Circuit.

Some call it the most dysfunctional court of the land. I believe it to be that. Idahoans are extremely frustrated when a San Francisco-oriented judge makes a decision on an Idaho resource matter that is so totally out of context with our State and the character of our State and her people that Idahoans grow angry. That is why it is not unusual that I and others over the years have offered legislation to divide the Ninth Circuit. That has been spoken to on more than one occasion in this Chamber, and it will be again this year.

I and my colleagues from Idaho are supportive of that kind of legislation, and it is that kind of legislation the Presiding Officer has just introduced: to change the character of this court to be more reflective of the broad scope of its authority than just to have, if you will, California judges making decisions for Idaho, Washington, Oregon, Alaska, and other States.

It is the largest court in the land, and it is a court that clearly needs our attention. It begs for our attention. The outcry in my State and in other States, such as Alaska, demands it. But today we have an opportunity to improve it, and that is to confirm Jay S. Bybee to the U.S. Court of Appeals for the Ninth Circuit.

I am confident the Senate will consent to the appointment of Professor Bybee, who enjoys bipartisan support and, in these current times as we debate judges in this Chamber, bipartisan support is in itself unique. That must speak to the uniqueness of this individual.

A review of Professor Bybee's credentials demonstrates he is, as the American Bar Association has concluded, a highly qualified person for this position. Professor Bybee's education, his private legal career, his work as a law

professor, and his extensive Government service, have prepared him well to serve as a circuit judge. Let me briefly review his background.

Professor Bybee received a BA magna cum laude and with highest honors in economics from Brigham Young University. He also attended the J. Reuben Clark Law School at BYU, graduating cum laude. I also note he was an editor of the BYU Law Review. Those are high credentials from a very well-qualified, recognized law school.

Following his graduation from law school, Professor Bybee clerked for Judge Donald Russell of the U.S. Court of Appeals for the Fourth Circuit and then was engaged in private practice of law at the distinguished firm of Sidley & Austin. There he handled regulatory and antitrust matters, including civil litigation in Federal courts and administrative law matters before the Interstate Commerce Commission.

Professor Bybee began his career in public service first as an attorney in the U.S. Department of Justice, Office of Legal Policy, then as an attorney on the appellate staff at the Civil Division. During this period, he worked on a variety of departmental issues and judicial selections, was the principal author of the Government's briefs in more than 25 cases, and argued cases before a number of Federal circuits. Professor Bybee also served as an associate counsel, as the chairman of the Judiciary Committee, Senator HATCH, mentioned, to George H. W. Bush.

Professor Bybee has had an excellent career as a law professor, beginning at the Paul M. Hebert Law Center at Louisiana State University. He is a founding faculty member at the University of Nevada, Las Vegas William S. Boyd School of Law. As an accomplished scholar in the areas of administrative and constitutional law, Professor Bybee has taught courses in civil procedure, constitutional law, administrative law, and seminars on religious liberty and the separation of powers.

My colleague from Nevada was talking about his phenomenal knowledge of the Constitution and its authority and responsibility and our responsibility to it as we craft law.

He has a distinguished record in publications in a phenomenal variety of legal areas.

Professor Bybee presently serves as an Assistant Attorney General, heading the Office of Legal Counsel at the U.S. Department of Justice. Supervising a staff of attorneys, Professor Bybee has the principal responsibility for providing legal advice to the Attorney General on constitutional, statutory, and regulatory questions. In addition, the office reviews orders to be issued by the President or the Attorney General for form and legality. The Office of Legal Counsel also advises the President and the executive branch

agencies on constitutional and statutory matters.

It is clear from his educational record, his private practice, his outstanding credentials as a law professor, and his distinguished career in public service that Professor Bybee is well qualified to serve on the Ninth Circuit and will be an outstanding judge. In fact, I am quite confident he will lift the quality of that court in its decisions substantially.

Professor Bybee comes highly recommended. As a result of that, clearly he brings distinguished service to an area that cries out for the need of astute minds.

As Senator HATCH mentioned, one of his supporters is William Marshall, Professor of Law at the University of North Carolina. I note that Professor Marshall worked in the Clinton administration as Deputy Counsel to the President and in the Justice Department reviewing judicial nominees.

In Professor Marshall's letter in support of Professor Bybee, he writes:

He—  
meaning Professor Bybee—

is an extremely impressive person. To begin with, he is a remarkable scholar. . . .

I think what I have said and the record I have spoken to clearly exemplifies that.

I believe him to be one of the most learned and respected constitutional law experts in the country. He is also an individual with exceptional personal qualities. I have always been struck by the balance that he brings to his legal analysis and the sense of respect and deference that he applies to everybody he encounters—including those who may disagree with him. He is someone who truly hears and considers opposing positions. Most importantly, he is a person who adheres to the highest of ethical standards. I respect his integrity and trust his judgment.

That is a quote from the letter of William Marshall, Professor of Law, University of North Carolina.

That endorsement rings loud in these Halls as it speaks well to the person who is before us today. Other letters of support from law professors with whom he worked and associates throughout the Nation speak highly of Professor Bybee. They note his personal integrity, his professional ability, his clear and thoughtful scholarship, and his exemplary personal qualities. Even those who disagree with him politically are impressed with Professor Bybee and strongly support his nomination.

That is the record. The record is clear. I am pleased that we see the kind of bipartisan support that most judicial nominees who come to this floor deserve. I support his nomination. He brings integrity and quality of mind to decisionmaking and judgment to the Ninth Circuit Court, a court of which my State of Idaho is a part. I strongly endorse Professor Bybee.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator for his

statement. I, too, will support Professor Bybee. I have no problem with doing that at all.

May I say that Professor Bybee can be proud that Senator LARRY CRAIG has spoken on his behalf. Senator CRAIG is one of the most articulate Senators not only at this time in this body, but having been in this body for more than 44 years now, I can say that I have seen a lot of articulate speakers but Senator CRAIG is one among the foremost of those. I would treasure his support of my nomination if I were indeed a nominee for any position.

Madam President, has the Pastore rule run its course for today?

The PRESIDING OFFICER. Yes, it has.

Mr. BYRD. Madam President, I believe the Senate is in executive session.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I ask unanimous consent that I may speak as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Is there any limitation on time?

The PRESIDING OFFICER. No, there is not.

#### RECONSTRUCTION OF IRAQ

Mr. BYRD. I thank the Chair. I will speak perhaps, as I see it, 40 minutes or less, which is something worthy of commenting on in itself.

There is an axiom in military planning that countries tend to prepare to fight the last war, not the next one. Some historians blamed the incredible death toll of World War I on military commanders who failed to realize that the days of set-piece battles, as in the days of the American Revolution or the Napoleonic Wars, were over. Some have also pointed out that the countries that were overrun in the opening months of World War II were those that were best prepared to engage in trench warfare.

As our own Republic continues to ready for war in Iraq, there has been the alarming tendency to see this next war as a replay of our 1991 campaign to liberate Kuwait. Some have taken to calling the impending conflict "gulf war II," as if we could win this conflict in 2003 by rewinding the tapes of smart bombs dropping on their targets in 1991. I fear that many have succumbed to an intellectual and moral laziness that views the coming war through the lens of our victory in 1991.

This next war in Iraq will not be like the last. Twelve years ago, there was a war in one act with an extensive list of players opposing an aggressive antagonist. Now, the curtain is about to rise on a war with the same lead character, Saddam Hussein, but only one great power opposing him, that great power being the one superpower in the world today, the United States. Many countries that played supporting roles in the last war look as though they will, this time, serve more as extras, seen only in the crowd scenes without sup-

porting roles. Most ominously, we do not know how long this costly drama might last. It may last a month. It may last 2 months. It may last a week. It may last 2 days. Who knows? I do not know. But this conflict will be played out in many acts.

As in the last war, the coming battles will draw heavily on U.S. air power, followed by the use of our ground troops to destroy the Iraqi army. That is where the similarities between 1991 and 2003 begin and end. The ultimate goal in the coming war is not to roll back an invasion of a small, oil-rich corner of desert that borders the Persian Gulf. This time, the goal is to conquer the despotic government of Saddam Hussein.

In the 1991 gulf war, our victory was followed by an orderly withdrawal of our troops, so that they may return to their hometowns to march in ticker-tape parades and be honored with twenty-one gun salutes to acknowledge a resounding American victory on the battlefield.

It may not be the same in 2003. Our forces do not have the straightforward task of pushing the Iraqi military out of Kuwait. The aim is to push Saddam and his associates from power. This could involve house-to-house fighting or laying siege to Baghdad and other urban centers, where seven out of ten Iraqis live. The United States will have to manage religious, ethnic, and tribal rifts that may seek to tear the country apart. According to a declassified CIA estimate, we must contend with the increasing chance that Saddam Hussein will use weapons of mass destruction against our troops as they march toward Baghdad.

After all of this, more work awaits. A U.S. invasion of Iraq with only token support from other countries will leave us with the burden of occupying and rebuilding Iraq. The United States will find itself thrust into the position of undertaking the most radical and ambitious reconstruction of a country since the occupation of Germany and Japan after World War II.

The likely first step in a post-war occupation would be to establish security. No rebuilding mission could possibly occur if the Iraqi army still has fight left in it or if Iraq's cities are in chaos. Establishing security could well prove to be more difficult than defeating Iraq's military. Saddam Hussein could go on the lam, forcing our military into a wild goose chase. Surely Iraq could not be considered secure if its evil dictator were to be on the loose.

Creating a secure environment in Iraq also means dealing with difficult situations. How will our military deal with hungry Iraqis taking to the street in mobs? What are we going to do about civilians exacting revenge on those who had oppressed them for so long? How will we prevent violence within and among Iraq's multitude of tribes, ethnic groups, and religions?

I am not convinced that, right now, the Administration has any idea of how

to deal with these scenarios, or the dozens of other contingencies that might arise while the United States serves as caretaker to a Middle Eastern country.

The United States will then be faced with the task of providing for the humanitarian needs of 23 million Iraqis, 60 percent of whom are fully dependent on international food aid. The United States will have to make sure that roads and bridges are rebuilt so that humanitarian assistance can get through to where it will be needed. That would be largely our responsibility. That would not be the case if we were being attacked, if the United States were being attacked by Iraq, if the United States were confronted with an imminent and direct threat from Iraq. If that were the case, then we would not be so morally responsible for cleaning up the mess, for reconstructing, for rebuilding that which we will have destroyed.

That is not the case. We will have to make sure that roads and bridges are rebuilt so humanitarian assistance can get through to where it will be needed. Electrical systems will have to be repaired. Who knows, some in this country may have to be repaired when that attack is launched. But we are talking about the morning after now, the post-war Iraq.

Electrical systems will have to be repaired so that doctors can operate in their hospitals. Water systems must be maintained to provide drinking water to the country as it enters the scorching summer months and to provide sanitation to prevent the spread of disease. Telephone systems will also be needed to communicate with the distant parts of a country that is the size of France, or a country that is seven times the size of West Virginia.

Protecting or rebuilding this critical infrastructure may become a huge task in itself, as Saddam Hussein is apparently planning a scorched earth defense of his regime. Such a scorched earth defense could involve setting oil fields ablaze. It could involve blowing up dams. It could involve the destruction of bridges over rivers, two of the oldest rivers in the world, the Euphrates and the Tigris, in a country that when I was in school many years ago was referred to as Mesopotamia, the land between the two great rivers. Such a strategy on the part of Saddam Hussein could involve sabotaging water supplies or destroying food sources. U.S. military officers are now reporting that Iraqi troops dressed as U.S. soldiers may seek to attack innocent Iraqi civilians in an effort to blame the West as being responsible for war atrocities.

If we are successful in deposing Saddam Hussein—and I don't have any doubt we will be successful in doing that; there is any number of scenarios by which Saddam may be deposed. He may be assassinated. Assassinations do occur, as we read today in the newspapers about an assassination. Saddam

Hussein may turn tail and run. He may want to live and fight another day. He may decide to fight to the death. He may be willing to die himself while others die around him. Who knows. But there is no doubt in my mind that he will be deposed, one way or another.

But in any event if we are successful in deposing Saddam Hussein and limiting the loss of life among our troops and those of Iraqi civilians, the United States will have to reform the government of Iraq. According to an article that appeared in the Washington Post on February 21, the post-Saddam plan crafted by the administration calls for the U.S. military to take complete, unilateral control of Iraq after a war, followed by a transition to an interim administration by an American civilian. This interim administration would purge Iraq of Saddam Hussein's cronies and lay the groundwork for a representative government. General Barry McCaffrey, who commanded ground troops during the 1991 war, estimated in the article that the occupation would take 5 years.

Let us remember that Iraq once had a colonial government under the flag of Great Britain from 1920 to 1932. Iraqis revolted against British troops, leading one of the great men of the 20th century, one of the great men of all time, Winston Churchill to refer to the country as "these thankless deserts."

Have you ever been in a sandstorm in the deserts of the Middle East? It is quite an experience.

If the United States is to administer Iraq for a period of years, we will run the risk of being viewed as a new colonial power, no matter how pure our intentions. Those who may greet us as liberators in 2003 may increasingly view us as interlopers in 2004, 2005, 2006, and beyond.

The United States will also face the task of reforming Iraq's military. Fearful that a weak Iraq could fuel the ambitions of other regional powers, the Department of Defense is now considering how to take apart Iraq's million-man army and rebuild it into a smaller, more professional force. While details are still wrapped in secrecy, it appears that the United States will have a major hand in retraining and re-equipping the post-Saddam Iraqi army. We are already trying to build an Afghan national army of perhaps 70,000 troops, but a new military for Iraq would have been several times that size. One thing is for sure, the arms industries must be salivating at the profits that could be made from building a new, modern Iraqi army from scratch.

These occupation and reconstruction missions are all difficult risks and difficult tasks. No wonder the ranking general in the British military, Gen. Sir Mike Jackson, said in an interview published in a London newspaper on February 23:

In my view, the post-conflict situation will be more demanding and challenging than the conflict itself.

We had better hear that. We had better take note of that. Let's hear again

what the British military general says. The British general, Sir Mike Jackson—here is what he said in an interview published in a London newspaper on February 23 of this year:

In my view, the post-conflict situation will be more demanding and challenging than the conflict itself.

In other words, the war we may soon face in the Persian Gulf will be an entirely different campaign than was the war in 1991.

Congress and the American people, the people in the galleries that extend from sea to shining sea, from the Gulf of Mexico to the Canadian border, the people, the American people, those out there who are looking upon this Chamber through that electronic lens, those people, the people need to know how long we can expect to occupy postwar Iraq.

Last month, Under Secretary of State Marc Grossman estimated that a military occupation of Iraq would take 2 years. That estimate is hard to believe. Gen. Douglas MacArthur believed that the occupation of Japan after World War II would take no more than 3 years. It lasted 6 years and 8 months. The first U.S. military governor in Germany, Gen. Dwight Eisenhower, anticipated that the United States military would "provide a garrison, not a government, except for a few weeks." Instead, the first phase of the occupation of Germany lasted 4 years.

These types of missions have their own momentum. We have had United States troops in Bosnia for 7 years and United States soldiers in Kosovo for 3½ years. Let us not forget that Gov. George Bush, as a Presidential candidate in 2000, said he would work to find an end to those peacekeeping missions. But the United States is now looking at a peacekeeping mission in Iraq that dwarfs our deployment to the Balkans in every respect.

I find it utterly confounding that a President so opposed to nation building would then launch into military scenarios that so clearly culminate in that very outcome. I have to wonder—I have to wonder if this President is simply so driven to act that he cannot see that action itself is not the goal. How far along was this administration in planning military action in Afghanistan before the question of what postwar Afghanistan would look like even came up? There seems to be at least some forethought about postwar Iraq, but how thoroughly has it been forethought? How thoroughly has it been thought about? How thoroughly has it been scrutinized?

The information given to Congress—that's that legislative branch up there, the people's representatives. Why, those people down in the White House view the legislative branch with contempt, with disdain. Why should they let those people up there know what they, the people on Mt. Olympus, are thinking? The information given to Congress and to the American people, who pay all of us in public office—we

are the hired hands. I am one of the hired hands. So is the President of the United States. He is just one of the hired hands. Then why should we view those people, who pay us, with such contempt that we don't think we ought to let them in on these secrets?

Oh, we don't have to tell them. We don't have to tell the people's elected representatives in Congress. We don't have to tell them. We'll let them know what we estimate the cost to be when we send up our bill, when we send up a supplemental appropriations bill.

Congress and the American people should also know how much it will cost to occupy Iraq. At least there must be some estimates that have been carefully wrought. The Army Chief of Staff, General Shinseki, is standing by his estimates, given to the Armed Services Committee, that "several hundred thousand" troops would be required to occupy Iraq. There is an Army Chief of Staff who doesn't back down. There is an Army Chief of Staff who doesn't break and run. He said this a few days ago. His estimate was disputed by the Defense Department. But General Shinseki didn't cower. He is standing by his estimate, given to the Armed Services Committee, that several hundred thousand troops would be required to occupy Iraq.

The Congressional Budget Office has provided estimates, based on an occupation force of 75,000 to 200,000 American troops, it would cost \$1 billion to \$4 billion—from \$1 billion to \$4 billion—per month.

I said that right. The cost of occupying Iraq has been estimated to be \$1 billion to \$4 billion per month. How much is that money to us peons? Under \$4 billion. That is \$1 to \$4 for every minute since Jesus Christ was born. Perhaps that can give us hillbillies a little better feel of what we are talking about; \$1 billion to \$4 billion per month. That is \$12 billion to \$48 billion per year; \$33 million to \$130 million per day; \$23,000 to \$93,000 per minute. And these enormous amounts do not include the cost of rebuilding Iraq.

One estimate by the United Nations Development Program says that at least \$30 billion will be needed for reconstruction in the first 3 years after a war. The actual cost, of course, could be much higher.

If the United States initiates war against Iraq in the coming days, maybe a week—I find it a little hard to think it will be 2 weeks, but it could be. If the United States initiates war against Iraq in the coming days, we will be hard pressed to share these staggering costs with our allies. We have foolishly engaged in a war of words with some of our most powerful European allies, countries which could have been valuable partners in rebuilding Iraq if war were proven to be inevitable.

Instead, it looks like the American taxpayer—you out there looking in this Chamber—the American taxpayer will be alone, all by himself, in shelling out billions of dollars for new foreign aid spending.

Some have suggested that Iraqi oil might take care of the post-war costs. According to the United Nations, if Iraq's oil production reached all-time highs, about \$16 billion in revenue could be generated each year. Right now, Iraq's legitimate oil sales are supposed to buy food and medicine for the starving and ill. After a war, however, those funds could be subject to claims by Iraq's creditors, who are owed at least \$60 billion in commercial and official debt. There is also the issue of \$170 billion in unpaid reparations to Kuwait.

Mr. President, the big, black, endless pit we will find in Iraq after a war will not be filled with cheap oil for our gas-guzzling cars. The pit—that bottomless pit—that we will find in Iraq will have to be fed with enormous amounts of American dollars.—Courtesy of whom? Courtesy of Uncle Sam.

The irony of investing huge amounts of money to rebuild Iraq when we have urgent needs here at home has not been lost on late-night comedians. One talk-show host commented that if President Bush's plan to provide Iraqis with food, medicine, supplies, housing, and education proves to be a success, it could eventually be tried in the United States, too.

The comedians are on their toes. They are not overlooking any bets.

If the United States leads the charge to war in the Persian Gulf, we may be lucky and achieve a rapid victory. I hope we will be lucky. Perhaps the odds for being lucky are, I guess, 90 to 1. But we may not be lucky. But even if we are lucky, we will then have to face a second war—a war to win the peace in Iraq. That war will not be over in a day, or a week, or a month, or a year. That war will last several years, perhaps many years, and will surely cost hundreds of billions of dollars.

In the light of this enormous task, it would be a great mistake to expect that this will be a replay of the 1991 war. The stakes are much higher in this conflict.

Despite all of these risks and costs, it seems the administration continues to move our country closer and closer and closer to war. It seems we have already lost patience. We have already lost patience. We have stopped listening. This administration, this President, has stopped listening. The superhawks that surround him have stopped listening, if they ever were listening. It seems we have already lost patience for a regime of arms inspections that might take months to play out. But going to war will require our commitment to Iraq to last years—years.

The problems with Iraq are not going to be solved when 700 cruise missiles and 3,000 bombs land on that country in the opening days and the opening nights of war. Assuming victory—and I assume victory—we will be on the hook. You know what that means. We will be on the hook to rehabilitate Iraq. And I fear that the rebuilding of that ancient country with its ancient

artifacts—a country that goes back to the mists of biblical years, of Abraham, and Issac, and Jacob, and Joseph—a country, a land of Ur, and a land between the two great rivers—after the rebuilding of that ancient country, there will have to be another act of U.S. unilateralism. There you are—another act of U.S. unilateralism for which the American people are ill prepared.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I first pay tribute to my very distinguished colleague and senior Senator from West Virginia, whose eloquence on this subject has been magnificent in the last months and whose leadership in behalf of the wisdom of the Senate and the tradition of the Senate has been recognized by—I believe the Senator said over 20,000 telephone calls from fellow citizens came into his office in response to his outspoken courage.

The Senator said he noticed in last Sunday's New York Times a reprint of one of his famous speeches which he gave here just a short while ago.

I thank the Senator for his gracious leadership on behalf of our country and on behalf of the institution of this Senate. This Senator has learned more about the Constitution and the traditions of this great institution from the Senator from West Virginia than from any other source. I am grateful for that education, which is actually the subject I want to bring up today because in a few moments we will begin voting once again on proceeding to a nomination to the second highest court.

Mr. BYRD. Madam President, if the distinguished Senator will yield briefly—

Mr. DAYTON. I yield to the distinguished Senator from West Virginia.

Mr. BYRD. Madam President, may I thank the distinguished Senator for his overly charitable comments concerning this Senator. And I am indeed grateful. I am grateful for the fact that he on several occasions here during his short career thus far in the Senate—I predict that it will be a long career, if he wishes to make it a long one—has stood with me with regard to several important subjects—subjects that deal with the Constitution, deal with this institution, and that deal with war and peace.

I thank him for standing shoulder to shoulder and toe to toe. I thank him likewise for what he brings to the Senate—vigor and fresh insights, vision that is beyond today's 24 hours, a man whose kinsman served in the Constitutional Convention from the State of New Jersey, and whose signature on that Constitution will be there until kingdom come.

I thank the Senator.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank the Senator from West Virginia. I

would stand proudly with the Senator on any matter shoulder to shoulder. I believe I am 30-some years younger than the Senator. I wish I had the Senator's vigor and eloquence to carry forward. I thank the Senator for those kind words.

Taking what I have learned from the distinguished senior Senator from West Virginia, I note, with dismay, that while this body has spent over 100 hours on the Senate floor debating this judicial nomination, I compare that 100 hours on one judicial appointment with the number of hours this year this body has spent discussing and debating a declaration of war before commencing a war against Iraq.

And the answer is: Zero, not 1 hour, not 1 minute of formal debate in the 108th session of the Senate on this profound matter of war and peace, life and death—even now, with this Nation poised on the brink of war, a war which the United States is instigating, without direct provocation, without an immediate threat to our national security; the first war under the new doctrine of preemption, a claimed right to attack another country because they might become a future threat; the first war in which the United States is perceived in the eyes of much of the rest of the world as the provocateur, as a threat to world peace.

The Times of London recently surveyed the English people and asked: Who is the greatest threat to world peace today? Forty-five percent named Saddam Hussein, 45 percent named President Bush. In Dublin, Ireland, the poll was 31 percent Saddam Hussein, 68 percent President Bush. In the Arab world, the populations are overwhelmingly against a U.S. invasion of Iraq.

Osama bin Laden, with his most recent tape, is attempting to exploit those emotions, exhorting the members of his al-Qaida terrorist organization and followers to rise up against the invader, the crusader, the United States.

Those sentiments come as a great shock to us, as unwarranted and undeserved as they are. A few, unfortunately, in high levels in this administration believe they don't matter, that they are irrelevant.

Eighteen months ago, we had the sympathy and support of the entire world after the dastardly attacks of 9/11, support and sympathy which has been needlessly squandered and which will not easily be regained.

Here at home our citizens receive color-coded warnings of greater or lesser unspecified threats. They are told to stockpile water, food, plastic sheets, and duct tape, or else they are told nothing at all.

The Secretary of Defense, testifying before the Senate Armed Services Committee, on which I serve, said recently: We are entering what may prove to be the most dangerous security environment the world has known.

In the midst of this ominous, dangerous, fateful time, the 108th session of the Senate has devoted no time for

debate or discussion. The last 3 days the debate has been on a bill that purports to ban partial-birth abortions, a matter of importance, a matter of great concern to some, but not one that required the attention of the Senate at this moment in time.

Now we move on to consider, once again, a judicial nomination, then another judge; and before that there was another judge. Does it appear we are avoiding something? Well, we are. We are avoiding our constitutional responsibility, perhaps the most important responsibility placed upon us by the U.S. Constitution: whether to declare war.

As I have learned from the distinguished Senator from West Virginia, the Constitution says—simply, clearly, emphatically—Congress shall declare war, only Congress, no one else—not the President, not the judiciary, not the military—only Congress, only the 435 Representatives and 100 Senators elected by and acting for the people of the United States.

Last October, a majority of the Members of the 107th Congress—a majority of the Members in the House and a majority of the Senate—voted to transfer that authority to the President. Five months before he even made his own final decision regarding war or peace, Congress was asked to give him that authority that the Constitution assigns only to us. And Congress did so. It passed a resolution that said the President may use whatever means necessary, including the use of force, against Iraq.

Oh, we use such clever euphemisms in the Senate, words which disguise the meaning of our intentions. Use “whatever means necessary.” And, oh, by the way, lest you forget, it is OK with us if you use force—not the lives of American men and women, not their bodies, their blood, their patriotism—use force—not the deadly, ear-splitting, Earth-shaking, people-maiming, death-dealing bombs, and other weapons of destruction, the most devastating, overwhelming, terrifying, death-dealing force the world has ever known coming from us, the good guys, the protectors, the preservers of world peace, the United States of America.

What incredible foresight the Founders of this great Nation had in not wanting a decision that enormous, that Earth-shaking or ear-shattering to be made by one person—not by this President, not by any President.

Instead, this President asked for—and the 107th Congress acquiesced and gave—complete, unrestricted, unrestrained authority, with no conditions, no restraints to make that decision. Don't tie my hands, the President said.

Don't tie the President's hands? What did the Founders of the country think of that? Thomas Jefferson wrote, in 1798:

In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

“Bind him down from mischief by the chains of the Constitution.”

Tie his hands? That was not enough. “Chain him to the Constitution.”

We, in Congress, are supposed to be chained to the Constitution. We took an oath. When we were sworn in, we promised to support and defend the Constitution of the United States against all enemies, foreign and domestic, bear true faith and allegiance to the same Constitution.

That was our oath and our allegiance written—not to the country, not to our State, not to our Government but to the Constitution of the United States of America.

The Founders of this Nation had other admonitions for the United States regarding the Constitution: Follow it or change it, but don't ignore it or evade it.

George Washington, in his Farewell Address, in 1796, said:

If, in the opinion of the people, the distribution of constitutional powers be wrong, let it be corrected by amendment in the way which the Constitution designates. But let there be no change by usurpation, for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Finally, an admonition from another perspective, that of Edward Gibbon, the author of the “History of the Decline and Fall of the Roman Empire.” He said:

The principles of a free constitution are irrevocably lost when the legislative power is taken over by the executive.

In this sense, the legislative power was not taken over by the Executive. We gave it away. Here, Mr. President, you decide. If you are right, we will try to share the credit. If you are wrong, you take the blame.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DAYTON. The Senator yields.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Will the Senator from Minnesota yield without losing his right to the floor?

Mr. DAYTON. The Senator yields without losing his right to the floor.

Mr. BYRD. Mr. President, the Senator from Minnesota is making a great speech. It is great because of the quotations the Senator from Minnesota has given to us today about that Constitution.

The Senator was one of the lonely 23 who voted not to give to this President, or any other President—not to attempt to hand over to this President or to any other President—the power to declare war, which is found in the eighth section of article I of the Constitution of the United States.

A nominee for a Federal judgeship came to me the other day. I said: Where in the Constitution is the power to declare war lodged? He didn't remember. I said: Where in the Constitution is the vestment of the power to appropriate moneys? He knew it was there, but he didn't know in what section that was to be found. Of course, I

didn't have any problem in reminding him where both were to be found.

But the Senator from Minnesota today is referring to the Constitution of the United States, written in 1787, signed by 39 individuals, among whom was one kinsman of the distinguished Senator from Minnesota, MARK DAYTON, and his name is found in that illustrious roll of signers from the State of New Jersey, William Livingston, David Brearley, William Paterson, Jonathan Dayton. The Senator from Minnesota, Mr. MARK DAYTON, voted to uphold the Constitution, concerning which he has stood before that desk of the Presiding Officer with his hand on the Bible and swore to support and defend that Constitution.

This Senator who sits in front of me, I now put my hand on his shoulder, Senator KENT CONRAD, he was among the 23, yes. He was on that illustrious roll to which someone in ages hence will point. The Senator from Illinois, Mr. DURBIN, sits here on the floor today. He, too, was one of the 23 who stood for the Constitution on that day, when a majority of the Senate voted to shift the power to declare war to the President of the United States. But 23 Senators voted to leave that authority where the Constitution puts it: namely, in Congress.

What would Jonathan Dayton have said could he have spoken on the day that those 23 Members stood up for the Constitution—21 Democrats, one Independent and one Republican—what would Jonathan Dayton of New Jersey have said if he could have spoken to the Senate that day? What would his advice to us have been?

Mr. DAYTON. I think he would have said it was a good thing we added West Virginia to the United States of America so we could have the distinguished Senator from West Virginia to give us the guidance he did that day.

Since the hour is approaching for the vote under the rules, I will conclude my remarks.

Mr. BYRD. I thank the distinguished Senator for yielding.

Mr. DAYTON. I thank the Senator for his kind words.

I respectfully urge the majority leader and all of my colleagues to turn their attention to this fateful decision when we return next week. A decision whether or not to vote a declaration of war is one that would be a very difficult vote, one that would be a career-shaping or career-shattering vote, but it would be one the Constitution requires of us, as do our fellow citizens who elected us. And it is one that only we can and must do, to vote on whether or not to declare war.

I urge the Senate to turn its attention to that matter when it resumes next week.

I yield the floor.

Mr. FEINGOLD. Mr. President, I will oppose the nomination of Jay Bybee to the Ninth Circuit Court of Appeals. I was not able to attend the hearing that was held on Mr. Bybee because of Sec-

retary Powell's presentation that morning to the United Nations. So I submitted written questions, as did a number of my colleagues. Unfortunately, I have to say after reviewing Mr. Bybee's response to those questions that his unwillingness to provide information in response to our inquiries is striking. On more than 20 occasions, Mr. Bybee refused to answer a question, claiming over and over again that as an attorney in the Department of Justice he could not comment on any advice that he gave at any time. This is unfortunately becoming a very familiar refrain of nominees before the Judiciary Committee.

I say unfortunate because it puts many of us in the position of having to oppose nominees because they have not been forthcoming. This was not the approach taken by at least some Bush nominees in the last Congress. Michael McConnell, for example, was forthcoming in his testimony and answers to written questions. He convinced me that he would put aside his personal views if he were confirmed to the bench.

There is an extensive body of legal work both written by or at least signed off on by this nominee, in this case unpublished Office of Legal Counsel opinions. The administration and the nominee are acting as if they are irrelevant to the confirmation process. A nominee cannot simply claim that he or she will follow Supreme Court precedent and ask us to take that assurance on faith, when there are written records that may help us evaluate that pledge, but the nominee refuses to make those records available.

Only three OLC opinions had been made publicly available since Mr. Bybee's confirmation to head that office. That is extraordinary, given that 1,187 OLC opinions dating back to 1996 are publicly available. This is a dramatic change in the Department's practice, a change that did not occur until this nominee was confirmed to be Assistant Attorney General for the office. While there may be some justification for releasing fewer opinions since 9/11, the wholesale refusal to share with the public and Congress important OLC decisions affecting a wide range of legal matters is, to say the least, troublesome.

But the failure to make OLC opinions available to the Judiciary Committee during the consideration of a nominee for a seat on a circuit court is unacceptable. Even White House Counsel Alberto Gonzalez, in a letter Mr. Bybee cites in his written responses, agrees that there is no universal bar to disclosure of OLC opinions. Gonzalez wrote that:

No bright-line rule historically has governed, or now governs, responses to congressional requests for the general category of Executive Branch "deliberative documents."

The administration should be able to agree to an acceptable procedure to allow the Judiciary Committee to review Mr. Bybee's OLC opinions. Given

the recent history of many OLC opinions being made public, it is hard to believe that there are no opinions authored by Mr. Bybee that could be disclosed without damaging the deliberative process. Indeed, it is very hard to give credence to the idea that OLC's independence would be compromised by the release of some selection of the opinions of interest to members of the Judiciary Committee or the Senate.

Without the OLC memos, important questions about the nominee's views on how far the Government can go in the war on terrorism, enforcing the rights of women, enforcing the rights of gays and lesbians, and other important issues do not just remain unanswered, they apparently remain off-limits.

One of Mr. Bybee's responses may explain the reluctance to make any OLC materials available. In his response to a question from Senator BIDEN about why DOJ did not create an independent Violence Against Women Office at DOJ as required by Congress in a bill passed last year, Mr. Bybee left the impression that OLC may have either intentionally omitted or ignored the key portions of the legislative history in crafting its opinion.

In a series of questions from Senator BIDEN about his involvement in DOJ's decision on the VAWO, Mr. Bybee was given the opportunity to clarify his view of the law and correct what appears to be a clearly erroneous interpretation of the legislative history. Instead he seems to try to downplay the importance of his office's legal analysis on the decision. He states at one point:

The structure of the letter would thus indicate that legislative history had no significant bearing on its analysis or conclusion.

The members of the Judiciary Committee are entitled to better. How can we be confident that Mr. Bybee will put aside his personal policy views and fairly interpret and apply the law as passed by this body, when it seems that his office crafted a legal opinion designed to allow the Department of Justice to willfully ignore clear legislative intent? Perhaps the legal opinion itself will shed some light on this question, but we are not being permitted to see it.

Mr. Bybee also mischaracterized many of his own writings and speeches and failed to directly answer most of the questions put to him about them, claiming he would simply follow existing Supreme Court precedent. As we all know, the Supreme Court has not answered every legal question. It is our circuit court judges that are routinely in the position of having to address novel legal issues, not the Supreme Court.

For example, I asked Mr. Bybee about his views, published in a law review article, that we should consider repealing the 17th Amendment which provides for the direct election of Senators. The nominee now simply states that Senators should be popularly elected, almost claiming he had never argued to the contrary in his article.



His answers to my questions about this article were evasive, not forthcoming.

Another telling example is his response to a series of questions from Senator EDWARDS about a 1982 article in which he criticized the IRS decision to deny tax exempt status to Bob Jones University because of its racially discriminatory practices. The article is full of statements revealing a disdain for anti-discrimination policies and warned of a parade of horrors should the government continue to use its spending power to advance such policies.

Yet, in his written responses, Mr. Bybee seems to deny the very clear meaning of his written words. He goes so far as to claim that he was only commenting on the Government's change in position in the case and not the very important public policy issue at the heart of the case. That, it seems to me, is an adventurous reading of the article, at best.

Based on Mr. Bybee's unwillingness to answer any question about his views on a wide range of issues, his distortion of his own limited but telling written record, and the failure of the administration to provide any of his numerous OLC opinions to the Judiciary Committee for review, I must vote no on his nomination to the Ninth Circuit Court of Appeals.

Mr. DURBIN. Mr. President, I rise today in opposition to the nomination of Jay Bybee for the Ninth Circuit Court of Appeals. Mr. Bybee recently passed out of the Judiciary Committee by a vote of 12 to 6.

Mr. Bybee is a smart person and a talented attorney—there is no argument about that. But he is one of the most strident voices in the country in advocating states' rights over Federal rights.

For example—and I think members of the Senate here should take special note of this—he wrote a law review article arguing that the 17th amendment was a bad idea. The 17th amendment, of course, is the amendment that allowed for direct election of United States Senators.

Mr. Bybee believes that ratification of the 17th amendment has resulted in too much power for the Federal government, and too little for the States. Here is what he said in his law review article:

If we are genuinely interested in federalism as a check on the excesses of the national government and therefore, as a means of protecting individuals, we should consider repealing the 17th Amendment.

I, for one, disagree.

On behalf of a conservative foundation, Mr. Bybee wrote a successful amicus brief in the 2000 case *United States v. Morrison*, in which the Supreme Court struck down part of the Violence Against Women Act. Mr. Bybee wrote that Congress had no power under either the Commerce Clause or the 14th amendment to pass crucial provisions of this law. I thought this was settled law 75 years ago. Mr. Bybee thinks it is time to revisit this notion.

In addition, I am troubled by Mr. Bybee's positions regarding gay rights. He has been very critical of the Supreme Court's 1996 decision, *Romer v. Evans*, that struck down a Colorado constitutional amendment that prohibited local governments from passing laws to protect gay people. He called such laws that protect gay people from discrimination "preferences for homosexuals."

In another gay rights case, he wrote a brief defending the Defense Department's policy of subjecting gay and lesbian defense contractors to heightened review before deciding whether to give them security clearances. He argued that this policy was not a violation of the Equal Protection Clause and argued that such reviews were justified, in part, because some gays and lesbians experienced "emotional instability."

I am also concerned that Mr. Bybee—as head of the Justice Department's Office of Legal Counsel—has been involved in shaping some of the most controversial policies of the Ashcroft Justice Department. For example, he may have been involved in the new interpretation of the second amendment.

He may have been involved in the TIPS program, in which people in the United States are encouraged to spy on their neighbors and coworkers and report any conduct they find to be "unusual."

He may have been involved in the decision to declare the al Qaeda and Taliban detainees at Guantanamo Bay as prisoners of war under the Geneva Convention.

I say "may have been involved" because he refused to tell us. In written responses to 20 different questions we posed to him, he gave the following answer:

As an attorney at the Department of Justice, I am obligated to keep confidential the legal advice that I provide to others in the executive branch. I cannot comment on whether or not I have provided any such advice and, if so, the substance of that advice.

Mr. Bybee is the most recent example of an appellate court nominee who has stonewalled the Senate Judiciary Committee. I do not believe that such conduct should be rewarded.

I oppose the nomination of Mr. Bybee to the Ninth Circuit.

#### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—CONTINUED

##### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

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, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A.

Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Robert F. Bennett, Peter Fitzgerald, Jeff Sessions, John Ensign, Kay Bailey Hutchison, Rick Santorum, Don Nickles, Jim Talent, Lindsey Graham of South Carolina, Lisa Murkowski, Conrad Burns, John Warner, John Sununu, Gordon Smith, Elizabeth Dole, Saxby Chambliss, Christopher Bond, Susan Collins, Wayne Allard, Lamar Alexander, Norm Coleman, Pat Roberts, Craig Thomas, Larry E. Craig, Olympia Snowe, John McCain, James Inhofe, Jon Kyl, Lincoln Chafee, Judd Gregg, Richard G. Lugar, George Allen, Chuck Grassley, George V. Voinovich, Mike Crapo, Michael B. Enzi, Thad Cochran, Mike DeWine, Arlen Specter, Sam Brownback, Ben Nighthorse Campbell, Richard Shelby, Ted Stevens, Chuck Hagel, John Cornyn, Pete Domenici, Mitch McConnell, Jim Bunning.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "No."

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 42, as follows:

[Rollcall Vote No. 53 Ex.]

##### YEAS—55

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (FL)
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chafee	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Kyl	Talent
Collins	Lott	Thomas
Cornyn	Lugar	Voinovich
Craig	McCain	Warner
Crapo	McConnell	
DeWine	Miller	

##### NAYS—42

Akaka	Clinton	Feingold
Baucus	Conrad	Feinstein
Bayh	Corzine	Graham (FL)
Bingaman	Daschle	Harkin
Boxer	Dayton	Hollings
Byrd	Dodd	Inouye
Cantwell	Dorgan	Jeffords
Carper	Durbin	Johnson

Kennedy	Lieberman	Reid
Kohl	Lincoln	Rockefeller
Landrieu	Mikulski	Sarbanes
Lautenberg	Murray	Schumer
Leahy	Pryor	Stabenow
Levin	Reed	Wyden

## NOT VOTING—3

Biden	Edwards	Kerry
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The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

JAY S. BYBEE, OF NEVADA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senate will resume consideration of the Bybee nomination.

Who yields time?

Mr. GREGG. 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 I be recognized as in morning business for up to 10 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 616 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. 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, the two leaders have agreed that the vote on the circuit judge would occur at 3:45. I am sure there will be a unanimous consent brought here soon.

Mr. SESSIONS. Mr. President, I ask unanimous consent that at 3:45 all time be yielded and the Senate proceed to the first vote, which is on the confirmation of Mr. Bybee.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Mr. President, might I inquire, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the nomination of Jay S. Bybee.

Mr. DODD. Mr. President, I ask unanimous consent to proceed as in morning business so as not to interrupt the debate on the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DODD are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to speak for 3 minutes on the nominee. I can do it before or after my leader on the Judiciary Committee.

Mr. LEAHY. I tell my friend from New York, I have allowed others to go, but one more doesn't bother me, especially someone as good as the Senator from New York. I certainly have no objection.

Mr. SCHUMER. I thank my colleague. I will try to be brief and leave the majority of the remaining time for him.

I rise in support of the nomination of Jay Bybee for the Ninth Circuit Court of Appeals. I realize that my support—I was one of two Democrats on the Judiciary Committee to be for Mr. Bybee—may surprise some people, so I wanted to explain for a few moments why I will be voting to confirm him.

As most of my colleagues know, I use three criteria to evaluate judicial nominees: Excellence, moderation, diversity.

Excellence, legal excellence, Mr. Bybee meets that criteria. Diversity, you can't judge that by one individual, but the Bush administration has been pretty good, certainly not terrible, in terms of diversity.

It is moderation where I have had the greatest problem with some of the President's nominees. I don't believe in judicial nominees too far left or too far right because in each case, they tend to make law, not interpret law, as the Founding Fathers said they should. I believe there has to be balance, balance on the courts. And I have said this many times, but there is nothing wrong with a Justice Scalia on the court if he is balanced by a Justice Marshall. I wouldn't want five Scalias, but one might make a good and interesting and thoughtful court with one Brennan. A Rehnquist should be balanced by a Marshall.

Jay Bybee, make no mistake about it, is a very conservative nominee. It is fair to put him in a similar category with many of the more conservative nominees we have had. If Mr. Bybee were nominated to another court that is hanging in the balance or where most of the nominees were conservative, I probably wouldn't vote for him. If he were nominated for the Supreme Court, for example, there would be a different calculus. But Mr. Bybee is nominated to the Ninth Circuit. The Ninth Circuit is by far the most liberal court in the country. Most of the nominees are Democratic from Democratic Presidents. It is the court that gave us the Pledge of Allegiance case which is

way out of the mainstream on the left side. Therefore, I think Jay Bybee will provide some balance.

Let me repeat, if he were nominated to another court, I might have evaluated this differently. But when it comes to nominations, I mean what I say and I say what I mean. There has to be balance. Standards cannot only apply when they help achieve the desired outcome.

I want to be as fair and honest as I can be in this process. I have developed a set of criteria for evaluating nominees. I don't pretend to change them when after applying those criteria the scales tip in favor of supporting a nominee many of my friends oppose.

I respect those who arrive at a different conclusion. I understand their reasoning. I intend to vote yes on Mr. Bybee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we have moved the time up, I realize, in the next 6 minutes for the first vote. That is something I have agreed to accommodate a number of Senators on both sides of the aisle who have commitments. As a result, also as a result of yielding time to the distinguished Senator from Alabama, who had one of the nominees and, of course, appropriately should be speaking, and others, I will not be able to say all the things I wanted to.

I ask unanimous consent that I be recognized for 20 minutes after the conclusion of the final rollcall vote today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Obviously, as usual, should the leaders have other plans for that, I will do my usual courtesy of yielding to them.

(The remarks of Mr. LEAHY are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The question is, Will the Senate advise and consent on the nomination of Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit? On this question, the yeas and nays are required.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, parliamentary inquiry: Who is the next judge after this?

The PRESIDING OFFICER. That would be Judge Steele from the State of Alabama.

Mr. LEAHY. Mr. President, I understand we also have J. Daniel Breen, of Tennessee, on the list. I ask unanimous consent that it be in order to ask for the yeas and nays on his nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll with respect to the Bybee nomination.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Texas (Ms. HUTCHISON), the Senator from Arizona (Mr. KYL), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) would vote "no."

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 19, as follows:

[Rollcall Vote No. 54 Ex.]

#### YEAS—74

Akaka	DeWine	Lugar
Alexander	Dodd	McCain
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Dorgan	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bingaman	Fitzgerald	Pryor
Bond	Frist	Reid
Breaux	Graham (FL)	Roberts
Brownback	Graham (SC)	Rockefeller
Bunning	Grassley	Santorum
Burns	Gregg	Schumer
Cantwell	Hagel	Sessions
Carper	Hatch	Shelby
Chafee	Hollings	Smith
Chambliss	Inhofe	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stevens
Collins	Kohl	Sununu
Conrad	Landrieu	Talent
Cornyn	Leahy	Thomas
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	

#### NAYS—19

Boxer	Feinstein	Murray
Byrd	Harkin	Reed
Clinton	Inouye	Sarbanes
Corzine	Kennedy	Stabenow
Dayton	Lautenberg	Wyden
Durbin	Levin	
Feingold	Mikulski	

#### NOT VOTING—7

Biden	Hutchison	McConnell
Campbell	Kerry	
Edwards	Kyl	

The nomination was confirmed.

#### CHANGE OF VOTE

Mr. DAYTON. Mr. President, on rollcall vote No. 54, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, following this vote, I ask that the majority leader be recognized; following that, that Senator LEAHY be recognized; following that, Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NOMINATION OF WILLIAM H. STEELE, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William H. Steele, of Alabama, to be the United States District Judge for the Southern District of Alabama?

The nomination was confirmed.

Mr. HATCH. Mr. President, I support the nomination of Judge William Steele to the United States District Court for the Southern District of Alabama.

Judge's Steele's professional record indicates that he is eminently qualified for the federal trial bench. Upon graduation from the University of Alabama School of Law, Judge Steele clerked for the Tuscaloosa County district court. As an Assistant District Attorney in Mobile, he handled hundreds of criminal matters, including more than 75 jury trials. Upon being promoted to Chief Assistant District Attorney, he was significantly involved in the creation of the Child Advocacy Center for physically and sexually abused children. He then served as an Assistant United States Attorney prosecuting mail fraud, public corruption, drug violations, firearms violations, and tax code violations.

In addition to his broad federal and state criminal experience, Judge Steele has considerable civil experience. In the private sector, while continuing to maintain a viable state and federal criminal trial and appellate practice, he also handled domestic relations matters, civil litigation in State and Federal court, representation of claimants in social security matters, and representation of the Alabama Department of Human Resources in child custody matters.

Since 1990, Judge Steele has served as a Federal magistrate judge. In this capacity, he has handled a wide range of civil matters, preliminary criminal matters, prisoner cases, and social security appeals.

I know that Judge Steele will be a credit to the Federal bench and will honorably serve the citizens of south Alabama. I thank my colleagues for voting for his confirmation.

Mr. SESSIONS. Mr. President, I am pleased to be able to make some remarks in support of the nomination of Judge William H. Steele to be U.S. dis-

trict judge for the Southern District of Alabama. He is one of America's finest magistrate judges—a magistrate judge who does a lot of the kind of legal work that goes on in every Federal courthouse in America. Magistrate judges are not title III Federal judges, but they do much the same work day after day that Federal judges do.

During his time as a magistrate judge, Judge Steele has had firsthand experience in the work, and he has won the respect of the bench and the bar in southern Alabama.

He has been in training now for 12 years for this position. In the Southern District of Alabama the magistrates are used to an extraordinary degree by the Federal judges who allow the magistrates to do as much work as possible. And they frequently preside over civil cases with the consent of the parties involved.

I have talked with other lawyers and judges in Alabama. They are very excited about his nomination and look forward to his confirmation.

Some people talk about public service, but throughout his life, Bill Steele has done more than just talk. Judge Steele has dedicated the better part of his life to public service and has served both this country and the State of Alabama well. After graduating summa cum laude from the University of Southern Mississippi in 1972, Judge Steele served in the U.S. Marine Corps as an officer, pilot, and instructor pilot. During his service in the Marine Corps, Judge Steele participated in the operation to evacuate American citizens from Lebanon in 1976. He also served in the Alabama National Guard as a pilot and as commanding officer of an assault helicopter company.

After serving his country in the Marine Corps, Judge Steele attended the University of Alabama School of Law. After law school, he was employed as an assistant district attorney in Mobile, AL, and worked for 6 years in the office of a Democrat district attorney.

I was U.S. attorney during that time. That is where I got to know Bill. Our staff worked closely with the district attorney's office, and they always came back with the most glowing opinions of Bill Steele and his integrity, his judgment, and his fidelity to truth and justice.

Later, Judge Steele became chief assistant district attorney in Mobile. I got to know him well during that time and developed great respect for him. I think he tried 100 or more trials as an assistant district attorney. Then, in 1987, given his reputation for excellence, I hired him as an assistant attorney in the U.S. Attorney's Office. I can say without reservation that during his service, while I was a U.S. Attorney in the Southern District of Alabama, Judge Steele did not disappoint. Judge Steele tried a number of cases while he was in the U.S. Attorney's Office, which is the Federal system in which he will now be a district court judge. He held that position for 2 years and

then went into private practice and did an excellent job there.

He was instrumental as a private practitioner and chief assistant district attorney, in the establishment of the Child Advocacy Center, an agency devoted to identifying and providing assistance to child victims of physical and sexual violence.

In 1990, the Federal court in the Southern District of Alabama commenced its search process for a U.S. magistrate. They usually have 60 or more applications. It is a very competitive process. The judges want the very finest lawyer—someone who would make a superb judge because the better work that magistrate does, the more relief the Federal district judges get. After all that competition, he won and was hired.

For 13 years now he has served as a magistrate judge. He has done so many different cases.

Bill Steele is one of Alabama's most outstanding magistrate judges, and I am confident that he will be an even better district court judge. I have followed Judge Steele's career since the time I worked with him at the U.S. Attorneys Office in the Southern district of Alabama, so I know from firsthand experience what kind of individual Judge Steele is. This statement will not do him justice. He is a nominee of the highest order, and it is an understatement when I say that I am pleased that President Bush has chosen to nominate Magistrate Judge William H. Steele for elevation to the Southern District of Alabama.

As a magistrate judge, Judge Steele has been training for a district court position for the last 12 years, and because the Southern District of Alabama utilizes magistrate judges to a greater extent than most other districts, he will be able to hit the ground running in his new position. I have had conversations with the other judges in the Southern district and I know that they are as excited about Judge Steele's nomination as I am, so I am glad that we can move forward with his confirmation.

Some people talk about public service, but throughout his life, Judge Steele has done more than just talk. Judge Steele has dedicated the better part of his life to public service and has served both this country and the great state of Alabama well. After graduating *summa cum laude*, from the University of Southern Mississippi in 1972, Judge Steele served in the United States Marine Corps as an officer, pilot, and instructor pilot. During his service in the Marine Corps, Judge Steele participated in the operation to evacuate American citizens from Lebanon in 1976. Judge Steele also served in the Alabama National Guard as a pilot and as the commanding officer of an assault helicopter company.

After serving his country in the Marine Corps, Judge Steele attended the University of Alabama School of Law, graduating in 1980. After law school,

Judge Steele was employed as an Assistant District Attorney in Mobile, Alabama, and worked for six years for a democrat District Attorney. At the District Attorney's Office, Judge Steele distinguished himself as an outstanding advocate, litigating close to, if not more, than 100 jury trials. In recognition of his legal skills and leadership qualities in the District Attorney's Office, Judge Steele was appointed as Chief Assistant District Attorney in 1985. As the Chief Assistant, Judge Steele was instrumental in establishing the Child Advocacy Center, an agency devoted to identifying and providing assistance to, child victims of physical and sexual violence.

In 1987, given his reputation in the community for excellent legal abilities and personal skills, I was proud to hire Judge Steele as an Assistant U.S. Attorney in the Southern District of Alabama. I can say without reservation, that during his service, while I was the U.S. Attorney in that office, Judge Steele did not disappoint. I found him to be a first-rate lawyer who set the standard for integrity by treating all parties with respect.

In 1990, Judge Steele was appointed to the position, which he currently holds, as a United States Magistrate Judge. He has served in this position with distinction, handling a full array of criminal and civil matters in federal court. The Southern District of Alabama has a heavy caseload, and the judges there depend on magistrate judges to go beyond preliminary criminal matters and social security cases. The magistrate judges in the Southern District are in rotation to receive 25 percent of the civil docket, where the parties consent. So Judge Steele has been doing the job of a district judge, including presiding over civil jury trials in many instances. It is my understanding, from talking to lawyers who practice in the Southern District, that Judge Steele has managed his docket well and the numbers show it. This is simply an outstanding nominee.

Judge Steele has not only been a leader in the workforce, but has been a leader and a active participant in his community as well, serving on the board of the Child Advocacy Center that he helped establish. And for the record, Judge Steele does not shy away from the arts. Judge Steele often volunteers his time to support First Night Mobile, a family-oriented, New Year's Eve, alcohol-free celebration of the arts, and he regularly performs with the Mobile Symphonic Pops as a saxophone player.

I acknowledge, that all of these accolades would be futile, if Judge Steele had not demonstrated commitment to the rule of law and to the Constitution, during his service as a magistrate judge. In my view, this is the first and foremost requirement for a federal judge. This is what our democracy hinges upon, and I know that Judge Steele is committed to that requirement. Judge Steele has a reputation

for being eminently fair and impartial throughout the bar association. And having worked with him personally, I know that he is an individual with unquestioned integrity and the utmost character.

I will just say this: when it comes to serving with the distinction, it is the lawyers in the community who know a judge the best. Here is what Fred Gray, former counsel to the late Reverend Dr. Martin Luther King, Jr., had to say about Judge Steele in a letter to the Senate Judiciary Committee supporting his confirmation:

I have practiced law in the State of Alabama and before all the federal district courts . . . I realize that it is important that all the judges who serve on the courts . . . are one[s] who possess the necessary personal characteristics, experience, practical knowledge, legal skills and professional background, so they will administer justice in a fair and impartial manner.

I have discussed [Judge Steele's] qualifications generally and specifically with reference to intelligence, honesty, morality, integrity, maturity, stability, demeanor and temperament with members of the bar who know him and have practiced before him and other judges who sit on some of the courts in Mobile. Based upon their representations to me, Judge Steele possess all the necessary qualities for a [federal judgeship].

I have had the opportunity to meet with Judge Steele personally . . . I believe he will be fair to all litigants who appear before him . . . regardless of color or national origin or the type of litigation. I believe he will administer justice tempered with mercy.

I do not believe that you could receive a better endorsement than this one.

The lawyers and individuals who know Judge Steele best, because they have worked with him and practiced in front of him, have all voiced support. Since his nomination has been pending, Judge Steele has been endorsed by a number of individuals including the current President and 16 former presidents of the Mobile Bar Association, several former president of the Birmingham Bar, and several former presidents of the Alabama Bar Association.

The Vernon Z. Crawford Bay Area—African-American—Bar Association of Mobile, AL gave its unanimous endorsement:

The . . . Association strongly recommends Magistrate Bill Steele for this position because he recognizes and is sensitive to the issues facing African American lawyers and the African American community. . . . We give Magistrate Steele our highest recommendation.

Major General Gary Cooper, USMC—Ret., former Ambassador to Jamaica, president of a Commonwealth National Bank in Mobile, AL, and an African American:

As an African American citizen of Mobile and as a retired Marine, I appreciate what William Steele has done for his community as a county and federal prosecutor and federal magistrate, and what he has done for his country as a Marine helicopter pilot. His record indicates that he will make a fine . . . Judge.

Joy Williams, former law clerk to Magistrate Judge Steele and an African American:

[W]hile I was the only person of color clerking on the court at the time, I truly felt comfortable and accepted from the moment I interviewed with Judge Steele. He has never given me a reason to question the sincerity of his support of me and my endeavors both professionally and personally.

Merceria Ludgood, Assistant County Attorney for Mobile County, former Director of Program Services for Legal Services Corporation in Washington, D.C., and former Executive Director of Legal Services Corporation of Alabama:

Magistrate Judge Steele is one of the finest men I have ever known. Never once have I believed his actions to be motivated by politics or ambition. He simply wants to do the right thing for the right reasons.

Robert D. Segall, attorney for the American Civil Liberties Union in the case opposing the display of the Ten Commandments in an Alabama courtroom:

Judge Steele is an outstanding selection, is very highly qualified, and I respectfully urge his prompt confirmation.

Carlos A. William, Southern District of Alabama Federal Defenders Organization:

During the years I have practiced in [Judge Steele's] court, I have come to know a jurist of integrity, professionalism and compassion, and I have grown to respect his judgment. . . . [I] note that every lawyer in my office, Kristen Gartman Rogers, K. Lyn Hillman Campbell and Christopher Knight, in unsolicited comments, have expressed their support for Magistrate Steele's nomination. It is therefore without hesitation that I send this letter in support of Magistrate William Steele's nomination.

Larry C. Moorer, long time practitioner in Mobile, Alabama and an African American:

Over the years, I have handled several legal matters before Magistrate Judge Steele . . . He has shown over the years that he is fair and impartial, and will rule according to the law regardless of public opinion or possibly his own personal feelings. . . . Magistrate Judge Steele provides a level playing field . . . [and] he possesses the attributes for being an outstanding appellate judge.

Larry Sims, President of the Mobile Bar Association and 16 former presidents.

Numerous officers and members of the Women of the Mobile Bar Association.

Hodge Alves, President of the Mobile Chapter of the Federal Bar Association.

Several former presidents of the Montgomery Bar Association.

Bruce Rogers, incoming president of the Birmingham Bar Association, and a number of former presidents.

Warren Lightfoot, former president of the Alabama Bar Association, and managing partner of one of the most respected litigation firms in Birmingham, AL.

Jim North, a prominent Democrat in Birmingham, former clerk for Justice Hugo Black, and former President of the Alabama Bar Association.

Rosemary Chambers, Circuit Judge of Mobile County.

Chris Galanos, a Democrat and former District Attorney of Mobile

County who employed Steele as a prosecutor for several years.

Alex Bunin, Federal Public Defender, Districts of Northern New York and Vermont.

Greg Breedlove, on behalf of the unanimous firm of Cunningham, Bounds, Yance, Crowder and Brown, L.L.C. in Mobile, Alabama—prominent Democratic, plaintiffs' firm.

John Morrow, former president of the Birmingham Bar Association and long-time practicing attorney with one of the largest firm's in Birmingham, AL.

Ed Allen, 38-year practitioner with one of the largest firms in Birmingham, Alabama, and former member of the Executive Committee of the Birmingham Bar Association, and the Labor and Employment sections of the American Bar Association and the Alabama Bar Association.

Henry Brewster, Mobile, AL, Democrat plaintiff's lawyer whose practice focuses on employment discrimination cases.

Jerry McDowell, long-time practitioner from Mobile, AL.

This support, in my view, confirms that President Bush made the right decision in nominating Judge Steele.

Judge Steele has the professional qualifications, integrity, professional competence and judicial temperament to serve on the federal bench in the Southern District of Alabama. The ABA has acknowledged such, rating him unanimously qualified. As a magistrate judge in the Southern District of Alabama, he is practically already doing the job. Judge Steele will make an excellent addition to the federal bench, and deserves to be confirmed by this Senate. I look forward to supporting Judge Steele and to casting my vote in favor of his confirmation. I urge my colleagues to support Judge Steele.

I yield the floor.

I want to say I don't know that I have met a finer individual, a more dedicated patriot than Judge Bill Steele. He is someone I admire and someone who is admired by people I admire. People who have good judgment of character think he is first rate.

The Bar Association in the Southern District of Alabama has unanimously told me time and again how much they appreciate him and how well they think he will do as a Federal judge. And I am very pleased for him.

He has received support from a large number of different sources. Of course, the established bar in the Southern District of Alabama speaks very highly of him.

You ask what about others? What do they say about him? The President of the Alabama Bar Association for the State is Mr. Fred Gray. He was former counsel for the late Rev. Dr. Martin Luther King, Jr., and has tried some of the most historic cases in the history of the United States.

He was involved in *New York Times v. Sullivan* and *Chameleon v. Light Foot* and was the attorney on the Rosa

Parks bus boycott case. He worked directly with Dr. Martin Luther King, Jr., at that time. He has written an excellent book describing the bus ride to justice.

He writes to me his strong support for Judge Steele. He realizes he said it is important that all judges who serve on the courts possess the necessary personal character, experience, knowledge, legal skills, and professional background so they will administer justice in a fair and impartial way.

He went on to explain his meeting with Judge Steele—his knowledge of him, and his support for him. Group after group has written on Judge Steele's behalf.

I believe this Senate will make a wise decision if Judge Steele is confirmed. I have absolutely no doubt that this fine nominee will serve with distinction. He will serve and treat every party before the court with courtesy. He will control his court with firmness but fairness. He will demonstrate integrity. And, most of all, every day that he goes to work, Bill Steele will sit there and try to do what he can to produce justice.

I am delighted he has been able to move through the process. I thank my colleagues in the Senate for their help. I saw Senator LEAHY earlier. I congratulated him and thanked him for allowing this nomination to move forward.

I thank Senator HATCH for his determination to move nominees, who are qualified, forward to confirmation.

As I said, I am confident in Judge Bill Steele. The courts of the United States will have a superstar who will do a superb job.

#### NOMINATION OF J. DANIEL BREEN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of J. Daniel Breen, of Tennessee, to be United States District Judge for the Western District of Tennessee?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Texas (Ms. HUTCHISON), the Senator from Arizona (Mr. KYL), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announced that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 55 Ex.]

YEAS—92

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	Mikulski
Baucus	Durbin	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Nickles
Boxer	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (FL)	Reid
Bunning	Graham (SC)	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Cantwell	Hagel	Sarbanes
Carper	Harkin	Schumer
Chafee	Hatch	Sessions
Chambliss	Hollings	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Cornyn	Kohl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NOT VOTING—8

Biden	Hutchison	McConnell
Campbell	Kerry	Miller
Edwards	Kyl	

The nomination was confirmed.

#### THE CONFIRMATION OF DANIEL BREEN TO BE A UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE

Mr. FRIST. Mr. President, I am in strong support of Judge Daniel Breen to be United States District Judge for the Western District of Tennessee.

For more than a decade Judge Breen has admirably served the state of Tennessee's Western District as a United States Magistrate Judge. Before assuming this position in the Jackson and Memphis area, he practiced law in most of the surrounding West Tennessee counties for sixteen years.

Judge Breen graduated first in his class from Spring Hill College and later graduated from the University of Tennessee College of Law. His list of bar-related and civic activities is long and distinguished: President of the Tennessee Bar Association, Subcommittee Chair in the American Bar Association, Executive Committee member of the West Tennessee Council Boy Scouts of America, and a Lifetime Board Member of the West Tennessee Cerebral Palsy Center. As you can tell, his roots are deep with the people he serves.

In addition to an active civil trial docket, Judge Breen is also recognized as an effective mediator, and an instructor and author on alternative dispute resolution. He has made a broad range of contributions to the bar, as well as the State and Federal courts. This work has earned him the respect of the local legal community. I have

heard from many in the Tennessee bar praising Judge Breen's thoughtfulness and judicial temperament. Judge Breen is a dedicated, hard working and even-handed jurist.

Judge Breen's record has prepared him to be ready for this job beginning on day one. I am honored to support his confirmation, and I know he will serve the Western District of Tennessee as a U.S. District Judge with distinction. I thank my colleagues for voting for his confirmation.

Mr. HATCH. Mr. President, I am pleased today to support Judge John Breen, who has been nominated to the U.S. District Court for the Western District of Tennessee.

Judge Breen has served on both sides of the bench with distinction. Upon graduating from the University of Tennessee Law School in 1975, he entered private practice by joining the Jackson firm of Waldrop & Hall. He is one of the few lawyers these days who spent his entire litigating career with a single firm. His area of expertise was general civil litigation. In addition to representing insurance companies and self-insured businesses, he also represented individual clients in real estate, commercial, corporate and estate planning matters.

Judge Breen has made a broad range of contributions to the bar. He served as the President of the Tennessee Bar Association, which reflects the high esteem in which his colleagues hold him. He also served on the Board of Directors for the Tennessee Bar Foundation. In the course of his career, he has accepted many appointments to represent indigent criminal defendants in State and Federal court. Judge Breen also provided many hours of pro bono service for West Tennessee Legal Services.

Since 1991, Judge Breen has served as a Federal magistrate judge, where he has handled a broad array of evidentiary hearings and issued many reports and recommendations. In addition, Judge Breen is also recognized as an effective mediator, as well as an instructor and author on alternative dispute resolution.

The American Bar Association rated Judge Breen unanimously well qualified, its highest rating. I am confident that he will serve on the bench with integrity, intelligence and fairness.

Mr. ALEXANDER. Mr. President, I support the nomination of John Daniel Breen to be a United States District Judge for the Western District of Tennessee. I am pleased that the Senate has moved so expeditiously to confirm this exceptional nominee.

Mr. Breen is currently a United States Judge in the Western District of Tennessee. Judge Breen was recommended last year by the current Senate Majority Leader, my colleague, Senator FRIST, and former Senator Thompson. I am pleased to add my voice in support of his nomination. As someone who, as Governor of Tennessee appointed some 50 judges, I am

confident that Judge Breen will continue to be an able Federal judge when he is confirmed as a United States District Judge for the Western District of Tennessee.

Judge Breen was born and raised in Jackson, TN. He was a summa cum laude graduate of Spring Hill College in Mobile, AL in 1972, and was valedictorian of his class. He received his Juris Doctorate from the University of Tennessee College of Law in 1975, where he served as a member of the law review.

After receiving his law degree, Judge Breen worked for sixteen years with the law firm of Waldrop and Hall, P.A. in Jackson, TN. Judge Breen has been a United States Judge for the Western District of Tennessee since 1991 and has an excellent reputation in this position.

Judge Breen has vast litigation experience. As a practicing attorney, he practiced general civil litigation primarily in the areas of tort law and workers' compensation. Judge Breen was involved in litigating one of the premier lawsuits in Tennessee in the 1990's, which resulted in the adoption of comparative negligence.

Judge Breen has been actively involved and held leadership positions in local, State and national bar associations throughout his legal career. He has also been extremely active in his community by, among other things, providing pro bono legal services to disadvantaged persons and serving as a member on a variety of community organizations.

I am confident that Judge Breen will be a fine United States District Judge for the Western District of Tennessee, and I thank all my colleagues who supported this nomination.

#### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now continue in executive session with the consideration of the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

CLOTURE MOTION

Mr. FRIST. 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 debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin G. Hatch, Robert F. Bennett, James M. Inhofe, John Ensign, Sam Brownback, Michael B. Enzi, Wayne Allard, Michael D. Crapo, Susan M. Collins, Pete V. Domenici, Conrad R. Burns, Kay Bailey Hutchison, John E. Sununu, Norm Coleman, Charles E. Grassley.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum as provided for under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of all Senators, this cloture motion, which will be the third vote in relation to the Estrada nomination, will occur on Tuesday. I regret that it has been necessary for me to file this motion once again. With Tuesday's vote, the Senate will have matched the most cloture votes relative to executive nominations. That is certainly not a record or milestone I think this Senate should be proud of achieving.

#### LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—BUDGET RESOLUTION

Mr. FRIST. Mr. President, I ask unanimous consent that at 2 p.m., on Monday, March 17, the Senate proceed to the consideration of the first concurrent budget resolution, if it has been properly reported by that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the information of all Senators, there will be no further votes during today's session.

We have had a productive, full week. I thank the managers on both sides of the aisle for today's work and the previous days' work.

Earlier today, by a vote of 64 to 33, the Senate passed S. 3, the partial-birth abortion ban bill. I thank all Members on both sides of the aisle for their debate and their courtesies throughout the consideration of that bill.

In addition, this week, we have been able to confirm five district judges and one circuit judge. Unfortunately, we were unable to reach a conclusion with respect to the Estrada nomination and, therefore, we will have the cloture vote, once again, on Tuesday.

Next week, the Senate will proceed to the budget resolution. The Budget Act provides for 50 hours of consider-

ation and, therefore, all Members should expect late sessions next week. Although we will begin the budget resolution on Monday, no votes will occur that day. Therefore, the next vote, on cloture, will occur Tuesday morning.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, just a unanimous consent request: Senator LEAHY wishes to speak for 20 minutes, and Senator KENNEDY for 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, what was the previous unanimous consent agreement of the time for the Senator from Vermont?

The PRESIDING OFFICER. The previous order had Senator KENNEDY receiving 30 minutes.

Mr. LEAHY. But prior to the votes, wasn't there—

The PRESIDING OFFICER. The Senator from Vermont already had 20 minutes.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Does the distinguished majority leader have other matters?

Mr. FRIST. No.

#### THE COUNTDOWN TO WAR

Mr. LEAHY. Mr. President, last Thursday, at his press conference, the President of the United States gave his reasons to justify the use of military force to remove Saddam Hussein from power.

The President said again that he has not made up his mind to go to war, but his own advisers are saying that even if Iraq fully complies with U.N. Security Council Resolution 1441, Saddam Hussein must be removed from power.

The President said his goal is protecting the American people from terrorism. That is a goal we all share. But he offered no evidence that Iraq had anything to do with the September 11 attacks or any details of Iraq's links to al-Qaida.

He offered no new information about the potential costs of a war, either in American and Iraqi lives, or in dollars. Both Republicans and Democrats have urged the President to be more forthcoming with the American people, to tell us what sacrifices may be involved—not to have Cabinet members come to the Senate and the House, and when asked how much they estimate a war and its aftermath may cost, say: We have no idea.

We know the administration has estimated the costs, yet the President dismissively says "ask the spenders" in

Congress, knowing full well that Congress appropriates funds, it is the President who spends them.

It is disingenuous, at best, to refuse to level with the American people at a time of rapidly escalating deficits. We know it has already cost billions of dollars just to send our troops over there, but how many more tens or hundreds of billions of dollars, may be added to the deficit? The President is apparently ready to send hundreds of thousands of America's sons and daughters into battle without saying anything about the costs and risks.

The President repeatedly spoke of the danger of "doing nothing," as if doing nothing is what those who urge patience and caution—with war only as a last resort—are recommending. In fact, virtually no one is saying we should do nothing about Saddam Hussein.

Even most of the millions of people who have joined protests and demonstrations against the use of force without U.N. Security Council authorization are not saying the world should ignore Saddam Hussein.

Yet that is the President's answer to those who oppose a preemptive U.S. invasion, and who, contrary to wanting to do nothing, want to give the United Nations more time to try to solve this crisis without war.

The President also failed to address a key concern that divides Americans, that divides us from many of our closest European allies, that divides our allies from each other, and that divides the U.N. Security Council. That issue is not whether or not Saddam Hussein is a deceptive, despicable, dangerous despot who should be disarmed. There is little, if any, disagreement about that.

Nor is it whether or not force should ever be used. Most people accept that the United States, like any country, has a right of self-defense if it is faced with an imminent threat. If the U.N. inspectors fail to disarm Iraq, force may become the only option.

Most people also agree that a United States-led invasion would quickly overwhelm and defeat Iraq's ill-equipped, demoralized army.

Rather, the President said almost nothing about the concern shared by so many people, that by attacking Iraq to enforce Security Council Resolution 1441 without the support of key allies on the U.N. Security Council, we risk weakening the Security Council's future effectiveness and our own ability to rally international support not only to prevent this war and future wars, but to deal with other global threats like terrorism. This concern is exacerbated by the increasing resentment throughout the world of the administration's domineering and simplistic "you are either with us or against us" approach. It has damaged longstanding relationships, relationships that have taken decades of trust and diplomacy to build, both with our neighbors in this hemisphere and our friends across the Atlantic.

The President says that if the Security Council does not support the use of force today, it risks becoming irrelevant. The President has it backward. The Security Council would not become irrelevant because it refuses to obey the President of the United States. Rather, the Security Council's effectiveness is threatened if the United States ignores the will of key allies on the Security Council regarding the enforcement of a Security Council resolution.

The President was also asked by several members of the press why there is such fervent opposition to his policy among Americans and some of our oldest allies when only a year and a half ago, after the September 11 attacks, the whole world was united in sympathy with the United States. He had no answer.

The President should heed the words of former National Security Adviser Brent Scowcroft, who was an architect of the 1991 Gulf War. General Scowcroft has strongly criticized the administration's ad hoc approach based on a "coalition of the willing" which the general calls "fundamentally, fatally flawed." General Scowcroft said:

As we've seen in the debate about Iraq, it's already given us an image of arrogance and unilateralism, and we're paying a high price for that image. If we get to the point where everyone secretly hopes the United States gets a black eye because we're so obnoxious, then we'll be totally hamstrung in the war on terror. We'll be like Gulliver with the Lilliputians.

For 200 years, people around the world have looked up to the United States because of our values, our integrity, our tolerance, and our respect for others. These are the qualities that have set the United States apart. Today, while most countries share our goal of disarming Saddam Hussein, we are being vilified for our arrogance, for our disdain for international law, and our intolerance of opposing views.

A distinguished American career diplomat, John Brady Kiesling, echoed General Scowcroft's concerns about the practical harm done to U.S. interests and influence abroad. He recently wrote to Secretary of State Colin Powell, proffering his resignation as an act of protest about the administration's policy toward Iraq. I suspect Mr. Kiesling's eloquent and heartfelt explanation of how he reached the difficult decision to give up his career expresses the feelings and concerns of some other American diplomats who are representing the United States at our embassies and missions around the world.

I ask unanimous consent that Mr. Kiesling's letter to the Secretary be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. While I was disappointed by President Bush's remarks last week, the Bush administration and the Pakistani Government should be commended for the capture of Khalid

Shaikh Mohammed, one of al-Qaida's top leaders who was reportedly the mastermind of the September 11 attacks. Whether others within al-Qaida will quickly fill Mr. Mohammed's shoes remains to be seen, but the fact that the U.S. Government and other governments are methodically tracking these people down sends an important message and should give some comfort to the American people. This is encouraging. Let's hope we can soon celebrate the capture of Osama bin Laden, because capturing the leaders of al-Qaida should be our highest priority.

But the world is increasingly apprehensive as the United States appears to be marching inexorably towards war with Iraq. Today, there are more than 250,000 American men and women in uniform in the Persian Gulf preparing for the order to attack. We hear that the decision must be made within a matter of days because it is too costly to keep so many troops deployed overseas. In other words, now that we have spent billions of dollars to ship all those soldiers over there, we need to use them because we cannot back down now, as I have heard some people say. Frankly, this is one of the worst reasons possible to rush into war.

We should not back down. Saddam Hussein must be disarmed. Doing nothing—I agree with the President about this—would mean the United Nations is unwilling to enforce its own resolutions concerning perhaps the most serious threat the world faces today, the proliferation of weapons of mass destruction. That would be unacceptable. The U.N. Security Council ordered Iraq to fully disclose its weapons of mass destruction. Iraq has not yet done so.

I agree with those who say the only reason Saddam Hussein is even grudgingly cooperating with the U.N. inspectors is the buildup of U.S. troops on Iraq's border. I have commended the President for refocusing the world's attention on Saddam Hussein's failure to disarm. I also recognize the time may come when the use of force to enforce the U.N. Security Council resolution is the only option. But are proposals to give the U.N. inspectors more time unreasonable, when it could solidify support for the use of force if that becomes the only option?

Despite the President's assertion that Iraq poses an imminent threat to the United States, that assertion begs credulity when the U.N. inspectors are making some progress and a quarter of a million American soldiers are poised on Iraq's border. Absent a credible, imminent threat, a decision to enforce Resolution 1441 should only be made by the Security Council—not by the United States or any other government alone.

The President says war is a last resort. If he feels that way, why do he and his advisors want so desperately to short-circuit the inspection process?

Why is he so anxious to spend billions of dollars to buy the cooperation of other countries, other countries that do not yet believe war is necessary?

Why is he so unconcerned about the predictably hostile reaction in the Muslim world to the occupation of Iraq, perhaps for years, by the United States military?

Why is the President so determined to run roughshod over our traditional alliances and partnerships which have served us well and whose support we need both today and in the future?

I cannot pretend to understand the thinking of those in the administration who for months or even longer have seemed possessed with a kind of messianic zeal in favor of war. A preemptive, U.S. attack against Iraq without a declaration of war by Congress or the U.N. Security Council's support may be easy to win, but it could violate international law and cause lasting damage to our alliances and to our ability to obtain the cooperation of other nations in meeting so many other global challenges.

Just recently, Homeland Security Secretary Tom Ridge warned that a war with Iraq could bring more threats and more terrorist attacks within the United States. The CIA Director has testified that Saddam Hussein is more likely to use chemical or biological weapons if he is attacked. Yet we are marching ahead as though these warnings don't matter.

I have said before, this war is not inevitable. I still believe it can be avoided. But I fear that the President, despite opposition among the American people, in the U.N., and around the world, is no longer listening to anyone except those within his inner circle who are eager to fight.

The President says we must overthrow Saddam Hussein to protect the American people. Saddam Hussein is a threat, but North Korea, on the verge of acquiring half a dozen nuclear weapons, poses a far more serious and immediate threat to the United States and the world. Yet the administration is too preoccupied with Saddam Hussein to be distracted by North Korea, even though North Korea has shown no qualms about selling ballistic missiles and anything else that will earn them money. It makes no sense.

I hope the Iraqi government comes to its senses. I hope we do not walk away from the U.N. I hope we don't decide that just because our troops are there, we cannot afford to wait.

#### EXHIBIT 1

FEBRUARY 27, 2003.

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart.

The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become

more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to asset to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that was is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has *oderint dum metuant* [Ed. note: Latin for "Let them hate so long as they fear," thought to be a favorite saying of Caligula] really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process if ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

Mr. LEAHY. 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. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

#### AMERICAN VALUES AND WAR WITH IRAQ

Mr. KENNEDY. Madam President, the true greatness of America lies in the values we share as a nation.

From America's beginning, we shared a passionate concern for the rights and the well-being of each individual—a concern stated eloquently in our founding documents, the Declaration of Independence, the Constitution and the Bill of Rights.

From our immigrant roots, we learned not only to tolerate others whose appearance, religion, and culture are different from our own, but to respect and welcome them, and to recognize our diversity as a source of great strength.

From our religious faith and our sense of community, we gained an understanding of the importance of fairness and compassion for the less fortunate.

In the same way that parents try to build a better life for their children, each generation of Americans has tried to leave a more just society to the next. We all know that our history in-

cludes periods when grave injustices were tolerated. Those dark periods in our national history teach us lessons we must never forget. But we have battled fiercely to overcome injustice, and we are a better nation for our willingness to fight those battles.

Our most deeply held national values are rooted in our pursuit of justice for all. It urges us to ensure fair treatment for each person, to extend help to those in need, and to create opportunity for each individual to advance. Those are among the most important yardsticks by which we measure our success in building "a more perfect union."

Now as we consider the prospect of war with Iraq, many of us have serious questions about whether current national policy reflects America's values.

We owe it to the brave men and women of our armed forces to ensure that we are embarked on a just war—that the sacrifice we ask of them is for a cause that reflects America's basic values.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war.

Their families left behind are sacrificing, too, each and every day here at home, wondering if their loved ones in uniform will return unharmed. Many—especially the families of our reservists—are struggling to make ends meet as their spouses are called up for months of duty abroad. Wives are separated from husbands. Children are separated from fathers and mother. Businesses and communities are struggling to go forward without valued employees now serving in the gulf.

More than 150,000 National Guard and Reserve soldiers have been mobilized. Of these, 13,000 have been on active duty for at least a year. Others return home from deployments, only to turn around and head back overseas for a new tour of duty. For many of these soldiers, "the expected one weekend a month, two weeks a year" is merely a slogan, and does not reflect their new reality. In fact, today's reservists are spending thirteen times longer on active duty than they did a decade ago.

A recall to active duty brings financial hardship as well. Many give up larger civilian salaries when they go on active duty. The law requires employers to take back reservists after their deployments. But for those who work in small firms or are self-employed, there are no such guarantees unless their firms are still in business.

The families of our men and women in uniform pay a price for this deployment. During the Vietnam War, only 20 percent of all Army military personnel were married. Today over 50 percent of the military are married, which means enormous strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone, never knowing how long their loved ones will be away.

Among those on active duty, we are demanding more from our troops for longer periods of time. One of our aircraft carriers, the USS Abraham Lincoln, has been away from home port for 233 days. The crew expected to return for Christmas, and had made it half way home across the Pacific Ocean when they were given orders to turn around and head for the Persian Gulf. These men and women are forced to put their lives on hold, missing births, delaying weddings, and dealing with family crises by phone and e-mail.

These men and women are well-prepared to serve their country. But in calling them up, we also pay the price here at home with increased vulnerability in our police and fire departments. A recent survey of 8,500 fire departments by the International Association of Fire Chiefs showed that nearly three-fourths of them have staff in the Reserves. A similar survey of more than 2,100 law enforcement agencies by the Police Executive Research Forum found that 44 percent have lost personnel to call ups.

These are Americans who love their country. They proudly wave the Stars and Stripes on our national holidays. They honor and pray for past veterans on Memorial Day. Their children are in our schools. They attend our churches, our synagogues, and our mosques. We see them in the grocery store or at PTA meetings. They are a part of our communities—and a part of us. And they are willing to give their lives for their country. So we owe it to these men and women and their families—these brave Americans—to get it right.

I am concerned that as we rush to war with Iraq, we are becoming more divided at home and more isolated in the world community. Instead of persuading the dissenters at home and abroad, the Administration by its harsh rhetoric is driving the wedge deeper. Never before, even in the Vietnam war, has America taken such bold military action with so little international support. It is far from clear that the United Nations Security Council will pass any new resolution that we can use as authorization for military action in Iraq. Even some strategically important allies, such as Turkey, who were expected to be with us, have backed away. The administration continues to turn a deaf ear to all of these voices, and single-mindedly pursues its course to war.

Within the rising chorus of dissent have been the voices of much of the organized religious community in this country—Christian, Jewish and Muslim. Within the Christian community, opposition to war against Iraq includes the Roman Catholic Church, to which I belong, and many mainline Protestant and Orthodox churches. These are not pacifist groups who oppose war under all circumstances. They are religious leaders who say the moral case has not been made for this war at this time.

War is not just another means to achieving our goals. More than any

other option, it is dangerous, it is deadly, it is irreversible. That is why, whenever we resort to force in the world, there is an urgent need to ensure that we remain true to our values as Americans.

Saddam Hussein is one of the most brutal tyrants on the world stage today. He has murdered thousands of his own people—many with chemical and biological weapons. He has attempted to wipe out entire communities. He has attacked neighboring countries. He supports terrorism against innocent civilians throughout the Middle East. Undeniably, the world would be a better place without Saddam Hussein. That fact, however, should not be the end of the inquiry, but only the beginning.

From the perspective of our shared values, the fundamental question is whether this is a “just war.” That is not an easy question to answer, because some elements of a just war are clearly present.

There are six principles that guide the determination of “just war.” They were first developed by St. Augustine in the Fifth Century and expanded upon by St. Thomas Aquinas in the Thirteenth Century. To be just a war must have a just cause, confronting a danger that is beyond question; it must be declared by a legitimate authority acting on behalf of the people; it must be driven by the right intention, not ulterior, self-interested motives; it must be a last resort; it must be proportional, so that the harm inflicted does not outweigh the good achieved; and it must have a reasonable chance of success.

These are sound criteria by which to judge our impending war in Iraq.

First, does Iraq pose a danger to us that is beyond question?

Clearly, Iraq does pose a considerable danger, principally because of Saddam Hussein's biological and chemical weapons and his history of attempts to develop nuclear weapons. But it is not at all clear that the only way to protect ourselves from that threat is war. In fact, many of us are deeply concerned that initiating a war to remove Saddam Hussein will actually increase the danger to the American people.

The biological and chemical weapons Saddam has are not new. He has possessed them for more than a decade. He did not use them against us in the gulf war and he did not use them against us in the years since then, because he understands that any use of them would lead to his certain destruction. As CIA Director George Tenet stated last year in testimony before Congress, the greatest danger of their use occurs if Saddam knows he is about to be removed from power and therefore perceives he has nothing left to lose.

Iraq, to the best of our knowledge, has no nuclear weapon. If nuclear weapons in the hands of a rogue state are our principal concern, then certainly North Korea poses a much more imminent threat. And Iran—not Iraq—is close behind.

The President must explain why war with Iraq will not distract us from the more immediate and graver danger posed by North Korea. Something is wrong at 1600 Pennsylvania Avenue if we rush to war with a country that poses no nuclear threat, but will not even talk to a country that brandishes its nuclear power right now. Any nuclear threat from Iraq, we are told, is probably 5 years into the future. But the threat from North Korea exists today.

Desperate and strapped for cash, North Korea is the greatest current nuclear danger to the United States, and it is clearly taking advantage of the situation in Iraq. It is the country most likely to sell nuclear material to terrorists. It may well have a long-range missile that can strike our soil.

War with Iraq will clearly undermine our ability to deal with this rapidly escalating danger. But our options are not limited to invading Iraq or ignoring Iraq. No responsible person suggests that we ignore the Iraqi threat.

The presence of U.N. inspectors on the ground in Iraq, coupled with our own significant surveillance capacity, make it extremely unlikely that Iraq can pursue any substantial weapons development program without detection. If we can effectively immobilize Saddam's activity, the danger his regime poses can be minimized without war.

Above all, we cannot allow differences over Iraq to shatter the very coalition we depend upon in order to effectively combat the far greater and more imminent threat posed by the al-Qaida terrorists. Close international cooperation is what led to the recent arrest in Pakistan of the planner of the 9/11 attack.

Second, has the war been declared by a legitimate authority acting on behalf of the people?

When Congress voted last October, most Members believed that the use of force by America would have United Nations backing. Such backing is now highly unlikely. Last October, no international inspectors had been in Iraq for 5 years. Now, U.N. inspectors are on the ground engaged in disarming Saddam.

No war by America can be successfully waged if it lacks the strong support of our people. And America remains divided on an invasion of Iraq without United Nations approval. The reason for that lack of support today is clear. The administration has not made a convincing case that war is necessary, nor have they credibly answered crucial questions about the cost of the war in lives and dollars, how long American troops will remain in Iraq, and what type of Iraqi government will replace Saddam.

In his address last week on a post-war Iraq, President Bush failed to give adequate answers to the key questions on the minds of the American people about the war and its aftermath. He painted a simplistic picture of the

brightest possible future—with democracy flourishing in Iraq, peace emerging among all nations in the Middle East, and the terrorists with no base of support there. In a dangerous world, the fundamental decision on war or peace cannot be made on rosy and unrealistic scenarios.

Third, any war must be driven by the right intention.

I do not question the President's motive in pursuing this policy, but I seriously question his judgment.

The Bush administration was wrong to allow the anti-Iraq zealots in its ranks to exploit the 9/11 tragedy by using it to make war against Iraq a higher priority than the war against terrorism.

Al-Qaida—not Iraq—is the most imminent threat to our national security. Our citizens are asked to protect themselves from al-Qaida with plastic sheeting and duct tape, while the administration prepares to send our armed forces to war against Iraq. Those priorities are wrong.

In a desperate effort to justify its focus on Iraq, the administration has long asserted that there are ties between Osama and Saddam—a theory with no proof that is widely doubted by intelligence experts. Two weeks after 9/11, Secretary Rumsfeld claimed that we had “bulletproof” evidence of the link. But a year later, CIA Director Tenet conceded in a letter to the Senate Intelligence Committee that the Administration's understanding of the link was still “evolving” and was based on “sources of varying reliability.” In fact, the link is so widely doubted that intelligence experts have expressed their concern that intelligence is being politicized to support the rush to war.

Fourth, war must always be a last resort.

That is why all options must be pursued. Inspections still have a chance to work in Iraq. Progress is difficult. No one said it would be easy. But as long as inspectors are on the ground and making progress, we must give peace a chance.

But before resorting to war, it is extremely important to reach agreement that there is no alternative. Nations that have been among our closest allies oppose us now because they do not believe that the alternatives to war have been exhausted. Many of them believe that an invasion of Iraq could destabilize the entire Middle East.

Many of them believe that instead of subduing terrorism, war with Iraq will increase support and sympathy in the Islamic world for terrorism against the West. We cannot cavalierly dismiss these concerns of our allies.

War with Iraq runs the very serious risk of inflaming the Middle East and provoking a massive new wave of anti-Americanism that may well strengthen the terrorists, especially if we act without the support of the world community.

A year ago, *The Wall Street Journal* quoted a dissident in Saudi Arabia who

has turned his focus from his own government to the U.S. Government. He said: [The main enemy of the Muslims and the Arabs is America—and we don't want it to impose things on us. We would rather tolerate dictatorship in our countries than import reforms from America.]

The war against al-Qaida is far from over, and the war against Iraq may make it worse.

After 9/11 we witnessed an unprecedented rallying of the world community to our side. That international unity was our strongest weapon against terrorism. It denied terrorists sanctuary, it led to a vital sharing of intelligence, and it helped to cut off the flow of financial resources to al-Qaida. We cannot allow that international cooperation to shatter over our differences on Iraq. We cannot be a bully in the world school yard and still expect friendship and support from the rest of the world.

Fifth, any war must be proportional, so that the harm inflicted does not outweigh the good achieved.

If there is a war, we all pray that it will be brief, and that casualties will be few. But there is no assurance of that. Certainly, we have the military power to occupy Iraq. But that may only be the beginning. Our troops may be confronted by urban guerilla warfare from forces still loyal to Saddam or simply anti-Western. The war may be far more brutal than we anticipate.

In such a conflict, innocent civilian casualties could also be high. We cannot let Saddam hide behind innocent human shields if there is a war. But that large risk makes it all the more imperative for war to be only a last resort.

We have been told that an attack on Iraq will begin with an enormous cruise missile assault to destroy their infrastructure, strike fear and awe in the hearts of the enemy, and undermine their will to resist. We know that thousands of cruise missiles will be fired in the first 48 hours of the war, more than were launched in the entire 40 days of the Gulf War. Such a massive assault will unavoidably produce a very substantial number of civilian casualties. That harsh reality adds greatly to the burden that must be overcome by those who argue that war is the proper response now. It is a burden they have not met.

One of the highest and worst costs of war may be the humanitarian costs. Sixty percent of Iraq's people rely on the United Nations' Oil-for-Food Program for their daily survival. Food is distributed through 46,000 government distributors supplied by a network of food storage barns. A war with Iraq will disrupt this network. Many Iraqis, especially poor families, have no other source of food. Women and children will be the most vulnerable victims. According to recent reports, 500,000 Iraqi children already suffer from malnutrition.

And what are the costs to America? We all know there is an increased risk

of another domestic terrorist attack. The war will make it a more dangerous time on the American homefront.

There will also be a very substantial financial cost to the war. The short-term cost is likely to exceed \$100 billion. The long-term cost, depending on how long our troops must remain in Iraq, will be far more. If our national security were at stake, we would spare no expense to protect American lives. But the administration owes the nation a more honest discussion about the war costs we are about to face, especially if America has to remain in Iraq for many years, with little support from other nations.

The sixth element of a just war is that it must have a reasonable chance of success.

I have no doubt that we will prevail on the battlefield but what of the consequences for our own national security and the peace and security of the Middle East?

We know that a stable government will be essential in a post-war Iraq. But the administration refuses to discuss in any real detail how it will be achieved and how long our troops will need to stay. President Bush assumes everything will go perfectly. But war and its consequences hold enormous risks and uncertainties.

As retired General Anthony Zinni has asked, will we do what we did in Afghanistan in the 1970s—drive the old Soviet Union out and let something arguably worse emerge in its place?

The vast majority of the Iraqi people may well want the end of Saddam's rule, but they may not welcome the United States to create a government in our own image. Regardless of their own internal disagreements, the Iraqi people still feel a strong sense of national identity, and could quickly reject an American occupation force that tramples on local cultures.

We must recognize that from the day we occupy Iraq, we shoulder the responsibility to protect and care for its citizens. We are accountable under the Geneva Conventions for public safety in neighborhoods, for schools, and for meeting the basic necessities of life for 23 million Iraqi civilians.

This daunting challenge has received very little attention from the administration. As the dust settles, the repressed tribal and religious differences of the past may come to the fore—as they did in the brutal civil wars in the former Yugoslavia, in Rwanda, and other countries. As our troops bypass Basra and other Iraqi cities on their way to Baghdad, how will we prevent the revenge bloodletting that occurred after the last Gulf War, in which thousands of civilians lost their lives?

What do we do if Kurds in northern Iraq proclaim an independent Kurdistan? Or the Shia in southern Iraq move toward an alliance with Iran, from which they have long drawn their inspiration?

We have told the government of Turkey that we will not support an independent Kurdistan, despite the fact that the Kurdish people in Iraq already have a high degree of US-supported autonomy and have even completed work on their own constitution. Do we send in our troops again to keep Iraq united?

Post-War Afghanistan is not exactly the best precedent for building democracy in Iraq. Sixteen months after the fall of the Taliban government in Afghanistan, President Hamid Karzai is still referred to as "the Mayor of Kabul"—because of the weak and fragile hold of his government on the rest of the nation. Warlords are in control of much of the countryside. The Afghanistan-Pakistan border is an area of anarchy—and ominous al-Qaida cells.

The U.S. military is far from equipped to handle the challenge of meeting the needs of a post-Saddam Iraq. Our government must have a plan in place to care for the population. Yet we have heard little from the administration on how they intend to meet this obligation. To succeed in winning the peace, we will need the help and support of the international community. That is far less likely to happen if we do not have the international community with us the start.

Before the President makes the final fateful decision to go to war in Iraq, his administration must answer each of these just war questions much more convincingly than they have so far. The American people are waiting for the answers. The entire world is waiting for the answers.

We are no at a major cross-road in our history. The 9/11 atrocities has forced us all to think profoundly about what is great in America. All through our shock and grief, the people's courage never failed. 9/11 was one of the Nation's saddest hours, but the response was one of our finest hours.

That hour must not be lost. It can mark the beginning of a new era of common purpose—a return to policies which truly reflect America's values, a return to the genuine pursuit of justice. The unselfishness we saw in 2001 must not give way to selfishness in 2003. The noble caring for one another that we celebrated then must not be succeeded now by a retreat from our ideals.

Yes, our country is strong but it can be stronger—not just in the power we hold, but in the promise we fulfill of a nation that truly does make better the life of the world. If we rededicate ourselves to that great goal, our achievements will reverberate around the globe, and America will be admired anew for what it must be now, in this new time, more than ever—"the last, best hope of earth."

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.

Mrs. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO INTELLIGENCE SERVICES

Mrs. DOLE. Madam President, I rise to pay tribute to the excellent work of our intelligence services in capturing Khalid Shaikh Mohammed. This is a major triumph in the war on terror. Our officers from the Central Intelligence Agency and Federal Bureau of Investigation, the National Security Agency, and their counterparts in the Pakistani and intelligence services are to be highly commended.

Let there be no doubt, capturing Mohammed is a big deal. He has a long and bloody history. He has been implicated in the 1993 bombing of the Twin Towers. He played a major role in plans to hijack airliners in Asia and crash them into the sea. He may well have been a leader in the attack on the USS *Cole*, an attack that killed 17 United States sailors and wounded 39 others. He has been implicated in the attacks on the United States embassies in Kenya and Tanzania which killed hundreds and wounded thousands. And he planned the attacks of September 11.

It is not just attacks against Americans. He is now wanted by our friends, the Australians, for questioning in connection with the recent bombings in Bali which killed hundreds of those citizens. There has even been a warrant issued by our reluctant allies in France for his role in the bombing of a synagogue that killed a French citizen.

Those are the horrible acts of his past that we know about. By capturing Mohammed, what devastating plots have our intelligence services prevented? Hopefully, as they start to learn more from Mohammed, they will also be able to thwart future attacks.

Another possibility is that those who would engage in such acts will realize their secrets may now be compromised and, hopefully, they will abandon their plans.

Not only did we get Mohammed, their operations planner, we also got Hawsawi, their chief financier. The 9/11 terrorists sent their left-over money to Hawsawi. By taking him out of the al-Qaida operations, we have damaged their ability to move money into terrorists' hands. This should hamper their ability to launch any currently planned operations.

I want to thank our intelligence services for the work they do. Yes, there have been mistakes in the past, and there will be human failures in the future. But when we learn of their victories, they should be thanked. That thanks comes with the knowledge that there must be many more instances where we have been protected and there was no public acclaim for these servants of the public. Frankly, without the publicity surrounding this

case, we might never have known all the agencies that contributed to the captures.

The Central Intelligence Agency and the Federal Bureau of Investigation do not watch after us alone. We should be thankful for the hard work of the men and women of the Defense Intelligence Agency, the National Security Agency, and the National Reconnaissance Office. They and others are working around the clock to defend us in the war on terror.

It is not just our intelligence agencies that should be thanked. It was our friends in Pakistan who discovered Mohammed, who arrested him, who turned him over. President Musharraf has continued his strong support for the war on terror, and we must continue to work with allies such as Pakistan to eradicate terrorism.

Yes, this is a great win in the war on terror, but it was not a victory. We may never actually realize when we have achieved victory; for the men and women who make our intelligence system work will have to continue their vigilance, that quiet and all too often unheralded vigilance.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold her suggestion of the absence of a quorum?

Mrs. DOLE. I withhold.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask consent to speak in morning business.

The PRESIDING OFFICER. We are in morning business.

#### IRAQ

Mr. DURBIN. Madam President, there is an interesting turn of events. Those who were looking for a debate on the war in Iraq had best turn to C-SPAN and witness the question period in London before the British House of Commons. I have been watching it. It is a fascinating debate.

Tony Blair is defending his position in support of the United States. His own party is divided. The conservatives support him. The questioning is very tough. In the course of defending his position, some important questions are being asked and answered in the British House of Commons.

If you would expect the same thing here in the U.S. Congress, you might be surprised or disappointed to learn it is not taking place. What is taking place is speeches on the floor by individual Senators. Today, I have seen Senator BYRD of West Virginia, Senator DAYTON of Minnesota, Senator KENNEDY of Massachusetts. Others have come to the floor to speak about the war in Iraq. But there has literally been no active debate on this issue on Capitol Hill, in the United States of America, since last October.

The reason, of course, is that last October we enacted a use of force resolution which virtually gave to the President of the United States the authority



to declare war and execute it against Iraq at the time and place of his choosing. I was one of 23 Senators who voted against that resolution, believing that there were better ways to achieve our goals, and that if Congress did that, we would be giving to this President the greatest delegation of authority to wage war ever given to a President.

The time that has intervened since the passage of that resolution has proven me right. Congress has had no voice. Oh, we have had moments of criticism, moments of comment, but we are not a serious part of this national concern and national conversation over what will happen in Iraq. That is indeed unfortunate.

There are several facts I think everyone concedes, virtually everyone, on either side of the issue. The first and most obvious is that Saddam Hussein is a ruthless dictator. His continued domination over the nation of Iraq will continue to pose a threat to the region and a concern for peace-loving nations around the world. The sooner his regime changes, the better. The sooner we control his weapons of mass destruction, the better for the region and for the whole world. No one argues that point, not even the nations in the U.N. Security Council that are arguing with the United States about the best approach.

The second thing I think should be said at the outset is no one questions the fact that the U.S. military, the men and women who make it the best military in the world, deserve our support and our praise. They deserve our continued devotion to their success, whatever our debate about the policy in the Middle East or even in Iraq. As far as those 250,000 American servicemen now stationed around Iraq, and many others on the way, whatever our position on the President's policy, that is irrelevant. We are totally committed to their safety and their safe return. That is exactly the way it should be.

Having said that, though, I think it is still important for us to step back and ask how we have possibly reached this state that we are in today. The United States finds itself in a period of anti-Americanism around the world that is almost unprecedented. I traveled abroad a few weeks ago. I was stunned to find in countries that have traditionally been our friends and allies that, although they are saying little, in private they are very critical of the United States and what we have done.

What happened between September 11, 2001, and March 13, 2003? Remember that date, after the September 11 tragedy, when nations all around the world, including some of our historic enemies, came forward and said they would stand with the United States in fighting the war on terrorism? It was an amazing moment in history. It is a moment we will never forget as Americans.

For the first time since the British came into this building in the War of

1812, the United States was invaded by an enemy. Of course, Pearl Harbor was an attack on the territories as well, but that attack on the continental United States on September 11, 2001, was one that stunned us, saddened us, shocked us as a nation, and we looked for friends and we found them in every corner of the world. They joined us in a war on terrorism, sharing intelligence resources, working together, making real progress. It was a good feeling, a feeling that many of these countries now understood how important a friendship with the United States would be for their future and for the world.

Look where we are today. We are at a point now where we are trying to win enough friends to show that we have a multilateral coalition that is going to wage this war against Iraq.

I ask unanimous consent to have printed in the RECORD an article that was published in *Business Week*. The edition was March 10, 2003.

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

[From *Business Week*, Mar. 10, 2003]

#### DOLLAR DIPLOMACY

Money, it is often said, is the mother's milk of politics. It's also turning out to be the nectar of superpower diplomacy.

As George W. Bush approaches the diplomatic climax of his arduous drive to win backing for war with Iraq, U.S. diplomats increasingly find themselves tempted to brandish Uncle Sam's checkbook—and with it, the suggestion that sticking with America now might mean rewards later. Much of this bid to win friends is playing out in the U.N. Security Council, which is grappling with a U.S.-backed resolution that could trigger military action against Saddam Hussein. But in broader terms, pressure on the White House to dangle inducements transcends the U.N. debate and goes to the heart of Washington's current dilemma—America's poverty of friendship.

For two years, Administration diplomacy has been marked by a brash Texas swagger that Bush partisans consider a refreshing exercise in plain-speaking—and which some traditional allies consider arrogance. But the differences go beyond style. In walking away from global treaties and disdaining the views of traditional allies, Bush foreign policy has also been marked by an in-your-face unilateralism that has set much of the world on edge.

Now, with the Administration struggling to round up allies and hosting the leaders of such nations as Latvia and Bulgaria to demonstrate the depth of its coalition, the price of that disdain is coming into focus. "We've made it harder than it had to be by taking a high-handed approach," says Samuel R. Berger, National Security Adviser during the Clinton Administration.

Indeed, the bill for the Administration's approach is just starting to come due—and the bottom line is breathtaking. On Feb. 25, Bush aides revealed that the cost of a military campaign could top \$95 billion. That's a far cry from what happened during the first Gulf War, when coalition partners paid some \$70 billion of the \$75 billion war tab. "Rebuilding Iraq will require a sustained commitment from many nations including our own," Bush said in speech to the American Enterprise Institute on Feb. 26. But the fact is, the U.S. will likely find itself shouldering

peacekeeping duties and much of Iraq reconstruction on its own—meaning beleaguered American taxpayers may bear the brunt of the costs.

True, a broad coalition never in the cards. Unlike Operation Desert Storm, which was a response to Iraq's invasion of Kuwait, this showdown looms as an exercise in preemptive action. Still, while Bush talks of a "coalition of the willing" backing a U.S. invasion of Iraq, in reality the America finds itself with precious few allies as the hour of decision approaches. And buying allegiances one country at a time is a far cry from building a cohesive group committed to a common cause.

Another consequence of the Bush Administration's Iraq policy is that it could unintentionally undermine the President's broader goal of implanting the seeds of reform in the region. If the intervention comes to be seen by Iraq's neighbors as illegitimate, the result could be more radicalism, not less. The Administration's lofty goals in the Mideast could be much harder to achieve if "Americans are seen less as a partner than as a foreign power," says Jon B. Alterman, who recently left the Bush State Department.

In a sense, the current bargaining round was heralded by the September 11 terror strike on America. In the subsequent war on the Taliban regime in Afghanistan, the White House decided it had to shore up friendship and showered largesse on new allies ranging from Tajikistan to impoverished African nations. None fared better than Pakistan, a desperately poor country that was pivotal in the anti-terror war. President Pervez Musharraf's regime suddenly found itself freed of sanctions imposed for its nuclear testing and the beneficiary of a \$12.5 billion debt restructuring from the U.S. and other nations. That helped lift Pakistan from a debtor nation to one that now runs a modest current-account surplus.

Now, the Bush team faces a far more formidable chore in mustering global support for disarming Iraq by force. With skepticism rampant, France and a big bloc of nations fear the consequences of the U.S. making preemptive attacks an acceptable policy tool. Just as important, they fear that the risks of a destabilized Mideast far outweigh the danger Saddam poses. And in the region, where Saddam has been weakened and contained since the 1991 war, resistance to a U.S. invasion has led some countries to limit the American military's rights to nearby bases.

With allies scarce, small wonder that the Bushies may be tempted to float aid promises—or be hit with a raft of "impact payment" requests from countries such as Egypt, Israel, Turkey, and Jordan, who claim their economies will be damaged by the fallout of any conflict. "When somebody knows they're necessary for your game plan, they raise the price," says former top State Dept. official Chester A. Crocker.

The Bush Administration stoutly denies it's buying U.N. support or military access. "The President is not offering quid pro quos," insists White House Press Secretary Ari Fleischer. In fairness, the practice of cementing an entente with aid is hardly limited to the Bushies. The Clintonites, who currently assail Bush's need to reach for his wallet, threw billions at North Korea to keep its nuclear program shuttered. They also were forced to shrug when U.S. contributions to the International Monetary Fund were squandered by Russian kleptocrats. "Checkbook diplomacy," says former State Dept. official Helmut Sonnenfeldt, "is as old as checkbooks."

The most naked example of haggling came in the U.S.-Turkey base talks. With Turkish public opinion strongly antiwar and an economy on the ropes, the Turks sought upwards of \$35 billion in U.S. assistance for the right

to station American troops on Turkish soil for use in a pincer move against Saddam. After bitter negotiations, Ankara came away with a package that includes up to \$20 billion in cash and loans, some NATO military gear, and assurances that Iraq's Kurdish nationalists will be kept in check. Says Mehmet Simsek, A London-based analyst with Merrill Lynch & Co.: "The bottom line is, it will give Turkey some breathing room."

One reason the talks were so tough is Turkey's history with Desert Storm. After that war, the U.S. backed out of promises to compensate the country for the loss of trade with Iraq and aid to refugees. Now the Turks want money up front.

Jordan may actually be the hardest hit of Iraq's neighbors this time, so Washington is also receptive to Amman's calls for help. "Nearly a quarter of our GDP could be knocked out as a result [of a new war]," frets Fahed Faneek, a Jordanian economist. The Administration is expected to ask Congress for \$150 million in aid on top of the \$300 million a year Jordan now receives. The U.S. already has started to deliver on a deal for F-16 fighters and Patriot II missiles, likely at a discount.

Other neighbors have their hands out, too. Israel wants \$4 billion in additional military aid and \$8 billion in loan guarantees. Egypt, which sees war losses of \$1.6 billion to its tourist-dependent economy, wants faster delivery of as much as \$415 million earmarked for Cairo.

Much of the dickering has been more subtle. Key swing votes on the Security Council—Chile, Guinea, Cameroon, Angola, Mexico, and Pakistan—have growing trade ties with the U.S. that could be jeopardized by a vote against the U.S. resolution. Both France and the U.S. are vying for those votes, the U.S. by noting that the America drive to ease agriculture subsidies among rich nations could open markets to Third World farmers.

What will be most telling is how Pakistan votes. After all, U.S.-backed debt restructuring allowed the country to adopt reforms that have helped revive the economy. And President Musharraf left Washington in late 2001 with a 15% increase in clothing and textile exports to the U.S., worth \$500 million to Pakistani manufacturers. But Pakistani officials insist money won't sway their vote. "This is a matter of much greater importance than just a question of incentives," says Munir Akram, Pakistan's U.N. ambassador.

It's still far from clear whether dollar diplomacy will give Uncle Sam a clearcut victory in the U.N. But even without an affirmative vote, Bush seems intent on going ahead with plans to attack Saddam by late March. Then the questions become: What kind of alliance will Bush be heading, and how durable will such a coalition of convenience be?

If all goes swimmingly on the battle-field, some of today's qualms will surely fade—replaced by radiant TV images of liberated Iraqis and new-wave technocrats who vow to build a new nation. But if the intervention turns into the oft-predicted miasma of Middle Eastern intrigue and dashed hopes, America could find itself standing far more alone than it is today. Fast friends may be hard to come by in the self-centered world of diplomacy. Still, the kind you make because of truly shared interests seem preferable to the kind you rent.

Mr. DURBIN. Let me quote several lines from this article in *Business Week*, not known as a liberal publication:

But in broader terms, pressure on the White House to dangle inducements transcends the U.N. debate and goes to the heart

of Washington's current dilemma—America's poverty of friendship.

It goes on to say:

And buying allegiances one country at a time is a far cry from building a cohesive group committed to a common cause. Another consequence of the Bush Administration's Iraq Policy is that it could unintentionally undermine the President's broader goal of implanting the seeds of reform in the region. If the intervention comes to be seen by Iraq's neighbors as illegitimate, the result could be more radicalism, not less.

The Administration's lofty goals in the Mideast could be much harder to achieve if "Americans are seen less as a partner than as a foreign power," says Jon B. Alterman, who recently left the Bush State Dept.

What a dramatic turn of events, and from the spirit of international co-operation, fighting the war on terrorism, for the United States to be in a bidding war to try to bring the Turks into the position where they will allow us to use their country, it is just such a change from where we were. It reflects a sad decline in our diplomatic skills.

Consider at the same time what is happening in North Korea. Here we have a country which has decided to test the United States. Why they have decided is anyone's guess. But let me hazard one. They see what is happening in Iraq. Iraq is waiting for the United Nations and others to protect them from a United States invasion, and they are not being successful. North Koreans decided to take a much different course. They are confronting the United States in the crudest and most dangerous way—suggesting that they are going to build nuclear weapons; they are going to fire missiles; they are going to harass our aircraft; and they are going to defy us. They believe that is the way to hold the United States back. The process they are building up could potentially proliferate nuclear weapons around the world.

Our response there, unlike with Iraq where we are full bore with a quarter million troops and billions of dollars committed, is to not even speak to the North Koreans. I don't understand that level of diplomacy. I don't understand how that will make this a safer world.

Let us reflect for a moment, though, on what is happening in the United Nations. I have read the critics from the right who basically said we should go right over the United Nations; we no longer need them; we have the power; we don't need to wait around for small nations with populations that are a fraction of the United States to decide whether they will support us. In a way, in the world of realpolitik, that is true. But the United States, in informing the United Nations, had something else in mind. It is not just a matter of whether we have the power and a show of more strength than the United Nations as a member but whether the United States is stronger with collective security engaging other countries around the world to join us in efforts such as containing Iraq and its danger.

I happen to believe that collective security is not old fashioned and out-

moded. It is critically important for us to consider building alliances to achieve important goals for the United States and the world because in building those alliances through the collective security of the United Nations, we bring together common values, a consensus on strategy, and a world vision that will serve all of us well.

To walk away from the United Nations and say, once having engaged them in a resolution, that we may not be able to pass a use-of-force resolution and that we will do it ourselves is to walk away from an important concept which has been fostered by the United States and supported by the United States and which has been critically important to us as recently as our effort in the Persian Gulf and in Afghanistan.

But, by tomorrow, the decision may be made. If the United Nations Security Council does not support us, it is indeed possible that we will have unilateral action by the United States, with the possible support of the British.

I asked the Secretary of Defense, Secretary Rumsfeld, several weeks ago: Who are our allies in this coalition against Iraq? He said: Certainly the United States with about 250,000 troops, and the British with about 26,000 troops, and others. I said: Of the others, who would rank third? At that point, he said: The Turks.

We know what is happening. Their Parliament will not allow us to use their country as a base of operation. That may change. But it shows, when it comes to this effort, that it is by and large a bilateral effort by the United States and the British against the Iraqis. I think that is not the best approach. I think it is far better for us to acknowledge what I think is the real effective approach, and that is to engage our allies in the United Nations and in the Security Council to put meaningful deadlines on Saddam Hussein; for the inspectors to reach their goals; to let Saddam Hussein know that every step of the way, his failure to cooperate could result in the United Nations taking action against him. That does not call for an invasion, but it puts him on a tight timetable that he has to live by.

To abandon the inspections, to abandon the role of the United Nations, and to launch a unilateral invasion of this country is going to be something that I think we may regret. Will we be successful militarily? I believe we will. I can't tell you the cost in terms of American lives or in terms of Iraqis killed. But I trust our military to succeed in this mission.

Having succeeded militarily, though, what will we then face? We will face, of course, the devastation in Iraq.

This week, we learned that the United States was now soliciting bids from companies in the United States for the reconstruction of Iraq before

the bombs have even fallen. That could be momentous in terms of cost. We will face it.

As Tom Friedman of the New York Times has written, when we go into a gift shop and see the sign, "If you break it, you own it," the fact is when we invade Iraq and remove its leadership and occupy that country, it is then our responsibility. Others may help us, but it is primarily our responsibility.

The same thing is true in terms of the long-term vision of Iraq. This is a country with no history of self-government, this is a country with no history of democracy, and we want to bring certain values there. We have to concede the fact that it will take some time before they arrive at that point. We will be there in an occupational way with others perhaps, but we will have the responsibility of making that transformation a permanent or semipermanent presence of American troops in the Middle East and all that that entails.

At the same time, it is bound to enrage our enemies around the world—those who think the United States is acting unilaterally and not acting in concert with other nations, peace-loving nations that would share our ultimate goals. That, too, may complicate the war on terrorism. That has been conceded by intelligence agencies and others. Our efforts in Iraq may spread the seeds of terrorism on new ground, and maybe even here in the United States. We will have to work that much harder to protect ourselves.

I want to enter into the RECORD a letter sent to Secretary of State Colin Powell from John Brady Kiesling, who is with the United States Embassy in Athens, Greece.

I ask unanimous consent that this letter be printed in the RECORD.

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

Hon. COLIN POWELL,  
Secretary of State,  
Washington, DC.

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart. The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has "oderint dum metuant" really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And

now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security, and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

Sincerely,

JOHN BRADY KIESLING,  
U.S. Embassy Athens.

Mr. DURBIN. Mr. President, this letter is a letter of resignation. Mr. Kiesling, a career diplomat who has served in United States embassies around the world, resigned over our foreign policy in Iraq. I will not read the entire letter. But this I will read. It is the letter from Mr. Kiesling to Secretary Powell:

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

Those are the words of a man who was a career diplomat serving the United States with principle and convictions and who resigned from the diplomatic corps over our policy in Iraq. That is a sad commentary, but it is a reality.

The reality is that we are following a course of foreign policy that is a dramatic departure from what we have followed for almost 50 years. We are making decisions relative to this war in Iraq which are changing the rules the United States has not only lived by but preached for decades. We are confronting the world that has most recently been our allies in the war on terrorism and telling them that, with or without their cooperation and approval, we are going forward with an invasion of Iraq. We are saying to the rest of the world that the United States has the power and will to use it. It is certain that we have the power and the strength. The question is whether or not we have the wisdom—the wisdom to understand that simply having the strength is not enough.

I would like to quote a few words from a statement made on this floor on October 3 last year by a man who used

to sit directly behind me here, Paul Wellstone of Minnesota. I miss him every single day. I pulled out the statement he made relative to this use of force resolution. I can recall now when he said some of these words.

I quote from Senator Wellstone:

To act now on our own might be a sign of more power. Acting sensibly and in a measured way in concert with our allies with bipartisan congressional support would be a sign of our strength.

It is still true today. It is true so many months later.

I think the President and this administration still have a chance to take what could be a course of action that departs from a tradition in values which we have stood by and preached for so many decades, and return to those values in our efforts in Iraq.

And I hope we do it. I hope we do not discard the United Nations and all of our allies who are part of it. I hope we understand that when some of our best friends around the world question whether we are approaching this sensibly, it does not demonstrate their weakness but really calls into question whether we have the humility to step back and say: Can we do this more effectively for a more peaceful world for generations to come?

Madam President, I close by saying, I return now, in just a few moments, to my home State of Illinois. As I walk the streets of Springfield, of Chicago, and of other cities, people come up to me and say: Why don't I hear a debate in the U.S. Congress about Iraq?

Well, the fact is, that debate was waged and decided last October. I was one of 23 Members who voted against the use of force resolution because I believe there is a better way: a collective approach with the United Nations, that makes certain that the United States has a coalition of nations behind it in suppressing the evil of Saddam Hussein and his dangers to the region, rather than a coalition of nations united against us. That, sadly, is what we face today.

The vote in the United Nations tomorrow is historic. I hope we have the support of that institution. I hope, if we do not, this administration will pause before unleashing the furies of war and consider whether there is a better, more measured and sensible approach to show not only our might but our strength and clarity of purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

#### THE ECONOMY

Mr. DORGAN. Madam President, my colleague from Illinois has been talking about foreign policy and, more specifically, about Iraq and the use of force. He touched on the issue of North Korea and terrorism.

We do need to have more debate, aggressive and thoughtful debate, about all of these issues. There is no question that North Korea, in my judgment, and

in the judgment of many in this country, is an urgent, serious threat to our country. They kicked out the inspectors. And they do have nuclear weapons, at least according to our intelligence officials. They believe North Korea does have nuclear weapons.

The threat of terrorism continues in this country. Homeland security is a top priority. And all of these issues are very important. But I want to speak about an issue here at home; that is, domestic policy, especially this country's economy.

We wake up every morning—for months in this country—hearing the lead story on the news being war with Iraq. It is the lead story every morning, bar none. It is an important story, no question about that. But there are a lot of folks who wake up in this country these days who are out of jobs. Some 8 million people—perhaps more than that, we are told—do not have work.

Madam President, 308,000 additional people lost their jobs last month alone—308,000 people. Do you know who loses their jobs first? Oh, it is not Members of Congress and it is not people who drive big cars. It is the people who know the definition of “second-hand,” “second shift,” “second jobs.” It is the people who struggle at the bottom of the economic ladder. They are the last to be hired and the first to go.

This economy of ours is in trouble. It is time to stop tiptoeing around and pretending about it. We have two Budget Committees meeting now in this Congress. We have a budget submitted by this President that is completely, in my judgment, irresponsible. That is not a partisan criticism, it is just a criticism of a budget that completely ignores what is happening in this country. It is a budget that pretends everything is just fine and all we need to do is keep doing what we have been doing and this country will see its economy come out of the doldrums. That is patently untrue, in my judgment. It is time for us to say that.

Let me talk a bit about this plan and about where we are. There is not a Democrat or Republican way to fix what is wrong with this ship of state with respect to its economy. But there are right ways and wrong ways to do it. And I know that the moment we dare criticize the administration, we have all of these strident voices from the extreme of the political system who say: Well, how dare you criticize the administration or the President.

Look, I think both parties have done plenty wrong in this country's past. But we face an intersection now that is unlike any intersection America has come to in a long time. This intersection is one where we confront both serious, urgent foreign policy problems—Iraq, North Korea, terrorism, and more—and, at the same time, confront very serious problems here at home—an economy that is languishing, without growth, an economy that, last

month, saw 308,000 people lose their jobs.

Now just think of one of those. I am not asking you to think about 1,000, 10,000, 100,000 or 300,000—just one, who comes home and says to his or her family: Something happened at work today. I lost my job. It wasn't my fault. I have done the best I could. I am a good worker, but I have lost my job because the economy is not working well. It's soft.

So what happens here in Washington, DC? Well, we act as if none of this is going on. This is a cheering section, to say: Well, things are going to be better. This is not a problem. What are you complaining about?

Let me talk, just a little, about where we are with this economy of ours.

We have a \$10 trillion economy in this country. This is the biggest, the best economy in the world. None of us would want to live elsewhere. We are lucky to be Americans, lucky to be Americans alive now. But our responsibility, as Americans, is to nurture, protect, and foster the development of this great country of ours, and that means protecting this economic engine that produces the jobs and the opportunities for the American people.

Now, in May of 2001, we had an economy that economists told us would produce budget surpluses at the Federal level as far as the eye could see. They said: I tell you, we're walking in tall clover here. There are going to be budget surpluses for 10 years, so you all ought to get about the business of providing big, big tax cuts.

President Bush came to town and said: My heavy lifting is to ask the American people to accept big tax cuts. That is the easiest lift in American politics, I guarantee you. I would like to see one politician who works up a sweat asking people to accept tax cuts.

So the President said: \$1.7 trillion in tax cuts; that's my plan. I stood at this desk then, and I said: I think we ought be a little conservative. What if something happens? What if we are giving away money we don't get? What if we don't have these surpluses? What if something that we can't predict at this point occurs and these surpluses don't exist? What you are going to do is run into big deficits and have our children shoulder the consequences of this mistake.

Well, I lost that debate. And so a \$1.7 trillion tax cut proposed by the President was pushed through this Congress. And guess what. In a matter of months—just a matter of months—we discovered our economy was in a recession. Months after that, September 11, the most devastating terrorist attack against this country in its history; months after that, a series of corporate scandals unlike any we have ever seen in this country; during all of that time, the bursting of the technology bubble and the collapsing and pancaking of the stock market; and during all of that time, the prosecution of a war against terrorism.

You think about that, all of those consequences—a recession, the bursting of the technology bubble, the pancaking of the stock market, corporate scandals, a war against terrorism. All of that combined to create a dramatic difference in this economy. We have far less revenue coming in. And the result is, big deficits.

Here is what we found:

In May of 2001, Mr. Daniels, the head of OMB, said: We are going to have a \$5.6 trillion surplus. We had better get about the business of having big tax cuts, he and the President said.

Well, in 2 years, we went from a \$5.6 trillion estimated surplus to a \$2.1 trillion deficit. That is nearly an \$8 trillion change in the economic fortunes of this country. And yet we have people acting as if it is not happening. None of this is happening, according to them.

What is the antidote to this? What do we do? Well, let's ratchet up some more tax cuts. Short of money? Well, then, reduce your revenue stream. So the President proposes more large tax cuts.

I suppose if you don't care about fiscal responsibility, about budget deficits, then you can do that. But the fact is, we have seen this calculation before. I come from a high school of nine. We didn't have higher math, but there is only one way to add one and one that equals two. That is the math book I studied.

The fact is, this administration's budget does not add up. They say increase defense spending, increase homeland security spending, have less revenue, and have a few budget cuts in domestic discretionary programs, and it will all add up. It doesn't add up. They want to pretend that it adds up. The American people know it doesn't add up.

On the domestic discretionary piece, they say let's increase these two big areas of spending: Defense, homeland security. Let's cut taxes. And incidentally, let's cut taxes on average for someone with \$1 million a year in income, let's cut their taxes on average nearly \$90,000 a year. We can afford that, they say. But, they say, what we will do is take it out of domestic discretionary spending, nondefense. What does that mean? That means what we will do is cut back on title I spending. That is what they talked about in one of the budget resolutions today.

I toured a school about 2 weeks ago. At the library there was a third grader, a young boy, great-looking young kid, looking at a book and pictures. I met him and said hi to him. I came up behind him and tapped him on the shoulder. The principal of the school, after we got out of earshot of the young boy, said: Do you know something about that boy? You can't tell it right now, but that young boy almost died. He was subject to the most severe abuse I have ever seen in a family. He was beaten badly, taken away from his mother because of the beatings. You know he is doing very well now. This little kid has kind of gotten through all of this. He is

doing well. This kid is part of the program for the school, the title I funds for disadvantaged kids. That is the kind of investment we make in these kids. And this little boy needed some of that investment. That is what we do with title I, with Head Start. We give these tiny kids who don't have it so good an opportunity to get a head start in education.

With Pell grants, kids who couldn't go to college get an opportunity to go to college. I had a young Native American stand up in a meeting once and say: Mr. Senator, I am an American Indian. I am the first in my family ever to go to college. I am able to be here because I have Pell grants, because we don't have any money. I will graduate from this college, and I will go back to teach school on the Indian reservation which I came from.

He did. That is the value of investing in some of these programs such as education programs for some of these kids. We can just talk about it as if it is some amorphous program that does not mean anything with no names attached, but that is not the case. All of these investments in the lives of young children make a difference. So when we talk about fiscal policy and plans and budgets, it is just too easy for some people who don't understand that there is a constituency out there. They don't have lobbyists in the hallway. There are no 5-year-olds or 6-year-olds or 3-year-olds waiting as we leave the Chamber to say: Please, Mr. Senator, will you help us. They don't have the voices here.

The fact is, just taking one example of what we do that makes a difference in people's lives, in education of children, especially children who haven't had it so good, we have people who just blithely walk around here these days and say: This is not a difficult circumstance to get out of. Give the wealthy some very big tax cuts, spend \$675 billion that we don't have, charge it to the kids, cut back on education programs, and cut back on many of the other programs that help people who don't have it so good and call it a day. Have a good night's sleep.

Those who can sleep with those priorities, in my judgment, have a misplaced priority of public service. The priority in this country ought to be, first of all, to have a fiscal plan that adds up so this country's economy has a chance to grow and provide opportunities and jobs for people.

There is no social program we work on that is as important for working people as a good job that pays well. So making this economy work, giving it the opportunity to work, having it add up so people have confidence in the future is critically important. And then at the same time preserving the opportunity for some very important things, whether it is helping family farmers during a disaster, helping young kids get a chance to start in school through the Head Start program—all of those are so important.

We are doing a shadow dance in this Chamber. Everybody here knows this nonsense does not add up, and no one is willing to say it because the minute you say it, people start screaming that you are somehow disloyal to this administration.

I want this administration to succeed. I want this President to succeed. I want him to succeed so this country does well. I want our economy to grow. I want our foreign policy challenges with Iraq and North Korea and others to work out in the right way. I don't come here wanting us to fail. But if we don't stand up and point out the obvious, that we are headed down a path toward deeper and deeper Federal budget deficits with which we will saddle our children, if we don't change course, this country is not going to grow and will not provide opportunities.

I suppose there will be many who will continue this shadow dance that goes on to pretend everything is just fine, but we know better than that. If we were headed towards these deficits with the previous administration, I guarantee you there would be 20 people in this Chamber every night putting blue smoke out the Chamber; they would be so upset about it. But somehow in the shadow of 9/11, we have moved to a circumstance where the most irresponsible fiscal policy I have ever seen proposed is judged to be a yawn by this Chamber.

We have the two Budget Committees meeting, and they are saying: We can fit all this in. We can fit in big tax cuts. In fact, now they say—those so-called conservatives—deficits don't even matter. It is not a big thing to be worried about.

I don't understand what has happened with respect to the relative positions of politicians these days. Conservatives say deficits don't matter? That is a different kind of conservative than I am familiar with. Deficits, of course, matter. Someone has to repay them.

I don't mean to belabor this point, but on top of this fiscal policy that has us now headed towards the largest deficits in the history of our country, take Social Security out of the calculation, and you should. The Social Security surpluses should not be used to reduce the budget deficit. They are trust funds. The President proposes taking all the trust fund and using it, but they ought not. So if you take that out, you have a budget deficit this year of nearly \$450 billion. But add to that a trade deficit of over \$460 billion this year alone—the highest in human history. This economy is off course. We need to fix it.

We need to stand up for the economic interests of America in trade and begin reducing that trade deficit, because we have to pay that with a lower standard of living in our future. That is not an option. That trade deficit is owed to other countries. You can make an argument as an economist that the budget deficit we owe to ourselves. Nonetheless, we will still have to bear that

burden. But our children will likely bear the burden of a 10-year deficit that is put on their shoulders by a fiscal policy that is irresponsible.

We will have a budget debate next week. I will offer amendments. My colleagues will offer amendments. I don't have any interest in deciding that Republicans have the wrong answer and Democrats have the right answer. There are good answers that come from all parts of the Chamber. But the construct of this fiscal policy is just fundamentally wrong and everybody in this Chamber who knows how to add and subtract ought to know that. It is time for us to start speaking about it.

I am perfectly interested in providing tax cuts to the American people when we have budget surpluses. But the tax cuts should be to working families and should be distributed fairly. But at a time when we have the highest deficits, to say let's ignore them and let's have a political construct that increases spending in the largest areas of spending in the Federal budget and decreases taxes with very large tax cuts and then pulls the rest out of it out of some very important things that invest in people in this country, including veterans and Indian health and education, and a whole series of things, that is wrong.

We need to stand up and talk about it. I will speak about it at greater length next week. I wish I could come to the floor and say this is a wonderful fiscal policy. I just cannot. I feel obligated to say this is wrong; we are headed in the wrong direction. We need to fix it as a country. Our children's future depends on it.

I will make one final point. On September 11, when this country was attacked, we were one country. I was proud of President Bush, and one of the best speeches I ever heard he gave to a joint session of Congress. This country responded as one. But this country does not do a service to its future by believing now—a year and a half following that period of time—that voices still, because they don't want to engage in debate over issues that are important to our future, are somehow disadvantageous to our country. We need a robust debate about the right fiscal policy. We disserve our constituencies if we don't bring this debate to the floor in an aggressive way. What works? What will restore economic health to the country? What do we do to improve economic growth, to provide jobs, to get people back to work, and get the economy moving again? Those are the questions we have to ask as we construct a budget and put this fiscal policy together.

I regret I come to say this fiscal policy makes no sense at all and must be changed. I wish that were not the case, but it is. The result of that is I will be here with amendments, as will others, hoping we can improve this fiscal policy for our country's future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

#### THE WORDS OF ALISTAIR COOKE

Mr. STEVENS. Madam President, I am glad to see an Alaskan in the chair as I make this statement. This morning, as it usually happens, when I turned on my computer, I found a series of e-mails from friends at home. I do not always have time to read them then, but I saw one from a very close friend, who has been a friend now for over 50 years—Frank Reed, a former neighbor, a person who has helped me in many ways in my life. He asked me to read this article he attached to his e-mail. I get a little disturbed when I see that the testament is a little longer than the e-mail. But I found that he had sent me a verbatim transcript of an article by Alistair Cooke entitled "Peace For Our Time," that was on the BBC News on Monday, February 3 of this year. I want to read that tonight because I think it reflects what I have been trying to say on the floor of the Senate these past several weeks.

The following was written and spoken by Alistair Cooke. He said this:

... I promised to lay off topic A—Iraq—until the Security Council makes a judgment on the inspectors' report and I shall keep that promise.

But I must tell you that throughout the past fortnight I've listened to everybody involved in or looking on to a monotonous din of words, like a tide crashing and receding on a beach—making a great noise and saying the same thing over and over. And this ordeal triggered a nightmare—a day-mare, if you like.

Through the ceaseless tide I heard a voice, a very English voice of an old man—Prime Minister Chamberlain saying: "I believe it is peace for our time"—a sentence that prompted a huge cheer, first from a listening street crowd and then from the House of Commons and next day from every newspaper in the land.

There was a move to urge that Mr. Chamberlain should receive the Nobel Peace Prize. In Parliament there was one unfamiliar old grumbler to growl out: "I believe we have suffered a total and unmitigated defeat." He was, in view of the general sentiment, very properly booed down.

This scene concluded in the autumn of 1938 with the British prime minister's effectual signing away of most of Czechoslovakia to Hitler. The rest of it, within months, Hitler walked in and conquered. "Oh dear," said Mr. Chamberlain, thunderstruck. "He has betrayed my trust."

During the last fortnight a simple but startling thought occurred to me—every single official, diplomat, president, prime minister involved in the Iraq debate was in 1938 a toddler, most of them unborn. So the dreadful scene I've just drawn will not have been remembered by most listeners.

Hitler had started betraying our trust not 12 years but only two years before, when he broke the First World War peace treaty by occupying the demilitarized zone of the Rhineland. Only half his troops carried one reload of ammunition because Hitler knew that French morale was too low to confront any war just then and 10 million of 11 million British voters had signed a so-called peace ballot.

It stated no conditions, elaborated no terms, it simply counted the numbers of Britons who were "for peace."

The slogan of this movement was "Against war and fascism"—chanted at the time by every Labour man and Liberal and many

moderate Conservatives—a slogan that now sounds as imbecilic as "against hospitals and disease." In blunter words a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him.

At that time the word pre-emptive had not been invented, though today it's a catchword. After all the Rhineland was what it said it was—part of Germany. So to march in and throw Hitler out would have been pre-emptive—wouldn't it?

Nobody did anything and Hitler looked forward with confidence to gobbling up the rest of Western Europe country by country—"course by course", as growler Churchill put it.

I bring up Munich and the mid-30s because I was fully grown, on the verge of 30, and knew we were indeed living in the age of anxiety. And so many of the arguments mounted against each other today, in the last fortnight, are exactly what we heard in the House of Commons debates and read in the French press.

The French especially urged, after every Hitler invasion, "negotiation, negotiation". They negotiated so successfully as to have their whole country defeated and occupied. But as one famous French leftist said:

"We did anyway manage to make them declare Paris an open city—no bombs on us!"

In Britain the general response to every Hitler advance was disarmament and collective security. Collective security meant to leave every crisis to the League of Nations. It would put down aggressors, even though, like the United Nations, it had no army, navy or air force.

The League of Nations had its chance to prove itself when Mussolini invaded and conquered Ethiopia (Abyssinia). The League didn't have any shot to fire. But still the cry was chanted in the House of Commons—the League and collective security is the only true guarantee of peace.

But after the Rhineland the maverick Churchill decided there was no collectivity in collective security and started a highly unpopular campaign for rearmament by Britain, warning against the general belief that Hitler had already built an enormous mechanized army and superior air force.

But he's not used them, he's not used them—people protested.

Still for two years before the outbreak of the Second War you could read the debates in the House of Commons and now shiver at the famous Labour men—Major Attlee was one of them—who voted against rearmament and still went on pointing to the League of Nations as the savior.

Now, this memory of mine may be totally irrelevant to the present crisis. It haunts me. I have to say I have written elsewhere with much conviction that most historical analogies are false because, however strikingly similar a new situation may be to an old one, there's usually one element that is different and it turns out to be the crucial one. It may well be so here.

All I know is that all the voices of the 30s are echoing through 2003 . . .

Madam President, I was but 14, not 30. I remember the tension we all felt at that time, as country after country became destroyed by Hitler. Previously on the floor of the Senate, I mentioned Hitler and compared Saddam Hussein to Hitler. I was criticized even by the papers at home in Alaska.

I was delighted to read Alistair Cooke's article that Frank Reed sent to me this morning, and I commend it to the rest of the Senate.

This haunts me. It haunts those of us who lived through the thirties to know



we might go through the thirties again because too many people refuse to listen to the truth, refuse to listen to what some of us see in Saddam Hussein, as being another Hitler.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 628 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. 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. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING GENERAL AL LENHARDT

Mr. DASCHLE. Madam President, a little over 18 months ago, I came to this floor to welcome MG Alfonso Lenhardt to the Senate on his first day as this body's Sergeant at Arms.

Tomorrow will be GEN Lenhardt's last day in the Senate.

It is with profound admiration, and more than a little sadness, that I rise today to thank him for his extraordinary service, and to wish him much success and happiness in the years ahead.

Nominating Al Lenhardt to serve as the Senate's Sergeant at Arms was one of the great honors of my time as majority leader. It was also, I think, one of the best decisions I made in more than 30 years of public service.

I did not know Al before we began the search for a Sergeant at Arms in the summer of 2001. He was recommended to me by our former Secretary of the Senate, Jeri Thomson.

Jeri had met Al more than a decade ago when they were both at the Kennedy School of Government at Harvard. She was impressed by his intelligence, knowledge, steady demeanor and commitment to public service, characteristics she correctly noted are highly desirable in a Senate Sergeant at Arms.

Twenty minutes after meeting Al, I knew Jeri had identified the right person for this job.

I also knew, when I nominated Al, that he would make history in this Senate. What I did not realize is what a crucial role he would play, and what a difference he would make, in the history of this Senate.

Al Lenhardt is the first African American ever to serve as the Senate's top law enforcement and administrative officer. In fact, he is the first African American to serve as an elected officer of the Senate or House—ever.

That seems hard to believe, but it is true. And after 212 years, I must say, it was long overdue.

And he was the individual serving as the top law enforcement officer of the

Senate when the unimaginable happened—terrorists struck a devastating blow on American soil.

The September 11 attacks occurred less than a week after Al Lenhardt was sworn in as Sergeant at Arms. I do not think he took a day off for over 5 months.

Five weeks after September 11, a letter containing a lethal dose of anthrax was opened in my office.

That incident remains the largest bioterrorism attack ever on U.S. soil, and one of the most dangerous events in Congress' history.

Al Lenhardt's leadership ability, experience and demeanor were instrumental in the Senate's entry into the post-September 11 world. I am not sure that before that terrible day any of us fully appreciated the threat that America's enemies posed to our U.S. Capitol, a majestic and enduring symbol of our democracy.

Al Lenhardt rose to the challenge of protecting against further terrorist attacks on the Capitol complex and protecting the people who work in and visit these buildings—without closing "The People's House" to the people themselves.

Al provided calm and steady leadership in the face of danger that reassured us all in an extraordinarily stressful and emotional time.

When deadly anthrax was released in the Hart Building, 50 Senators and their staffs, and 15 committees and their staffs, were displaced for 96 days while the building was remediated.

Never before—not even when the British burned the Capitol in 1814, had so many Senators been uprooted.

Relocating them and their staffs presented an unprecedented logistical challenge. But Al Lenhardt and his staff, and the staffs of the Rules Committee and the Secretary of the Senate, responded quickly and well. The business of democracy never stopped.

Al Lenhardt stood tall in the face of danger. And his steady hand assured that the Senate kept functioning.

Over the past 18 months, Al Lenhardt rose to the occasion, demonstrating to me that he was indeed the right man, with the right skills and experience, in the right place, at the right time.

Al Lenhardt has had a remarkable public career.

He served in the United States Army for 32 years and as a combat veteran wears the Purple Heart earned in Vietnam.

He retired from the Army in 1997.

His last Army position was commanding general of the U.S. Army Recruiting Command at Ft. Knox, KY. From that post, he managed more than 13,000 people in 1,800 separate locations.

Before that, he served as the senior military police officer for all police operations and security matters throughout the Army's worldwide sphere of influence.

In the 1980s, he did counter-terrorism work in Germany against the Baader-Meinhof Gang and other terrorist groups.

He also was the former commander of the Army's Chemical and Military Police Centers at Fort McClellan, AL, which trains the military police who are guarding our bases overseas.

Al Lenhardt was born in Harlem 59 years ago.

He earned a bachelor's degree in criminal justice from the University of Nebraska, a master of arts degree in public administration from Central Michigan University, and a masters of science degree in the administration of justice from Wichita State University. He has also completed post-graduate studies at the Kennedy School of Government at Harvard, and the University of Michigan Executive Business School.

Between the Army and the Senate, he served for 4 years as executive vice president and chief operating officer of the Council on Foundations, where he worked to harness the power of philanthropy to meet some of America's most urgent unmet needs.

He has been active in an array of organizations, from the Boy Scouts of America, to the Boys and Girls Clubs of Washington, DC, the National Office of Philanthropy, and the Black Church Project.

He has been married for 38 years to Jackie Lenhardt, one of the few people I have ever met who has a more commanding presence than Al. Jackie and Al have three daughters—two lawyers and a doctor—and two grandchildren, Olly, who is 4, and Maya, who was born 2 months ago.

The closest thing to a complaint I've ever heard from anyone who knew Al Lenhardt in the Army was from an officer who took a battalion six years after Al had left it.

He said: "It's tough to go into a unit after Al Lenhardt because he leaves such strong footprints. Six years later, his policies and procedures still stood. He made a lasting impact on soldiers."

The one consolation in saying goodbye to Al Lenhardt is knowing that the policies and procedures he instituted here in the Senate will continue protecting us in the future.

Al's predecessor, Jim Ziglar, began the effort to modernize security and protect the Capitol in an age of terrorism. And he made a good start.

But I think even Jim would acknowledge that it is Al Lenhardt who deserves the lion's share of the credit for leading the Senate into the modern age of security and law enforcement.

If Congress is ever forced to vacate this building, or even this city, for any length of time, the Senate will be able to move and resume the work of democracy immediately in a new location under a "continuity of operations" plan that Jim Ziglar started and Jeri Thomson and Al Lenhardt completed.

While Al would be the first to state that more needs to be done, he has ensured that the Senate will continue operations in the event of any emergency.

The physical security around the Capitol is much stronger and intelligence gathering, analysis and sharing is much better today than it was on September 11th—largely because of Al Lenhardt.

We are better prepared to prevent attacks—and to respond if attacks happen—than we were before Al Lenhardt came here.

Because of Al Lenhardt, we know have an effective crisis communications network that uses state-of-the-art technology.

We have emergency evacuation plans and drills.

We've implemented state-of-the-art mail security to prevent another nightmare like the anthrax attack.

Capitol Police officers are getting new training to deal with the new threats. We are also expanding the police force—so our officers can get some much-deserved rest.

Al Lenhardt has played a leadership role in building stronger working relationships with security and intelligence experts at the departments of Homeland Security, Justice, Defense and other agencies.

That is another way Al Lenhardt made history.

The first Saturday morning after the anthrax letter was opened, Al was at work in the Capitol, surrounded by scientists and investigators. He had been at work until late the night before.

That morning, someone asked him: "If you had to decide all over again, would you still want this job?"

Al smiled his great, broad smile and—without a moment's hesitation—replied: "Absolutely. To be in a position to serve your country—what better job could there be?"

To that, Mr. President, I can only add: What better person could there have been in the Senate Sergeant at Arms' position these last 18 months than General Alfonso Lenhardt?

Certainly no one I have ever met.

Al Lenhardt has earned the respect and gratitude of every member of this Senate, and of this nation.

I am proud to have recommended him. I am proud to have served with him. And I am even more proud to call him my friend.

Indeed the entire Senate community is grateful to Al Lenhardt for what he has contributed to us, and we will miss him.

**THE PRESIDING OFFICER.** The Senator from Nevada.

Mr. REID. Before the majority leader leaves the floor, I ask to be associated with the remarks he made about General Lenhardt. I add that in the years Senator DASCHLE has been the Democratic leader—he is starting his eighth year—he has done a lot of very good things for the State of South Dakota, our country, and the Senate. But nothing he has done has been more meaningful than selecting this professional, the first time in the history of our country, the Sergeant at Arms was a professional who had experience.

He was in charge of all the military police in the Army, a general in the United States Army, and was called upon for duty by Senator DASCHLE. If there were ever anyone with a vision regarding the problems this country faced and this Senate passed, Senator DASCHLE, in selecting General Lenhardt—because September 11 came during his honeymoon period. He had just gotten here.

We were so well served and have been so well served. I want the RECORD to reflect not only my great admiration and my friendship for General Lenhardt, I want the record to reflect for all Senator DASCHLE has done, nothing has been more important in the Senate than his selecting this good man for this most important job.

Mr. DASCHLE. I thank my dear friend, the Senator from Nevada, for his very kind words.

**THE PRESIDING OFFICER.** The Senator from Montana.

Mr. BAUCUS. Madam President, I walked over to the floor without realizing we were giving a testament to General Lenhardt. But I could not agree more with the words I heard from Senator DASCHLE, as well as the words from Senator REID of Nevada. It is true, as I reflect upon it, that I know of no man who contributed greater service for his country than Al Lenhardt. He is such a professional. He is such a gentleman. He is so good. We trust him so much. We are so lucky that he was our Sergeant at Arms during the tragic times the Capitol family has been through the last couple of years.

I know we are all extremely proud of him and we will have very fond memories of his service here. I say to General Lenhardt, you are a great man, and we appreciate your service.

Mr. President, I rise today to pledge my support for our brave men and women who are on the front lines protecting America as we work to eliminate terrorism. . . . To pledge my support for the United States and all that our country represents: democracy, freedom of speech and religion, independence of thought. . . . And to pledge my support for our leaders and our free and open elections that allow democracy to thrive.

I also rise today to urge and insist that throughout the ongoing situation with Iraq, we remember our underlying goal: To protect our country from weapons of mass destruction and terrorist threats and stop those who provide assistance to terrorist operations. In order to fully accomplish these goals, we need the support and assistance of the broadest possible worldwide coalition of our allies.

It's not in our Nation's interest to establish arbitrary deadlines to force us to act without the support of others. This is not the time to isolate our country by moving into a unilateral war against Iraq.

A war that could result in massive casualties and long term devastation. A war that has the likely potential of

increasing terrorist threats against our Nation.

There is no question that the United States has the ability and the right to take necessary action to protect our country. But we should not burn bridges—bridges that we will surely need down the road—in our rush to war with Iraq.

There is no debate that the brutal regime of Saddam Hussein must come to an end. He has a long history of attacking and murdering his own people, employing chemical and biological weapons, and continually defying the limits set forth by the UN. There have been reported links between Iraq and terrorist activity, although no link has been established between Iraq and the events of September 11. The Iraqi people and the global community deserve to be free from a cruel dictator and the threat to safety that he represents. The credibility of the United Nations and of America is on the line.

We must take the time to fully weigh the risks and costs associated with unilateral action against the results we will achieve. The threat Iraq poses is not imminent, at least not so imminent that we can't continue with another week, or another month, of negotiations to garner the support of members of the United Nations Security Council.

The clock is ticking, but the alarm has not yet rung. I encourage the administration to continue inspections beyond their self-imposed March 17 deadline. In these final critical minutes, we have the opportunity to lay out hard and fast, mutually agreed upon benchmarks for Hussein to meet—or not meet—to determine his fate. Britain laid out definitive steps yesterday, such as allowing Iraq scientists to be interviewed abroad, destroying banned weapons and providing documentary evidence of any such destruction in the past.

While support for their resolution has not been overwhelming, it is important to continue along this path. Indeed, it is critical. We must both provide assistance to Britain, our strongest ally, while employing every resource at our command to garner Security Council support.

As the world's superpower, it is not only our responsibility, but it is in our best interest to lead. It's our responsibility to walk with and secure the support of our allies. The decisions we make in the coming days will have global reverberations and I am hopeful we won't have to endure the impacts alone.

In the case that unilateral military action is decided upon, the ramifications, lengthy reconstruction process and costs involved must be addressed. There are numerous reports that a war with Iraq will be a relatively short operation. But what follows in a month, in 6 months, in a year?

If the United States chooses to go it alone in Iraq and forsakes the support of a majority of our allies, the hurdles

and pitfalls will be numerous. And the likelihood of long term success and stability will be diminished. If we are successful in our mission to remove Saddam, a successor will need to be determined. The likelihood of Iraq becoming a democracy in our lifetime is unlikely. Even with the ousting of Saddam, we must be prepared and accepting of a moderate Arab government similar to others in the region.

The cost of rebuilding the country will be enormous, both in terms of money and manpower. From ensuring the Iraqi children can obtain clean water to establishing a forum for a free and open government to thrive. Are we willing to take those costs solely upon ourselves?

We must also be ready to focus our resources on the stability of the entire Middle East region and Muslim world. We need a comprehensive policy of economic engagement, one that includes expanded trade.

We should consider a trade benefits program similar to what we currently do for Africa, the Caribbean, and the Andean countries. In order to achieve long-term stability and reduce the terrorist threat, we will need to engage the entire region. And we will need our allies to assist in this engagement.

It's time to face facts. Our country is facing a troubling economy, unemployment, low growth, large national debt. Interest rates can't go much lower.

If we continue to disregard the concerns of other Security Council members and move forward with only a small band of countries that support immediate military action, the lion's share of the costs and military burden will fall on America's shoulders. Where will this money come from. How long must our troops be away from their families—months, years, decades? We must be fully prepared for this scenario before we move forward.

We are all in agreement that Saddam Hussein is a bad man and the threat he poses cannot be disregarded. While I unequivocally support removing Hussein from power, knowing that he is a peril to the region and the world, I urge that we move forward with a strong coalition of support. The clock is running down, but there is still time to gather our allies. Our long term interests—on every front—will be best achieved by standing together, united behind our common goal of eliminating terrorism and keeping our countries safe.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Utah.

#### MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I listened with interest to my friend from

Montana. While I had not prepared a response, I feel, nonetheless, moved to make a response.

My colleague from Montana made the point that Saddam Hussein must be removed and then suggested that we need more time and we should be willing to grant more time. This is, indeed, the position of many people in the United Nations. They keep saying just another week, just another month if necessary. The Senator from Montana used that same timeframe.

In my opinion, we do not have that option. In my opinion, we have two options, not three. The two options are either to go ahead or to come home. The option of staying in place and allowing the inspections to go on for an indeterminate period of time is not a viable option.

The reason for that is that our troops are not where they are on anything like a permanent status. They are there at the indulgence of foreign governments that have allowed them to come in with the firm understanding that they will be there very briefly. In the countries where they are currently bivouacked, they are simply there, on the edge of moving forward.

If we now say to those countries, the host countries that are harboring our troops, we are going to leave them there for an indefinite period of time while the inspectors continue to poke around Iraq, I expect that country after country will say: No. We did not bargain for American troops in these numbers on our territory for an indefinite period of time.

If you are not moving ahead into Iraq, withdraw your forces and go home. And if we do withdraw our forces and go home, it is clear Saddam Hussein will not be removed until he dies. And he may very well die in his bed, because once the United States has sent the signal to the world that we are prepared to do whatever is necessary to remove this brutal dictator and then we back down and bring our troops home, we can never put them back in those places again. No host government currently allowing American forces on its soil will say OK, now that Saddam Hussein has nuclear weapons, you can come back and be on our soil and make us a target for those nuclear weapons. No. We have two choices. We can either move ahead or we can come home.

It is not the most sympathetic character in Shakespeare. A comment made by Lady Macbeth becomes appropriate here. "If it were done when 'tis done, then 'twere well it were done quickly."

If we are going to remove Saddam Hussein, we must do it quickly. And if we are not, we should not leave our troops in their present posture for an indefinite period of time while inspectors poke around on a scavenger hunt in Iraq.

Mr. DODD. Mr. President, obviously, the major conversation today is about how we might successfully disarm Sad-

dam Hussein of the weapons of mass destruction, which many of us still believe are there in Iraq and pose a serious threat, not only to ourselves but to allies and others.

I certainly do not minimize the importance of dealing with this issue. In fact, as my constituents know, I voted for the resolution last fall authorizing the President to use force if that became necessary. I still support that position.

I think the President ought to have that authority from Congress. I am grateful to him for coming to Congress and asking for that kind of backing. When I voted to give him that authority, I did not mean, of course, necessarily that authority would be used regardless of other circumstances. And certainly, over the past several months, we have seen a concerted effort to try to resolve the problem of Iraq short of using military force.

In fact, the President's own words, deserve being repeated; that is, that he did not welcome or look forward to the use of military force to solve this problem. He hoped it would be resolved without using force. I applaud him for making those statements and hope he is still committed to that proposition.

I am concerned, still, as are many Americans, that we may see a military conflict in the coming days, and that every effort to try to resolve this matter, diplomatically and politically, has not yet been exhausted. I know the administration is working on it.

As one Member of this body, I encourage them to continue doing so. I do not mean indefinitely, obviously. There are obviously points at which you have to accept the fact that there is not going to be the kind of cooperation you would like to have. I certainly would not suggest we ought to go on indefinitely here at all, but I do believe our allies and friends—principally Great Britain, which has been remarkably steadfast in their loyalty to the U.S. Government on this issue—need to be listened to, that their advice and counsel have value and weight. And if there are ways in which you can craft resolutions which would build support at the U.N. Security Council, then we ought to try to do that. That does not mean you go on weeks trying to sort that out. But I hope every effort is being made to fashion just such an arrangement that would allow us to deal with Saddam Hussein.

I happen to believe, in the absence of the threat of force, I don't think diplomacy would work alone, nor do I necessarily believe the threat of force, without some effort by diplomacy and politics, would necessarily work as well as we would like.

It is a combination of the threat of force and the use of diplomacy that I think has produced the significant, positive results we have seen in the last number of weeks. And the President deserves credit for that, in my view.

There is almost a sense of victory occurring here. He may be the most critical voice regarding this progress that has been made, but, nonetheless, I think progress is being made.

Mr. President, I want to shift quickly, if I can, however, to the cost of reconstruction. I know the conversation is whether or not there will be a war. Let's assume, for a second, that comes. As regrettable as it is—and we hope it will, obviously, be done at a minimal loss of innocent lives and the lives of the men and women in uniform—I am deeply troubled by the fact this administration has been unwilling to come before Congress to share with us their best and worst-case scenarios in terms of the cost of reconstruction in Iraq.

Certainly, I do not expect, nor should anyone, that the administration would be able to tell you with any great deal of specificity exactly what those costs would be. But you are not going to convince anybody in this Chamber, or most Americans, that the administration has not projected some cost figures on what it is going to cost us to rebuild Iraq, either alone or with the cooperation of others around the globe.

The reason I say that is because I noticed the other day that the administration had solicited bids from four or five major U.S. corporations to bid on an almost \$1 billion contract for reconstruction or partial reconstruction in Iraq.

I am convinced that those firms had to have some knowledge of what the bid was all about in order to make it. What concerns me is that there may be people in those corporations who know far more about what the costs may be than the representatives and taxpayers of this country, who will ultimately be asked to pay the bill.

I was stunned, when we had a hearing of the Senate Foreign Relations Committee just a few days ago on this very subject matter, at the cost of reconstruction, that the administration refused to send any witnesses up to share with the committee, under the leadership of the distinguished chairman of that committee, Senator RICHARD LUGAR of Indiana—that the administration refused to even step forward and share with the committee their general thoughts on what may be the costs.

How is it that four or five corporations can apparently have access to information and yet the Congress of the United States does not? The four or five corporations were Bechtel, the Fluor Corporation, Halliburton, owned by Kellogg, Brown and Root, the Lewis Berger Group, the Parson Group. Those, I believe, are the names of the corporations invited to bid on the reconstruction contracts.

If you are telling these corporations about what the costs may be, and what may be involved, and yet you can't let Members of Congress know—particularly the committee charged with the responsibility—ultimately, I think that is a mistake.

There was a report conducted, I think by the Brookings Institution, with such distinguished Americans as James Schlesinger and others, that made an analysis of the post-cost figures on reconstruction. They all made the similar recommendation. You have to step forward.

As our former colleague, John Glenn, used to say: If you want the American public to be supportive of actions like this, they have to be involved in the takeoff as well as the landing.

I think his words, that I heard him repeat on numerous occasions, have particular value in talking about this debate. This is not to suggest that everyone is going to endorse the numbers. But you need to let the American public know what they are in for, so that there is some understanding of what this involvement is going to cost us. I think you are going to do far better at winning support ultimately for these figures if you share your ideas.

Again, no one is expecting you are going to have to be wedded to these numbers. But you are not going to build the kind of domestic support you need for a number of years on the reconstruction of Iraq if you do not begin to share with the American public what sort of cost figures we are talking about.

It is estimated by some groups already that the cost could be at a low figure of \$20 billion a year. The cost of the war, of course, we can't get any numbers on. We don't have any numbers on how many of our U.S. military personnel might have to be stationed in Iraq for how long a period of time during the period of occupation.

Let me share with you from the Brookings report. Even assuming, they said, little war-related damage—we hope that is the case—the reconstruction requirements in Iraq will be very substantial. Estimates of the requirement vary considerably from as little as \$25 billion over a multiyear period to as much as \$300 billion over 10 years. It is estimated that repairing and restoring Iraq's electrical power grid to its pre-1990 level would cost as much as \$20 billion and that the short-term repairs for the oil industry would cost about \$5 billion. Additional reconstruction requirements involve water, sanitation, transportation, and other infrastructure.

I bring this up not because I am trying to persuade people they ought not to be for using force, if that becomes necessary, but just to suggest that if you don't involve people and share with them what the estimated cost of this may be, you will be in trouble.

Let me tell you what I suspect is really behind a lot of this. As I am speaking on the floor of this Chamber, the budget committees of the Congress are meeting. They are talking about the cost of Government over the next number of years—tax policy, spending policy, what they will be. The estimates now for the deficit are hovering around \$400 billion a year. I don't find

it merely coincidental that the administration is refusing to share with us how much this war may cost, how much the reconstruction may cost at a time we are also considering the budget. Why is it they won't share these numbers? Is it because they don't want the Budget Committee or this Chamber, which will vote next week on the budget, to have before it some idea of what taxpayers will be asked to shoulder as a result of this involvement? Again, you will not convince me that those numbers don't exist. They do exist.

It is outrageous that the administration won't step forward and say: Here is our best estimate, worst case, best case. Regardless of how you feel about this conflict, potential conflict—again, I voted with the President to support the use of force if necessary—where are the Members of the Senate? Why don't they stand up for the Senate when it comes to the budget—we are the ones being asked to vote on this—and be as demanding as I am about sharing these numbers? I would think every single Member of this body, regardless of how you feel about the war, would want to know what the cost may be, so that when you cast a vote either in the Budget Committee or on the floor of the Senate next week, you would have some idea of what the implications are going to be. Without having that information, I don't know how you will vote for some of these other matters, knowing that the cost could be billions and billions of dollars in the coming 5 or 10 years.

Maybe I am the only one who feels this way. I suspect I am not. I suspect there is a tremendous concern growing that we are digging a very deep hole for ourselves financially with these massive tax cuts and massive spending going on. I find it more than ironic that some of the strongest advocates for this budget only a few short years ago were standing here begging us to vote for a constitutional amendment to balance the budget and, but for one vote, we would have written it into the Constitution. Now they stand before us and tell us deficits don't matter and that we don't even have to share with you the estimated costs of our involvement in Iraq.

My hope is that in these coming days before the end of this week or the first part of next week, the administration might share through some vehicle, if not before a congressional committee then some other forum, what the costs are apt to be so that next week when we vote on the budget, we can include those numbers in the estimated burden the American taxpayer may be asked to shoulder.

I am deeply worried that we are digging a very deep hole for ourselves, and we are not being honest and square with the American public about what those implications will be.

I yield the floor.

## TORTURE IS A CRIME

Mr. LEAHY. Mr. President, I want to take a moment today to speak about an issue that has been discussed in the press recently, which is the use of torture to obtain information from persons who are suspected of being terrorists.

It is well-established that torture is a violation of international law, by which our country is bound. It is also a violation of our own laws. Yet commentators have been quoted by the press saying that in certain limited circumstances, when the threat is a possible terrorist attack, the use of torture is justified. Some have even suggested that since torture is used, why not simply admit it and accept it as a fact of life?

These are not easy questions. Who does not want to do everything possible to save innocent lives? We all do. But the United States is a nation of laws, and I reject the view that torture, even in such compelling circumstances, can be justified. I would hope all countries would uphold their obligations under international law, but that is not the case. It is the 21st century, and yet torture is used by government security forces in some 150 countries.

We have often spoken about how important it is not to let the terrorists win. We try not to let ourselves be intimidated. We take precautions, but we go about our daily lives.

The same holds true of the tactics terrorists use. If we don't protect the civil liberties that distinguish us from terrorists, then the terrorists have won.

Torture is among the most heinous crimes, and there is no justification for its use. One need only review history to understand why there can be no exception to torture. The torture of criminal suspects flagrantly violates the presumption of innocence on which our criminal jurisprudence is based, and confessions extracted as a result of torture are notoriously unreliable.

Also, history has shown that once an exception is made for torture, it is impossible to draw the line. If we can justify torture in the United States, then what is to prevent its use in China, Iraq, Chile, or anywhere else? If torture is justified to obtain information from a suspected terrorist, then why not torture the terrorist's wife and children, or his friends and acquaintances who may know about his activities or his whereabouts? In fact, that is what happens in many countries.

There is also the issue of what constitutes torture versus acceptable, albeit harsh, treatment.

Torture is defined in the Convention Against Torture, which the United States ratified, as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession . . .".

A March 4 article in the New York Times described the treatment of Af-

ghan prisoners at the Bagram air base. Two former prisoners, both of young age, recently died in U.S. military custody. Other prisoners described being forced to stand naked in a cold room for 10 days without interruption, with their arms raised and chained to the ceiling and their swollen ankles shackled. They also said they were denied sleep for days and forced to wear hoods that cut off the supply of oxygen.

I do not believe that prisoners of war, some of whom are suspected of having killed or attempted to kill Americans, should be rewarded with comforts. Harsh treatment may, at times, be justified.

However, while I cannot say whether the treatment described by these Afghan prisoners amounts to torture under international law, it does sound cruel and inhumane. The inhumane treatment of prisoners, whoever they are, is beneath a great nation. It is also illegal. That is the law whether U.S. military officers engage in such conduct themselves, or they turn over prisoners to the government agents of another country where torture is commonly used, in order to let others do the dirty work.

Some of these Afghan prisoners may be guilty of war crimes. Some may be members of al-Qaida but may have never fired a shot. Others may be completely innocent. But regardless, I was not proud when I read that article, and when I think of how often I and other Members of Congress have criticized other governments for treating prisoners that way. It undermines our reputation as a Nation of laws, it hurts our credibility with other nations, and it invites others to use similar tactics.

I am encouraged that the Department of Defense is conducting a review of the deaths of the two Afghans at Bagram, both of which were ruled homicides by an American pathologist. Those responsible for what happened must be held accountable. But I also urge the Department to review whether the interrogation techniques used there, and at other U.S. military facilities are fully consistent with international law. It should not take a homicide to reveal that prisoners in U.S. custody are being mistreated.

I yield the floor.

## WELCOMING THE PRIME MINISTER OF IRELAND

Mr. DODD. Mr. President, I want to take a moment to welcome the Prime Minister of Ireland, who is here today. You will notice, I have a green tie on today. I am fully aware, as most Americans are, that St. Patrick's Day is on the 17th day of March, not the 13th day of March. But when the Prime Minister of Ireland arrives here to celebrate St. Patrick's Day a little earlier this year, those of us who are of Irish descent—and even those who are not but wish they were—generally wear a little green to celebrate this festive holiday.

Prime Minister Ahern was at a lunch a little while ago hosted by the distin-

guished Speaker of the House, DENNY HASTERT. Vice President CHENEY was also in attendance representing the President, who normally would be attending an event such as this today, but, obviously, events in the Middle East made it difficult for him to get away. All of us understand that. We regret he was not able to be with us, but we fully appreciate there are other matters that require his more immediate attention.

But we thank the Prime Minister, the Taoiseach of Ireland, for him not only being here but for his tremendous work, along with Tony Blair and other political leaders in Northern Ireland, particularly Jerry Adams and David Trimble, in their efforts to try to resolve, once and for all, the political disputes that have been so devastating on the people of Northern Ireland over these last number of years. Based on conversations we have had, it would appear that we are getting very close to, hopefully, a final resolution of those issues.

So I welcome the Prime Minister and other political leaders from Ireland and Northern Ireland who have come, as they traditionally do, to celebrate St. Patrick's Day, but have made this a working holiday, if you will, to engage in further conversations on what we might do to help resolve the matters of Northern Ireland, as well as to listen to their sound advice and observations regarding the turmoil that is brewing in the Middle East.

## ELIZABETH SMART AND THE NATIONAL AMBER ALERT NETWORK ACT

Mr. REID. Mr. President, I, like all of America, was elated last night when we heard the news that the young girl from Utah, Elizabeth Smart, who had been missing for more than 9 months, had been found and reunited with her family. Most of the time, the vast majority of these stories about these girls—mostly girls who are kidnapped, abducted, stolen—end in bad news. This ended in good news.

As a father and grandfather, I really don't know the emotion of a parent who has a child stolen. An abducted child must be the worst nightmare of a parent. But this nightmare ended as I have just related.

The Justice Department says the number of children taken by strangers annually is between 3,000 and 4,000—it varies but thousands of children. Every day children are stolen. These children and their parents deserve the assistance of the American people and the helping hand of the Federal Government.

We stand ready and willing to help. We all feel so helpless when a child is kidnapped. What can we do to help? There is not very much because mostly these stories end, not like Elizabeth Smart's, they end in tragedy. For the past 2 years, Senators LEAHY, HATCH, HUTCHISON, FEINSTEIN, and others have

introduced the National Amber Alert Network Act to aid in the recovery of abducted children. Last year, Committee Chairman LEAHY, 1 week after it was introduced, held a hearing on the AMBER plan, and then we passed the bill by unanimous consent in both the Judiciary Committee and the full Senate when it was under the Democrats' control. Such quick and dynamic action on legislation is unheard of around here, but that is proof positive of the overwhelming support that exists for what is really a nonpartisan issue.

Unfortunately, the House of Representatives refused to pass a national AMBER Alert network. They refused to pass this act because they said they didn't like it as a stand-alone bill. They wanted it part of something else—part of something else being part of nothing. It is unknown to me how many children's lives would have been saved if we had had a national AMBER Alert. We know, with the situation we had in California, that it really works.

This year, the Senate again, under the leadership of Senator HATCH, rapidly passed unanimously this bipartisan legislation. But once again the House of Representatives—the leadership of the House of Representatives, Republican leadership of the House of Representatives—is refusing to act quickly on this bipartisan AMBER Alert bill.

I served in the House of Representatives. They could pass this legislation in a matter of hours—not days, hours. Ed Smart, Elizabeth's father, has called upon the House of Representatives to pass this noncontroversial Senate-passed AMBER Alert bill. I agree this is the proper course and the fastest way to protect our children from danger.

In fact, I am confused as to exactly why the House Republican leaders refuse to pass this bill since they agreed to include in the fiscal year 2003 omnibus spending bill \$2.5 million for AMBER Alert grants. The House leadership still, however, chooses to ignore the bill that the Senate has twice passed under the bipartisan leadership of Senators HATCH and LEAHY, once when Senator LEAHY was chairman, once when Senator HATCH was chairman. To include AMBER legislation as a provision in an omnibus bill, standing alone, or in any other capacity, it doesn't matter to us.

I hope the successful recovery of Elizabeth Smart and her father's call for passage of the Senate-passed bill today moves the House Republican leadership to not play politics and promptly let this National AMBER Alert Network Act pass as a stand-alone measure—next week. They could do it tonight. I know how the House works.

The AMBER plan has been credited with the recovery of 49 children nationwide, 49 children who have been reunited happily with their parents. Mr. President, 38 States have a statewide plan. Officials in those States that do

not yet have AMBER plans are working toward establishing the AMBER Alert system, and one of the aims of this bill is to help towns, counties, and States all over America to build and support systems to broadcast AMBER Alerts.

Our bipartisan legislation creates a national AMBER Alert coordinator at the Justice Department to work with States, broadcasters, and law enforcement agencies to set up AMBER Alert plans, to serve as a point of contact to supplement existing AMBER plans, and facilitate appropriate regional coordination of AMBER Alerts.

As I was eating dinner last night, watching Larry King, I was so impressed with the enthusiasm, hope, and glee demonstrated by the family of Elizabeth Smart. Of course, we all recognize the father in tears, saying how happy he was, why haven't we passed this legislation. Today, when he has learned the real facts, he is saying: Why hasn't the House passed this legislation?

This legislation also directs the coordinator in the Justice Department to establish voluntary guidelines for minimum standards for AMBER Alerts and their dissemination. As a result, the bill helps kidnap victims while preserving flexibility for the States. Developing and enhancing the AMBER Alert system is a costly endeavor for States to take on alone. So to share the burden, the bill establishes two Federal grant programs managed by the Justice and Transportation Departments for such activities as information dissemination on abducted children and suspected kidnappers, and for necessary AMBER Alert equipment.

Our Nation's children, parents, and grandparents deserve our help to stop the disturbing trend of children's abductions—to let everyone know they are helping by their taxpayer dollars going to a national system. Everyone can then say, "I have done my share." I think we have a program here that really helps.

In the State of Israel, which every day faces terrorist threats and activities, 90 percent of the terrorist activities are thwarted as a result of citizens, people of good will, seeing something that doesn't look right and calling law enforcement. If there is something going on next-door, on the block, something in their city that they see, or in their neighborhood, they can complain to authorities, and it helps. That is what happened here.

We had people in Salt Lake City—actually, Sandy, UT—who I am sure said: I don't know if I am doing the right thing, but I think this could be Elizabeth. A little girl with a wig—a little girl? She is a teenager—she has been gone almost a year—with a wig and some kind of mask over her face, a veil, as they call it.

But these people of good will said: You know—I am sure I am thinking what they must have thought—this is going to be humiliating to me, if I stop

these people. Maybe they are religious people, maybe this is part of their religious garb and costume. Maybe I'll embarrass them and me. But what if I let them go, walk by, and I haven't done anything about that, and this is Elizabeth?

For whatever reason, they decided to become intervenors. She stepped forward, and said: I think this is Elizabeth. Sure enough, it was. The little girl had a wig on and a veil. She said: I am Elizabeth Smart. As a result of that, she was reunited with her parents.

We don't know. We will never know what that girl has gone through. We don't know all of it. I personally don't know if she was brainwashed, as was Patty Hearst. I don't know anything about it. But I know there are some happy people in Salt Lake City today. Not only the family, not only the family, but all over Salt Lake City, the State of Utah, the neighboring State of Nevada, but the whole country is celebrating a successful conclusion to a kidnapping, an event which doesn't happen that much.

I hope the House of Representatives' conscience will be pricked and they will reach out and do something quickly which they have the capability of doing and allowing the national AMBER Alert program to pass. It should pass not in this congressional session, not this month, but next week, and early in the week. That is my desire. I hope we follow through on it.

#### THE SAFE RETURN OF ELIZABETH SMART

Mr. HATCH. Mr. President, I express my deep-felt feelings about the answer to all of our prayers in Utah. There has never been a State where virtually everybody got on their knees and prayed for the return of this young woman, Elizabeth Smart.

I have to tell you, we believe in miracles out there. We have seen them time after time after time. But I have to admit, most people had pretty much given up. They were thinking, well, that poor soul undoubtedly had to have been murdered. But her father and her mother never gave up.

They were in my office just a short while ago saying: We are going to find her. We believe she is alive—praying every day, fasting for their daughter. People in Utah fast and pray in these situations.

I have to tell you, I was so thrilled last night to see they finally found her.

I could hardly get to sleep.

I want to pay tribute to that wonderful family and her neighbors. Jake Garn and Kathleen Garn are two of the neighbors. I have to tell you, they both have been of tremendous help and bolsterers, as have all of the neighbors, to the Smart family. Jake has moved heaven and earth for them. He has talked to me, worked with me, worked with others. His wife Kathleen is as good as it gets. She is a wonderful



human being. I know she was over there all the time, giving solace, support, comfort. It is typical of these two, who served in the Senate with us for so many years and did such a great job, to continue to do a great job in our home State. That family really deserves a lot of credit. Not only the immediate family but the extended family exercised their faith and prayers on behalf of this young woman.

I hope everything is OK with her. It is certainly OK compared to what she has gone through. I hope everybody who knows her and knows that family will lend support and solace and comfort to help them to reunite in every way and help this young woman to overcome the terrible experience she has had over the last 9 months.

#### AMERICA'S COMMITMENT TO INTERNATIONAL LAW

Mr. BINGAMAN. Mr. President, when future generations reflect on the fallout from the terrorist attack of 9/11/2001, I fear they will see our own commitment to international law as a casualty of that event. I do.

For some time now, there has been a contest within the U.S. foreign policy establishment between those who believe our greater security lies with the strengthening of international institutions and agreements, on the one hand, and, on the other, those who believe our security is enhanced if we demonstrate the will and capacity to prevail; that is, to dominate the new world and shape it to our liking.

The election of President Bush and the attack of 9/11 have moved U.S. policy to endorse this second vision—that of U.S. dominance of a world that meets our standards of acceptable conduct.

The result of this shift in U.S. foreign policy is now evident in the statements and actions of the President regarding Iraq. Unless I misread those statements by the President and his foreign policy team, sometime within the next few days, the United States, and possibly British, troops will begin an invasion of Iraq. The mission, according to the President, will be to disarm Saddam Hussein, to capture and destroy his weapons of mass destruction, to liberate the people of Iraq from his despotic rule, to install a new and democratic government, and to hold up Iraq as a model for freedom and democracy that can be emulated by other Middle Eastern countries.

These are noble objectives. My concern is not with the objectives but with the apparent decision the President has made to proceed with an invasion now while many Americans and many of our traditional allies believe that alternatives to war still exist.

In his State of the Union Address, the President spoke about a circumstance where “war is forced upon us.” After the President spoke, I came to the Senate floor to make what I considered an obvious point; that is, that war had not

been forced upon us. It is still my view today that war with Iraq has not been forced upon us. Our allies who are urging that the U.N. weapons inspectors be given more time to do their work agree with that view.

In the report to the Security Council last Friday, Hans Blix and Mohamed ElBaradai, the heads of the U.N. inspection teams, reported progress toward the goal of ensuring that Iraq has been disarmed. They pointed out that more cooperation by Iraq is needed, but they acknowledged that cooperation has increased.

President Bush and Secretary of State Powell have correctly pointed out that Iraq's increased level of cooperation does not constitute full compliance with Security Council Resolution 1441, in that Iraq has not fully, completely, and immediately disarmed.

The question is whether this failure to fully comply with the U.N. resolution justifies an armed invasion of Iraq at this time. Many Security Council members believe it does not, and, in my view, it does not.

Our Government's position appears to be that we will enforce the U.N. Security Council resolution even though the Security Council itself does not support that action at this time. In other words, we will act in coordination with the views of the world community of nations as long as those views agree with our own. When those views differ from our own, we will use our great military capability to impose our will by force.

I, for one, can support a policy of imposing our will by force, notwithstanding the views of our allies, if there is an imminent threat to our own security and if all options, other than war, have been exhausted. But neither of those circumstances prevails today.

A decision to wage war at this time, absent the support of our traditional allies, contradicts the foreign policy on which this Nation has been grounded for many decades. It undermines the international institution that previous U.S. administrations worked to establish as an instrument for world peace. It clearly signals that even absent an imminent threat to our security, we consider ourselves the ultimate arbiter of acceptable behavior by other governments and that we will act to “change regimes” when we determine the actions of other governments to be unacceptable.

Madam President, this is an unwise and dangerous precedent for us to establish. Stripped of its niceties, it is essentially a foreign policy premised on the belief that “might makes right.” At this point in world history, we have the might and, therefore, accommodating the views of others seems a low priority. But the day will surely come when others also have the might, and then we may wish we had shown restraint so that we can argue that others should as well.

There is a famous scene from “A Man For All Seasons,” the magnificent play

Robert Bolt wrote, about the conflict between Sir Thomas More, a man of conscience and the law, and his sovereign, Henry VIII.

More and Roper, his son-in-law, are arguing about the law at this point in the play. Their conversation is instructive. Roper, the son-in-law, exclaims: “So now you'd give the Devil benefit of law!” More replies: “Yes. What would you do? Cut a great road through the law to get after the Devil?” Roper says: “I'd cut down every law in England to do that,” to which More responds: “. . . And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then?” “Yes, I'd give the Devil benefit of law, for my own safety's sake.”

I submit that if the United States determines to circumvent the U.N. in this case, the Devil may well turn round on us, and we could reap the whirlwind for years to come.

I yield the floor.

#### HOUSTON, WE HAVE A PROBLEM

Mr. LEAHY. Mr. President, after years of shortchanging our nation's crime labs, the Administration has unveiled a proposal to spend more than \$1 billion over five years on forensic DNA programs. This proposal is overdue, but it is welcome, and it will make a difference.

For two years I have repeatedly urged the Administration and House Republicans to fully fund existing programs aimed at eliminating the DNA backlog crisis and, in particular, the inexcusable backlog of untested rape kits. Until now, the Justice Department has simply refused to make this a high priority. In the meantime, untested critical evidence has been piling up while rapists and killers remain at large, while victims continue to anguish, and while statutes of limitation expire.

I am pleased that the Administration's new commitment to funding DNA programs includes \$5 million a year for post-conviction DNA tests that can be used by inmates to prove their innocence. Post-conviction DNA testing has already been used to exonerate more than 120 prisoners nationwide, including 12 awaiting execution. Last year the Justice Department cancelled plans to spend \$750,000 on a post-conviction DNA testing initiative, and diverted the money to another program. It is heartening that the Department at last has recognized the importance of ensuring that the power of modern science, in the form of DNA testing, is available to help prosecutors and defendants alike establish the truth about guilt and innocence.

Clearly, DNA testing is critical to the effective administration of justice

in 21st Century America. But like every forensic tool, DNA testing is only as accurate as the labs and technicians that process the evidence. When we shortchange our labs, we shortchange the whole criminal justice system. The appalling situation in Houston, Texas, is only the most recent example.

Last December, a state audit conducted by a team of forensic scientists uncovered widespread problems at the Houston Police Department's crime laboratory. These problems included poorly trained technicians, shoddy recordkeeping, and holes in the roof that allowed rain to possibly contaminate samples. A Houston councilwoman who toured the lab last June described trash buckets and water buckets throughout the facility: "They were having to move tables around, because some of the leaks were near and sometimes above where the analysis was occurring."

Elizabeth Johnson, a DNA expert familiar with the Houston police lab, has pointed to serious problems beyond holes in the ceiling problems that suggest widespread incompetence or even corruption. Dr. Johnson has testified that lab technicians often vastly exaggerated the probability of a defendant's guilt, while mischaracterizing evidence that exonerated a defendant as "inconclusive." In many cases, she found, lab technicians' reports, which were used to make critical decisions throughout the criminal justice system, asserted conclusions that were entirely unsupported by their data: not technical errors; not misjudgments; but flat-out fabrications.

I have spoken before about the disastrous consequences of sloppy lab work. Two years ago, an FBI investigation found that a police chemist in Oklahoma City was routinely exaggerating her results. At least one man who was convicted on the basis of the chemist's so-called "expert" testimony was later exonerated and released from prison. He had already served 15 years of a 65-year sentence.

There are many other cases in which people have been wrongly convicted because forensic specialists were incompetent, or because they fabricated or overstated test results to support the prosecution's theory of the case. In 1997, we learned about major problems at the FBI's crime labs, ranging from unqualified forensic scientists to contamination of evidence and the doctoring of laboratory reports. Before that, there were similar problems in various state crime labs. Police in Baltimore are currently reviewing 480 cases worked on by a former police chemist who testified at a 1983 rape trial against a defendant who was later exonerated.

While the situation in Houston is not unprecedented, it is particularly alarming. That is because Houston is in Harris County, the execution capital of the United States. Harris County sends more people to death row in a

year than many states do in a decade. More defendants from Harris County have been executed than from any other county in the country.

Harris County prosecutors are now busily reviewing their closed cases to determine whether they involved evidence processed by the Houston police lab. They have already ordered new DNA testing in more than 20 cases, including 7 cases in which the defendant was sentenced to death. Ultimately, several hundred cases will need to be retested.

Retesting has already cleared one man, Josiah Sutton. Sutton was only a teenager when he was convicted and sentenced to 25 years for rape, based largely on a bogus DNA match by the Houston police lab. It now appears that he spent the last 4½ years in prison for nothing.

How many Josiah Sutton's has Harris County wrongfully convicted? Probably quite a few. Hundreds of people have been convicted using DNA evidence processed by the Houston police lab. The fact that the very first batch of cases to be retested has exposed a wrongful conviction suggests that Sutton may be just the tip of the iceberg.

How many more people will be cleared through retesting? That is a trickier question. According to the state audit, the Houston police lab routinely consumed most if not all of the evidence available for testing, with little or no regard for the importance of conserving samples. This practice will greatly limit the possibility for retesting in the hundreds of cases now under review.

DNA testing is an extraordinary tool for uncovering the truth, whatever the truth may be. It can show us conclusively, even years after a conviction, where mistakes have been made. But it cannot show us anything if there is no evidence to test. By needlessly consuming entire DNA samples, the Houston police lab may have destroyed the only key to freedom for more than one wrongly convicted person.

The failure to preserve DNA evidence is a problem in many parts of the country, but it seems to be an official policy in Harris County. In 1997, DNA testing exonerated Harris County defendant Kevin Byrd only because, by pure luck, the 12-year rape kit had not been destroyed pursuant to bureaucratic routine. The very week that Byrd was freed, however, Harris County officials systematically destroyed the rape kits from 50 other old cases, citing a lack of storage space.

No doubt many of the rape kits that Harris County destroyed that week and over the years were analyzed under the leaky ceilings of the Houston police lab. But even with the best of intentions, Harris County prosecutors will not be able to resurrect that evidence for retesting. There may well have been another Josiah Sutton or two among those cases—defendants who were wrongfully convicted based on bad lab work—but without the evidence to prove it, we will probably never know.

The essence of law enforcement is seeking the truth, not hiding from it or destroying evidence in a fit of pique or to save face. The disdain for science, truth, and justice we have seen in Houston, at the heart of the nation's capital punishment system, is an utter disgrace.

All of which is to say that I hope my colleagues will join me in supporting the Administration's new DNA initiative. One billion dollars will give States the help they desperately need to improve the quality and credibility of their crime labs, and to eliminate the backlog of untested DNA evidence. Five million dollars a year will go a long way toward ensuring that no deserving inmate is denied post-conviction DNA testing because he or she cannot afford to pay for it.

In his remarks announcing the DNA Initiative, Attorney General Ashcroft said he "looked forward to working with the Chairmen of the House and Senate Judiciary Committees to develop legislation that provides appropriate post-conviction DNA testing to federal inmates."

I welcome that, but I have a better idea. With Chairman HATCH's agreement, I would like to issue a bipartisan invitation to Attorney General Ashcroft to come to talk to us in open committee about a legislative proposal that is already written, has already been refined and debated, and has already received overwhelming bipartisan support.

I refer to the Innocence Protection Act, a modest and practical package of reforms that aims at reducing the risk of error in capital cases. The reforms proposed by the IPA are designed to create a fairer system of justice, where the problems that have sent innocent people to death row would not occur, and where victims and their families could be more certain of the accuracy, and finality, of the results.

More specifically, the Innocence Protection Act would ensure that post-conviction DNA testing is available in appropriate cases, where it can help expose wrongful convictions, and that DNA evidence is adequately preserved throughout the country. The bill also addresses one of the root causes of wrongful convictions—inadequate defense representation at trial.

Last year, the IPA won the support of a bipartisan majority of the Senate Judiciary Committee, and more than half the entire House of Representatives. Together with other lead sponsors—Senator GORDON SMITH, Senator SUSAN COLLINS, Representative BILL DELAHUNT, and Representative RAY LAHOOD—I am committed to reintroducing the IPA this year and getting it signed into law.

The path to prompt reform is through legislation that is already written and fine-tuned. The path to consensus is through legislation that has already received broad bipartisan support. And the path to addressing the fundamental problems in our criminal

justice system is through legislation that addresses the most common cause of wrongful convictions—inadequate defense counsel—as well as their most conspicuous solution—DNA testing. The path, in each case, is the Innocence Protection Act.

I look forward to continuing to work with my colleagues on both sides of the aisle to pass the Innocence Protection Act this year.

I ask unanimous consent to have printed in the RECORD 2 articles, one from the Washington Post, the other from the New York Times, which describe the ongoing investigation into the Houston police lab.

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

[From the New York Times, Mar. 11, 2003]

REVIEW OF DNA CLEARS MAN CONVICTED OF RAPE

(By Adam Liptak)

When Josiah Sutton went on trial for rape in 1999, prosecutors in Houston had little to build a case on. The victim was the only witness, and her recollection was faulty. But they did have the rapist's DNA, and technicians from the Houston police crime laboratory told the jury that it was a solid match.

That was enough to persuade the jurors to convict Mr. Sutton and send him to prison for 25 years.

But new testing has conclusively demonstrated that the DNA was not Mr. Sutton's, the Houston Police Department said yesterday.

The retesting is part of a review of the laboratory that began after a scathing state audit of its work led to a suspension of genetic testing in January. Mr. Sutton's apparent exoneration is the first to result from the review.

Legal experts say the laboratory is the worst in the country, but troubles there are also seen in other crime laboratories. Standards are often lax or nonexistent, technicians are poorly trained and defense lawyers often have no money to hire their own experts. Questions about the work of laboratories and their technicians in Oklahoma City, Montana and Washington State and elsewhere have led to similar reviews. But the possible problems in Houston are much greater. More defendants from Harris County, of which Houston is a part, have been executed than from any other county in the country.

"This is an earthquake," Mr. Sutton's lawyer, Bob Wicoff, said. "The ramifications of this for other cases, for death penalty cases, is staggering. Thousands of cases were prosecuted on the basis of this lab's work."

The audit of the Houston laboratory, completed in December, found that technicians had misinterpreted data, were poorly trained and kept shoddy records. In most cases, they used up all available evidence, barring defense experts from refuting or verifying their results. Even the laboratory's building was a mess, with a leaky roof having contaminated evidence.

The police and prosecutors vowed to retest DNA evidence in every case where it was used to obtain a conviction. But they remained confident that the laboratory's problems were primarily matters of documentation and testimony that was not conservative enough.

The Sutton case has changed that.

"It's a comedy of errors, except it's not funny," said State Representative Kevin Bailey, a Houston Democrat who is chairman of

a committee of the Texas Legislature investigating the laboratory. "You don't need to be a scientist to know that you have to wear surgical gloves. You have to tag evidence. You need to not have a leaky roof contaminating evidence."

The Houston police have turned over some 525 case files involving DNA testing to the Harris County district attorney's office, which has said that at least 25 cases warrant retesting, including those of seven people on death row. Both numbers will grow significantly as more files are collected and analyzed, Marie Munier, the assistant district attorney supervising the project, said.

Mr. Bailey said he was troubled that the retesting was being conducted under the supervision of Harris County prosecutors.

"I have lost confidence in the Police Department and the district attorney's office to handle this," Mr. Bailey said. "I'm really bothered by the fact that the review is being done by the same people who allowed the errors to go on and prosecuted these cases and so have a stake in the outcomes of the review."

Joseph Owmbly, who prosecuted Mr. Sutton, said his office had not received a formal report from Identigene Inc. of Houston, the outside laboratory his office hired to perform the retesting.

"If he has been exonerated," Mr. Owmbly said, "we also have an eyewitness identification, and we will have to work through that. If he was exonerated, it certainly doesn't make me feel any better."

Mr. Owmbly said his confidence in the police laboratory's work had been shattered. "We're not scientists," he said. "We were presenting evidence that was presented to us. There is a big problem. We are treating it as a big problem."

Houston police officials issued a statement yesterday confirming Mr. Sutton's exclusion, but noted that they had not received a formal report from Identigene.

At a hearing on Thursday, Chief C. O. Bradford said his department had shut down its DNA laboratory and begun an internal affairs department investigation on whether there was criminal or other wrongdoing. Chief Bradford added that there should be a "cease and desist" on executions in the relevant cases until the retesting is complete.

"There certainly is a fear that people were wrongly accused, wrongly convicted or received longer sentences than they should have," he said last week in an interview in Austin.

William C. Thompson, a professor of criminology at the University of California at Irvine who has studied the Houston police laboratory's work, said, "The likelihood that there are more innocent people convicted because of bad lab work is almost certain."

Elizabeth A. Johnson, a DNA expert retained by Mr. Sutton's lawyers, has appeared as a defense witness in about 15 cases involving the crime laboratory and is perhaps its most vocal critic.

In one rape case, Dr. Johnson said, a technician testified that a swab of the victim found semen, even though initial laboratory reports said there was no semen present. In other cases evidence that technicians said was inconclusive actually exonerated the defendant. Often, she said, technicians would vastly exaggerated the probability of a defendant's guilt.

There was, she said, "an overall lack of understanding of how this work is done and what it means."

She said the laboratory was particularly weak where the sample involved a mixture of DNA from two people.

"They can't do a sperm sample separation to save their lives," Dr. Johnson said. "If you put a gun to their heads and said you

have to do this or you will die, you'd just have to kill them."

There is plenty of blame to go around in the Sutton case, legal experts said, and it suggests a need for an independent investigation and systemic reform.

"The criminal justice system in Houston is completely dysfunctional," Professor Thompson said. He examined eight DNA cases processed by the Houston police at the request of KHOU-TV, the television station that first called attention to the laboratory's problems in several reports in November.

In Mr. Sutton's case, there happened to be a small amount of evidence available for retesting. That is seldom the case in Houston, according to the state's audit.

Mr. Sutton's mother, Carol Batie, said her son's main concern on hearing there would be retesting was that so little evidence remained available.

"We were concerned it would come back inconclusive," Mr. Batie said.

Mr. Bailey, the state representative, said the Sutton case should change the usual presumptions in cases where retesting is impossible. "Unless there is other strong corroborative evidence," he said, "those people at the very least deserve retrials."

The victim in the Sutton case identified him, but her testimony has been questioned. She said she was raped by two men. Both were around 5 feet 7 inches tall, she said; one weighed 135 pounds, the other weighed 120.

Five days later, she saw several men on the street and identified two of them as her attackers. DNA evidence excluded one man at the time, meaning one of her two identifications was demonstrably mistaken from the start. Mr. Sutton, moreover, is 5 foot 10 and weighs more than 200 pounds.

The Sutton case, said David Dow, a University of Houston law professor who represents death row inmates in capital appeals, "is probably the tip of the iceberg."

"There were two different problems in the crime lab—scientific incompetence and corruption," Professor Dow said. "That's a deadly combination. Once you have corruption, there is no reason to think that this is limited to DNA cases or cases where there is scientific evidence of any sort."

"If this were a death penalty case," he added, "Sutton may well have been executed by now."

[From the Washington Post, Mar. 1, 2003]

TEX. LAWMAKERS PROBE LAB OVER REPORTS OF TAINTED DNA EVIDENCE

(By Karin Brulliard)

AUSTIN, Feb. 28.—The Texas Legislature has launched an inquiry into the operations of the Houston Police crime lab after reports that the lab's shoddy facilities and faulty practices may have led to contamination of DNA evidence in hundreds of cases.

An independent audit by the state in December uncovered the problems. In January, police officials suspended DNA testing at the lab, and the Harris County District Attorney's office began a review of all cases that involved evidence processed there.

So far, the DNA from at least 14 convictions will be retested because of information secured during the reviews, said District Attorney Charles A. Rosenthal Jr. At least three involve death row cases.

Houston is in Harris County, which has sent more people to death row than any other county in Texas.

"It's a serious, serious problem," said state Rep. Kevin Bailey, a Democrat from Houston who is chairman of the House General Investigating Committee, which will hold hearings on the lab next week. "The public has a right to expect a fair and accurate analysis

by a metropolitan crime lab. When we find out that we've not had that, it causes people to question the whole criminal justice system."

In the December audit, a team of forensic scientists detailed problems that included inadequate recordkeeping, poor maintenance of equipment and a leaky roof that it said could lead to contamination of DNA samples.

City Councilwoman Carol Alvarado, who toured the facility June 11 after receiving complaints from lab employees, said the roof was in poor shape.

"These were not just leaks; these were holes," she said. "There were trash buckets and water buckets throughout the lab. They were having to move tables around, because some of the leaks were near and sometimes above where the analysis was occurring."

Alvarado said she reported her findings to the council June 19, but funding issues prevented the council from awarding a contract for roof repair until January.

Houston Police Department spokesman Robert Hurst refused to comment on the lab.

Elizabeth Johnson, who directed the Harris County DNA lab until 1996, said water from a leak could taint samples. But she also said the city police lab's problems run deeper than a leaky roof.

"Every single case I ever reviewed of theirs had at least one serious error and sometimes more than one error," she said. "I'm not talking about a typo. I'm talking about things like controls being missing. Most common were that their reports would say one thing, and their data didn't support that at all."

Rosenthal said any DNA retests that reveal errors will lead to new trials.

Bailey said the use of DNA evidence from a flawed lab reveals the "win and get a conviction at all costs" attitude of the district attorney's office. He wants hearings to determine whether an external review is necessary.

"No innocent people should be convicted because of faulty analysis," he said. "At this point, I'm skeptical as to whether the Houston lab can analyze their own mistakes."

[From the Washington Post, Mar. 13, 2003]

#### TEX. EXECUTION STAYED AT LAST MINUTE— SUPREME COURT CONSIDERS REVIEW

(By Charles Lane)

The Supreme Court granted a last-minute stay of execution last night to a Texas death-row inmate who says he is innocent of the murder of which he was convicted 23 years ago, setting the stage for another high-profile debate at the court over alleged flaws in the U.S. capital punishment system.

In a brief order issued about 10 minutes before officials were to administer a lethal injection to Delma Banks Jr., the justices said that he should be kept alive at least long enough for them to consider his request for a full-scale hearing on claims that his 1980 trial in Bowie County, Tex., was marred by prosecutorial misconduct, ineffective defense counsel and racially discriminatory jury selection.

Banks, an African American, was convicted of killing a white teenager by an all-white jury. If his execution had proceeded last night, he would have been the 300th person put to death in Texas since the state resumed executions in 1982.

It was unclear when the court might meet to consider Banks' petition. Its next scheduled closed-door conference is March 21. However, the stay may be a favorable sign for Banks because it required the votes of at least five justices, and a decision to hear his case could be made with the assent of just four justices.

Consistent with growing public concern over the possibility of wrongful death sen-

tences, the court has shown interest recently in the issues raised by Banks' appeal, though its rulings have not always come out the way death penalty opponents would have liked.

The court ordered a lower court review of another Texas man's death sentence last month, ruling that a case could be made that jury selection at his trial was racially biased; last year, it abolished capital punishment for the mentally retarded. But also last year, the court rebuffed an effort to seek abolition of the death penalty for juveniles and let Virginia proceed with the execution of a murderer who had been represented at trial by the murder victim's former lawyer.

"Delma Banks Jr., who has maintained his innocence from the beginning, found justice in the courts today, and we are hopeful that this delay will allow a meaningful review of the serious claims in his case," Banks' lawyer, George Kendall of the NAACP Legal Defense and Education Fund, said in a prepared statement. "The court's decision to stay the execution in order to potentially hear the significant claims put before it demonstrates that our tribunals will not turn a blind eye to egregious miscarriages of justice."

Bobby Lockhart, district attorney of Bowie County, said, "Factually, [Banks] was guilty, and legally the jury found him guilty. As to the death penalty, that's up to the Supreme Court. I think that the Supreme court will review the case and find that he was guilty, and I think there's no way the stay [of execution] will be extended beyond 30 days."

Banks' case has attracted attention in part because of the supporters who have rallied to his cause, including former FBI director William S. Sessions and two former federal appeals court judges.

In a brief submitted to the Supreme Court in support of Banks' request for a stay, Sessions and his colleagues said that the Banks case is tainted by "uncured constitutional errors" that are "typical of those that have undermined public confidence in the fairness of our capital punishment system."

Banks, then 21, was convicted in 1980 of shooting his co-worker Richard Wayne Whitehead, 16, to death with a .25-caliber handgun.

Banks' lawyers argue that prosecutors wrongfully suppressed evidence that one of their key witnesses, who has since recanted, lied on the stand. Banks' attorneys also argue that his inexperienced defense lawyers offered little evidence to counter prosecutors' claims that Banks deserved the death penalty, even though he had no previous criminal record.

Prosecutors kept African Americans off the jury, they contend, producing the all-white panel that convicted Banks and sentenced him to death in the course of two days of legal proceedings.

No physical evidence linked Banks to the crime. But Banks was the last person seen with Whitehead, and prosecutors said their case against him is strong. Last week, the New Orleans-based U.S. Court of Appeals for the 5th Circuit, reversing a federal district judge's ruling in favor of Banks, permitted his execution to proceed, on the grounds that the alleged flaws in his trial were not substantial enough to have changed the outcome.

The Texas Court of Criminal Appeals this week refused to block Banks' execution, and the Texas Board of Pardons and Paroles would not hear his plea because it was filed too late.

Because of the prolonged appeals process in his case, Banks has been on death row while Texas conducted 299 executions, the most of any state since the Supreme Court permitted states to resume capital punishment in 1976.

#### RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN. Mr. President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 108th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator HOLLINGS, I ask unanimous consent that a copy of the Committee Rules be printed in the RECORD.

#### RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

##### I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be

scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

#### II. QUORUMS

1. A majority of members shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

#### III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

#### IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

#### V. SUBCOMMITTEES

1. Any member of the Subcommittee may sit with any Subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

#### VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

### ARMING CARGO PILOTS AGAINST TERRORISM ACT

Mr. BUNNING. Mr. President, I rise to thank my colleagues on the Senate Commerce Committee for unanimously passing the language of the Arming Cargo Pilots Terrorism Act as an amendment to the Air Cargo Security Act.

As was made so terribly clear on September 11, 2001, we must be ready for terrorist threats in places and times we never before thought we would. Congress has acted deliberately to increase our security and make it harder for terrorists to repeat the destruction of September 11.

One step Congress took was to arm pilots of commercial aircraft who volunteered for a rigorous training program. At the last minute, commercial cargo pilots were left out of the program while their counterparts flying

for commercial passenger carriers were armed. That makes no sense because cargo pilots fly the same planes with the same or larger fuel loads as the passenger aircraft that were hijacked on September 11.

Last week, I introduced the Arming Cargo Pilots Against Terrorism Act to close that dangerous loophole. Today, Senator BOXER offered our bill as an amendment in the Commerce Committee and it passed unanimously. I thank her for all her hard work on this issue and I thank the Commerce Committee for acting expeditiously.

I am hopeful this bill soon become law and the loophole will be closed. We need to protect our cargo pilots and the general public from any possible threat.

### THE ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

Mr. MCCAIN. Mr. President, when Zoran Djindjic was assassinated in Belgrade yesterday, Serbia and the world lost a champion of freedom who gave his life in service to it. We mourn his death and condemn his assassins' attempt to destroy democratic rule in a country that was only recently liberated from Slobodan Milosevic's tyranny, but had already come so far.

I first heard about Zoran Djindjic in 1996 when he took to the streets of Belgrade with hundreds of thousands of Serbs to force Milosevic to accept local election results. He was victorious in that battle. It took him four more years of hard and dangerous work to defeat Milosevic at the polls and in the streets.

The Serbian revolution of 2000 showed the world that democracy can succeed, in the Balkans as elsewhere, if leaders are wise, persistent, and courageous. The Milosevic government was the last Balkan dictatorship to fall. Zoran Djindjic was the person pushing hardest at the pillars of the authoritarian state. Once he became Prime Minister, he made the tough decisions to transform Serbia from dictatorship to democratic republic. He sent Milosevic to The Hague, despite fierce internal opposition; he implemented critical economic and political reforms; and recently he had begun to aggressively fight organized crime. It was one battle too many.

Those who would corrupt and destroy democracy in Serbia presumably hope by their actions to extinguish the Serbian people's aspirations to live under rule of law and in liberty as part of a secure and prosperous Europe. They have failed. Killing one man will not stop reform or diminish the passion of Serbs to be part of the European family of free nations. I hope it will only invigorate Zoran Djindjic's many followers to carry on the struggle they began together in the dark days of Milosevic's rule.

Our prayers are with the Djindjic family, his colleagues in the Democratic Opposition of Serbia, and the

Serbian nation. To the people of Serbia, we say: Please continue to fight for those principles your Prime Minister represented with honor, skill, and courage. He will be written into the history of a very difficult time. His name will be known for the freedom he helped bring to a long-suffering people. America salutes a fallen hero.

#### JACKSON-VANIK

Mr. LEVIN. Mr. President, nearly three decades ago, a small provision was included in the Trade Act of 1974. While relatively small in number of words, this provision, known as the Jackson-Vanik amendment, helped open up an entire society.

Three decades ago, during the height of the Soviet Union's power, Senator Henry "Scoop" Jackson and Representative Charles Vanik introduced legislation that exposed the repressive tactics of the Soviet Union. By focusing attention on the emigration restrictions that the Soviet Union placed on its Jewish citizens, the Jackson-Vanik amendment reiterated American concern about the wide-scale human rights abuses occurring in the Soviet Union. In the process, the Jackson-Vanik amendment played a vital role in changing Soviet society.

Now, as the cold war recedes further into the past, it is time for Russia to be "graduated" from Jackson-Vanik. Because of the persistence of the Jackson-Vanik requirements, the administration must report semi-annually on the Russian Federation's compliance with the freedom of emigration requirements. This reporting requirement is a source of much frustration and embarrassment to our Russian friends, a fact that is made clear to me whenever I meet with individuals or groups from Russia.

Russia has made great progress in reforming itself. Since 1994, consecutive administrations have noted that the Russian Federation has been found to be in full compliance with the freedom of emigration requirements under Title IV of the Trade Act of 1974. In this time, the United States has signed a bilateral trade agreement with Russia, and the Bush Administration according to its website "has begun consultations with Congress and interested groups on the possibility of graduating Russia and other countries of the former Soviet Union from the provisions of the Jackson-Vanik amendment." Graduating Russia from Jackson-Vanik at this time will improve our relations with Russia while enabling us to reflect upon the courage of Soviet Jewry and the success of this legislation. I ask unanimous consent that a letter from Mr. Leonid Nevzlin, former President of the Russian Jewish Congress and a current member of the Russian Senate, be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. This letter states that "there should be no doubt that the Jewish community believes the Jackson-Vanik requirements have been met in terms of immigration and freedom of movement in today's Russia."

This bill, which Senator BAUCUS is introducing and which I am pleased to co-sponsor, would enhance relations between the United States and Russia. While recognizing the advances made by Russia, the legislation also ensures that Congress can continue to play a meaningful role in addressing trade disputes with Russia and in setting the terms of World Trade Organization, WTO, accession for Russia.

While this legislation grants Permanent Normal Trade Relations, PNTR, to the Russian Federation, it does not abrogate the rights of Congress to comment on Russia's accession to the WTO nor does it remain silent about the need for continued progress by the Russian Federation with regard to human rights matters.

The Jackson-Vanik amendment was but one part of the Trade Act of 1974 that addressed trade with nonmarket economies. Recognizing the trade policy aspects of "graduating" a country from Jackson-Vanik, Congress has traditionally granted PNTR to a country subject to Jackson-Vanik only at the time of its accession to the WTO. This practice has given Congress the ability to voice its approval for the terms by which a nation accedes to the WTO. The terms for Russia's WTO accession are still being discussed, and even though this legislation would provide PNTR for Russia before those terms are final it also provides Congress with the means to comment on those terms and voice its approval or disapproval for them.

This legislation addresses the concerns of the Jackson-Vanik Amendment while preserving Congress' ability to play a key role in discussions about Russia's accession to the WTO. In a piece encouraging the ending of Jackson-Vanik's applicability for Russia, the Israel Policy Forum stated that: "things change. Old empires disappear. Old enemies become new friends. History's challenge is to anticipate its direction and move along with it."

This legislation recognizes the profound changes wrought by the Jackson-Vanik Amendment while acknowledging our need to move forward as we continue to engage with Russia on matters of human rights and trade.

EXHIBIT 1

JUNE 27, 2002.

Hon. CARL LEVIN,  
United States Senate,  
Washington, DC.

DEAR SENATOR LEVIN: I am pleased we had an opportunity to meet when I was in Washington, DC last week. Your long-standing interest in promoting closer working relationships between the U.S. Senate and the Russian parliament is much appreciated.

As promised, I am sending a copy of my letter, as president of the Russian Jewish Congress, to Presidents Bush and Putin ex-

pressing support for repeal of the Jackson-Vanik Amendment. I prepared the letter some time ago and it is surprising that more people in the U.S. Senate were unaware that it had been sent. There should be no doubt that the Jewish community believes the Jackson-Vanik requirements have been met in terms of immigration and freedom of movement in today's Russia.

I have also taken note of your concerns about the sale of dual use technology to Iran and Iraq. In this regard, as you recall I proposed in our meeting that our two chambers establish a framework to assess how we can both develop greater cooperation on matters of mutual concern. I am very pleased that both you and Chairman Biden encouraged me to develop such a framework and look forward to working with both of you to see that this is accomplished.

On another matter, I know of your interest in reducing America's dependence on oil shipments from Middle East countries and though you would like to know that Russian oil company YUKOS, will be delivering the first load of Russian oil to Houston, Texas soon. I am confident that Russia could be a reliable supplier and would welcome the opportunity to work with you and others in Congress on initiatives that would encourage this development.

It is my hope to build a closer working relationship with select members of the U.S. Senate in order to take a fresh approach to a new set of challenges that beset both our countries.

In recognition of the upcoming celebration of America's Independence Day on July 4, I extend my best wishes to you, as representative of the people, for your country's remarkable achievement.

Sincerely,

LEONID NEVZLIN,  
Senator, Deputy Chairman of the Committee  
for Foreign Affairs, Council of Federation of  
Russian Parliament.

#### COVER THE UNINSURED WEEK

Mr. SMITH. Mr. President, as most of my colleagues know, this week is Cover the Uninsured Week in America. The Robert Wood Johnson Foundation and a host of other organizations, including the U.S. Chamber of Commerce, the AFL-CIO, and AARP, have come together, recognizing that we can delay no longer in addressing this critical issue. Like them, I believe that Congress should seize this opportunity to reaffirm its commitment to bringing high quality, affordable, and stable health coverage within reach of the 41 million Americans who now go without.

Health insurance coverage is the best predictor of access to health care in America today; yet, despite its importance, more than 41 million Americans remain uninsured, and 75 million Americans under 65 years of age—three out of every 10—were uninsured at some point during the past two years. Experts estimate that this number will increase by 1 to 3 million people this year as the economic downturn continues. In our state alone, 436,000 people sought Oregon Health Plan coverage last year—a 14 percent increase since 2000.

I know we can reverse this trend because we have done it in the past. During my first year in the U.S. Senate, I

helped create the State Children's Health Insurance Program, SCHIP. That program provides coverage for needy children who do not qualify for the Oregon Health Plan. Today, all 50 States have SCHIP programs providing for 4.6 million children. And in 2001, Oregon's SCHIP program provided health coverage to over 41,000 needy children.

While we in Congress debate the ways in which legislators can help tackle this difficult problem, people all over the country are acting on their own to help bring health services and a better quality of life to countless vulnerable Americans. During Cover the Uninsured Week I would like to tell you about one person from my own state of Oregon whom I consider to be a true "Health Care Hero." Mr. Ian Timm is a man who has truly made a difference to the lives and health of many Oregonians.

Mr. Timm is well known as an effective advocate bringing health services to Oregon's needy. Whether serving on the Oregon Rural Health Association board, chairing the Oregon Statewide Health Coordinating Council, or providing leadership as a Linn County Commissioner, Mr. Timm has dedicated his professional life to making a difference in the lives of others. He is well known for providing both vision and structure to Oregon's efforts to provide quality health services for children and families. Because of his work, young children receive immunizations, mothers have quality pre-natal care, and seniors have the attention of physicians, all regardless of their financial status.

In Oregon, we have a tradition of taking care of those who cannot take care of themselves—Mr. Timm has been a leader in making this value a reality. For instance, Mr. Timm's vision led to the development of Care Oregon, which provides health coverage for thousands of Oregonians as the largest insurer of clients within the Oregon Health Plan. He serves on the Oregon Partnership to Immunize Children, ensuring that Oregon kids receive the preventive care they need. Through his work at the Oregon Primary Care Association, Mr. Timm has increased access to health care by bringing resources to community based health centers. These centers are one of the most effective ways to provide health care to those who often drop through the cracks, preventing disease and saving lives.

But Mr. Timm's service is not limited to our borders. Driven by his faith and concern for others, he has shared his time and talents overseas in the Sudan and in Thailand. During the Ethiopian refugee crisis, he supervised the construction of camps and provided medical and sanitation services for 105,000 refugees. In Thailand, he created sanitation programs for 14 refugee camps, and supervised two outpatient clinics, public and school health programs, and the Khmer Health Training Center. Few of us are willing to forsake the comforts of home, yet Mr. Timm



volunteered to bring hope and life to those in the most desperate corners of the globe.

Mr. Timm has built both a local and national reputation as an effective advocate and distinguished public servant who is a true friend to the poor and vulnerable. This year, Mr. Timm will retire from professional service, ending his distinguished career as the Executive Director of the Oregon Primary Care Association. He will be sorely missed. But given his record of valuable service, I'm confident he will continue to make a difference for Oregonians.

I salute Ian Timm for his record of accomplishment and tremendous legacy of healthy Oregon children and families. He is the definition of a Health Care Hero and an example of compassionate service for all of us here in Congress and across America.

We in the U.S. Senate have a moral obligation to follow Ian Timm's example. In so doing, the 108th Congress can leave its own legacy of healthy children and families. Cover the Uninsured week lasts only 7 days, but I urge my colleagues to continue their personal commitment to this issue throughout their time in public office and beyond. Only with this type of dedication can we truly keep America healthy.

#### UH-60 BLACKHAWK CRASH AT FORT DRUM, NEW YORK

Mr. BURNS. Mr. President, I rise today to mourn the loss of 11 brave soldiers killed in a UH-60 Blackhawk crash on the afternoon of Tuesday, March 11, at Fort Drum, New York. This tragic accident occurred as the unit was conducting a routine training exercise. One of the young men on board, Pfc. Stryder O. Stoutenburg, was from Missoula, MT. He was only 18 and was assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

The other 10 young men killed are: Cpt. Christopher E. Britton, 27, from Ohio, assigned to Headquarters and Headquarters Company, 1st Battalion, 10th Aviation Regiment.

Chief Warrant Officer 3 Kenneth L. Miller, 35, from California, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Staff Sgt. Brian Pavlich, 25, from Port Jervis, NY, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. John L. Eichenlaub, Jr., 24, from South Williamsport, PA, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. Joshua M. Harapko, 23, from Peoria, AZ, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Spc. Lucas V. Tripp, 23, from Aurora, CO, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Spc. Barry M. Stephens, 20, from Pinson, AL, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Pfc. Shawn A. Mayerscik, 22, from Oil City, PA, assigned to Charlie Com-

pany, 4th Battalion, 31st Infantry Regiment.

Pfc. Tommy C. Young, 20, from Knoxville, TN, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Pfc. Andrew D. Stevens, 20, from Rockingham, NH, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

In addition, two young men were seriously injured—Spc. Dmitri Petrov and Spc. Edwin A. Mejia, both from Charlie Company, 4th Battalion, 31st Infantry Regiment.

Each and every one of these young men was a patriot and served their country bravely. My thoughts and prayers go out to the families of these boys. While the cause of the accident remains under investigation, I have asked to be kept informed of any and all developments and am confident that a thorough examination will be conducted.

Our brave military men and women fully know the risk they take in doing their duty and they meet this risk head on, to ensure that the rest of us continue to live with freedom. Tragic accidents such as this one truly remind us all of the high price of freedom.

I will continue working with my colleagues to make sure our troops have the best equipment, instruction, and supplies to ensure their safety not only on the battlefield, but in training exercises as well. May God bless the young soldiers who died training to defend the values of this great Nation.

#### MIDDLEBURY COLLEGE PAN- THERS' WELL-PRACTICED TRADI- TION

Mr. LEAHY. Mr. President, today I want to bring to the Senate's attention a group of student athletes in Vermont who have an unusual and admirable tradition. For the past 42 years, Middlebury College freshman have helped a Middlebury man with a disability make it to football and basketball games like clockwork. It is another example where students' education extends far beyond the walls of a college classroom.

In the March 10, 2003, issue of Sports Illustrated, well-known sports columnist Rick Reilly took a moment to explain the tradition to his readers. Middlebury College has long been recognized as one of the Nation's finest institutions of higher education. The quality of its faculty, the rigors of coursework, stunning facilities, and the success of its athletic programs are the foundation for Middlebury's storied history and academic reputation. Yet it also is what goes unnoticed that makes this truly a special place—like a tradition that takes place right before the start of every football and basketball game. It is a tradition that has come to exemplify what it means to be a Middlebury College Panther, a Vermonter, and a person in full.

For the past 42 years, the freshman members of the Middlebury College

football and basketball teams have been going to Butch Varno's house before the start of the game and literally giving him a lift. Mr. Varno, who from infancy has contended with cerebral palsy, is confined to a wheelchair and does not drive. On game day, he anticipates the arrival of a small band of Panthers for a ride to the game, which includes lifting Mr. Varno out of bed and getting him to the bleachers.

We in Vermont are proud of the student athletes who make this happen before each game. Whether they know it or not, they represent the very best of our Nation's college students. They are learning, playing hard and, most importantly, caring for others in their community.

I ask unanimous consent that the text of Rick Reilly's column be printed in the RECORD.

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

[From Sports Illustrated, Mar. 10, 2003]

EXTRA CREDIT

(By Rick Reilly)

The best college tradition is not dotting the i at Ohio State. It's not stealing the goat from Navy. Or waving the wheat at Kansas.

It's Picking Up Butch at Middlebury (Vt.) College.

For 42 years Middlebury freshman athletes have been Picking Up Butch for football and basketball games. It's a sign-up sheet thing. Carry the ball bags. Gather all the towels. Pick Up Butch.

Basketball players, men and women, do it during football season. Football players do it during basketball season. Two hours before each home game, two freshmen grab whatever car they can get and drive a mile off campus to the tiny house where 54-year-old Butch Varno lives with his 73-year-old mother, Helen, who never got her driver's license. And they literally Pick Up Butch, 5'3" and 170 pounds, right off his bed.

They put him in his wheelchair and push him out of the house, or one guy hauls him in a fireman's carry. They pile him into the car, cram the wheelchair into the trunk, take him to the game and roll him to his spot in the mezzanine for football games or at the end of the bench for basketball.

Butch always smiles and says the same thing from the bottom of his heart: "CP just sucks." Cerebral palsy. While his fondest dream has always been to play basketball, it'll never happen. There is little that he can physically do for himself.

"At first, you're a little nervous; you're like, I don't know," says freshman wide receiver Ryan Armstrong. "But the older guys say, 'We did it when we were freshmen. Now you go get him. It's tradition.' So me and my buddy got him the first week. He's pretty heavy. We bumped his head a couple of times getting him into the car. He's like, 'Hey! Be careful!' But he loves getting out so much that afterward you feel good. It's fun to put a smile like that on somebody's face."

And the kids don't just Pick Up Butch. They also Keep Butch Company. Take Butch to the Bathroom. Feed Butch. "He always likes a hot dog and a Coke," says 6'8" Clark Read, 19, a power forward. "It's kind of weird at first, sticking a hot dog in his mouth. The trick is to throw out the last bite so he doesn't get your fingers."

Thanks to 42 years of freshmen, Butch hardly ever misses a Middlebury game. Not that he hasn't been late.

"One day this year, the two guys were calling me on their cell," says Armstrong, "and

they're going, 'We can't find Butch!' And I'm like, 'You lost Butch? How can you lose Butch?' Turns out they just couldn't find his house."

Nobody at Middlebury remembers quite how Picking Up Butch got started, but Butch does. It was 1961. He was 13, and his grandmother, a housekeeper at the dorms, wheeled him to a football game. It started snowing halfway through, and afterward she couldn't push him all the way back home. A student named Roger Ralph asked them if they needed a ride. Ever since then, Butch has been buried in the middle of Middlebury sports.

Sometimes he gives the basketball team a pregame speech, which is usually, "I love you guys." He holds the game ball during warmups and at halftime until the refs need it. He is held upright for the national anthem. Once in a while, just before tip-off, they put him in the middle of the players' huddle, where they all touch his head and holler, "One, two, three, together!" When the action gets tense, the freshmen hold his hands to keep them from flailing. After the games some of the players come back to the court and help him shuffle a few steps for exercise, until he collapses back in his chair, exhausted. Then it's home again, Butch chirping all the way.

And it's not just the athletes at Middlebury who attend to him. Butch is a campus project. Students come by the house and help him nearly every day. Over the years they taught him to read, and then last year they helped him get his GED. Somebody got him a graduation cap and gown to wear at the party they threw in his honor. During his thank-you speech, Butch wept.

"These kids care what happens to me," Butch says. "They don't have to, but they do. I don't know where I'd be without them. Probably in an institution."

But that's not the question. The question is, Where would they be without Butch?

"It makes you think," says Armstrong. "We're all young athletes. Going to a game or playing in a game, we take it for granted. But then you go Pick Up Butch, and I don't know, it makes you feel blessed."

Now comes the worst time of the year—the months between the end of the basketball season, last week, and the start of football in August. "It stinks," Butch says. He sits at home lonely day after day, watching nothing but Boston Red Sox games on TV, waiting for the calendar pages to turn to the days when he can be one, two, three, together again with the students he loves.

On that day the door will swing open, and standing there, young and strong, will be two freshmen. And, really, just seeing them is what Picking Up Butch is all about.

#### ADDITIONAL STATEMENTS

##### REGARDING THE RETIREMENT OF TALBERT O. SHAW AS PRESIDENT OF SHAW UNIVERSITY

• Mr. EDWARDS. Mr. President, I am pleased today to pay tribute to a remarkable North Carolinian, Talbert O. Shaw.

Dr. Shaw is retiring this year as president of Shaw University after a groundbreaking 15 years in which he helped this noble institution regain its footing and once again become a beacon of knowledge, opportunity and service for the people of North Carolina and beyond.

Dr. Shaw was born in Jamaica, the ninth of 10 children. He served as a

minister in Jamaica and the Bahamas before moving to the U.S. in the 1950s. After earning his master's degree and doctorate in ethics from the University of Chicago, Dr. Shaw taught religion and ethics for 10 years before becoming interim dean of the Howard University Divinity School in Washington D.C. He then served as dean of arts and sciences at Morgan State University for 11 years.

Dr. Shaw left his comfortable position at Morgan to heed an urgent call from Shaw University, the oldest historically black university in the South. The University had fallen on hard times and was in dire financial trouble. The school had no endowment, there was not enough money to pay day-to-day expenses. Enrollment was down. No one would have blamed him if he had passed up this challenge. But he didn't pass it up—he took it on.

Rallying students, faculty, and the community with his slogan "Strides to Excellence: Why Not the Best," Dr. Shaw worked tirelessly to turn around the school's fortunes. And thanks to his leadership, Shaw University is once again a shining light. Enrollment is up, debts are paid and the endowment is now \$15 million. Seventy percent of the faculty have Ph.Ds. Because of his belief that "education of the heart is just as important as the education of the heads and hands," he has incorporated values and ethics into the Shaw curriculum. Thanks to the efforts of Dr. Shaw and his outstanding faculty and staff, Shaw students are receiving an education second to none.

Dr. Shaw has also found time to contribute to the community. Among other things, he serves on the board of the Wade Edwards Learning Laboratory, an after-school program that my wife and I started and has offered invaluable service to the young people we serve.

We are sorry to see Dr. Shaw leave but we in North Carolina wish him and his wife, Marlene, many, many years of happiness and health as they take on future challenges together.

In striving for excellence, Dr. Shaw asked, "why not the best?" Fortunately, that's just what he gave us. Thank you, Dr. Shaw, for a job well done. You are an inspiration to us all.●

##### COMMENDING THE HUMANITARIAN WORK OF JOHN VAN HENGEL

• Mr. MCCAIN. Mr. President, I rise today to honor a great American, a man whose tireless efforts on behalf of needy people everywhere are an inspiration to us all. February 21 of this year marked the 80th birthday of my constituent, John van Hengel, who has become known as the "Father of Food Banking." His vision for feeding the hungry and his work making that vision a reality has made a tremendous difference in the lives of millions of people.

John van Hengel's work is a testament to the ability of one person to

change the world for the better. In 1965, John was a businessman who volunteered some of his spare time to the St. Vincent de Paul Society in Phoenix, AZ. In the course of his volunteer work, John saw there was a need for additional food for the Society's soup kitchen. In the course of his work, John met a woman who had to collect food from grocery store garbage bins to feed her 10 children. That needy mother told John that there should be a place where surplus food could be stored and available to people who needed it, instead of being thrown out and wasted. As he looked around for ways to better serve the needy people he met, John noticed that fruit was being left unpicked on suburban backyard trees around Phoenix. John recruited volunteers to gather fruit that remained in area fields after harvesting. He then delivered these much needed fruits and vegetables to various local churches. With John's leadership, one of the Nation's first "gleaning" projects became a reality.

John recruited the local grocery stores and asked them to donate surplus food. John also approached his local church, and the church responded by loaning John \$3,000 and an abandoned building. In 1967, John van Hengel founded the world's first food bank, named St. Mary's in honor of the church that housed it. Thus was born the first food bank and the concept of food banking—a central source for food donations and distribution to a wide range of local charitable agencies that feed the hungry.

After the creation of the St. Mary's Food Bank, John founded Second Harvest in 1976. With the help of private donations and State and Federal grants, John helped to set up and develop Second Harvest food banks in other nearby communities in Arizona, California, and other States. The success of these new food banks led to Second Harvest becoming formally incorporated in 1979. Today, it is known as America's Second Harvest, the Nation's largest hunger relief charity and a nationwide network of more than 200 regional food banks and good rescue organizations that provide food and other services to more than 50,000 local charitable agencies.

In 1982, John van Hengel stepped down from his full-time role at Second Harvest to pursue his work of spreading food banking internationally. In 1984, John van Hengel founded Food Banking, Inc., a nonprofit food bank consulting organization. John helped spread the notion of food banking and volunteerism in an international capacity, first in Canada through the creation of the Canadian Association of Food Banks, then to France, and to Belgium. Today, the Federation of European Food Banks meets regularly to discuss experiences and ways to expand the work of its members. Recently, the idea of food banking has spread to Brazil, Israel, Mexico, and Japan. John van Hengel's vision, first articulated

and acted upon in Phoenix in 1967, is the first link in an international chain of food banks and compassion for the neediest among us.

John van Hengel's food banking idea is simple, but like all truly great ideas, it took the efforts of one man working for a lifetime to reach fruition. Because John van Hengel was the need to help hungry people, he created a concept to address that need. Dozens of countries and millions of people now have a powerful weapon against hunger.

In the wake of his 80th birthday, it is a privilege in honor John van Hengel for his noble dedication to feeding the hungry. His vision and leadership continue to greatly impact the lives of millions throughout the United States and the world.●

#### TRIBUTE TO CRAIG STALKER-TROOPER OF THE YEAR IN SOUTHERN REGION

● Mr. BUNNING. Mr. President, I rise today in the Senate to honor and pay tribute to Kentucky State Police Trooper Craig Stalker for being named the Southern Region Trooper of the Year.

This honor was bestowed upon Trooper Stalker by the International Association of Chiefs of Police. Trooper Stalker was nominated for this prestigious award after he rescued several people from two burning cars in Johnson County, KY, while off duty. After receiving this distinction he was presented with a 35-pound eagle trophy.

The citizens of eastern Kentucky are fortunate to have Trooper Stalker protecting their communities. His example of leadership, hard work, and compassion should be an inspiration to all throughout the Commonwealth.

Congratulations, Trooper Stalker for receiving this award. Trooper Stalker is just one of the many Kentucky State Police officers which put others before themselves by vowing to protect and serve Kentuckians. They have earned our admiration and respect, and for this we will always be grateful.●

#### IN HONOR OF DR. LLOYD OGILVIE

● Mr. ALLARD. Mr. President, since 1995 Dr. Lloyd Ogilvie has provided exceptional spiritual leadership to the Senate family. Serving as chaplain for 8 years, Dr. Ogilvie daily guided and counseled Members and staff with encouragement, support, and wisdom.

I will miss Dr. Ogilvie. Lloyd Ogilvie has led the Senate family and Nation through difficult situations, including the shooting deaths of Capitol Hill police officers J.J. Chestnut and Detective John Gibson; the impeachment of our President; the deaths of three Senate Members, Paul Wellstone, John Chafee, and Paul Coverdell; the tragic terrorist attack on 9/11; the attack of anthrax on the Senate; and the current possibility of war.

His leadership and counsel have stayed Senate Members, spouses, and

staff. I thank Dr. Ogilvie for his daily prayers. He offered us spiritual leadership through his weekly Bible study for Senators, and always made himself available—at any time of the day—as a source of prayer and counsel. Chaplain Ogilvie also hosted a weekly Bible study for Senate spouses.

Chaplain Ogilvie also made himself available to staff. He welcomed staff to his office, responded to electronic mail from staff, and taught an inspirational study every Friday for Senate staff. Dr. Ogilvie also made an effort to stimulate relationship with the Washington community. He made information available to staff about opportunities to serve Washington-based charities, and he made the Senate aware of Senate and community groups to help Senate staff strengthen their lives morally and spiritually. Dr. Ogilvie also offered himself to minister and speak to the local Washington community.

While serving in the Senate, I have been encouraged and blessed by Chaplain Ogilvie and I am pleased the Senate chose him as our Chaplain. His friendship and counsel have served the Senate well and Washington will miss his presence.

My wife Joan and I give you and Mary Jane our warmest thoughts and our prayers as you return home to California. We will continue to pray for you and your family. We thank you for your service and ministry to us and wish you and your family God's best.●

#### LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 20, 2001 in San Diego, CA. An Afghani taxicab driver was attacked by one of his passengers. According to police, after getting in the cab, the passenger asked the cab driver for his nationality. After the driver answered, a heated argument ensued. When the cab stopped, the passenger got out and put his hands around the driver's throat and struck him with his fist.

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 is 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.●

#### REAUTHORIZING THE ASSAULT WEAPONS BAN

● Mr. LEVIN. Mr. President, in 1994 President Clinton signed into law a ban

on the production of certain semiautomatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics. This law is scheduled to sunset on September 13, 2004.

Last week before the Senate Judiciary Committee, Attorney General John Ashcroft indicated the Bush administration's support for the current ban on assault weapons, but refused to support reauthorization of the ban. I believe we should not only reauthorize this bill, but strengthen it. I hope the Bush Administration will support reauthorization.

According to National Institute for Justice statistics cited by the Brady Campaign to Prevent Gun Violence, the assault weapons ban has successfully reduced the use of assault weapons in crime. According to the report, crime gun traces for assault weapons declined by 20 percent the first year after the ban took effect from 4,077 in 1994 to 3,268 in 1995. Comparatively, trace requests on all crime guns decreased by only 11 percent over the same period of time.

Even with the success of the ban, assault weapons still pose a threat to community safety. In 1994, every major national law enforcement organization, including the Fraternal Order of Police, the National Sheriff's Association, and the Major City Police Chiefs Association, supported the Federal assault weapons ban. I expect that law enforcement will again support this important piece of gun and community safety legislation.

I urge my colleagues in the Senate and the President to support the reauthorization of this important bill.●

#### A TRIBUTE TO KENT KRESA

● Mrs. FEINSTEIN. Mr. President, I would like to take this opportunity to recognize an outstanding leader of American industry, Kent Kresa, upon his retirement. For the past 13 years, Mr. Kresa has presided over Northrop Grumman Corporation as its chairman and CEO.

Under his guidance, Northrop Grumman grew from a mid-sized defense company known primarily for aircraft building to a full-spectrum major defense firm. The Northrop Grumman that Mr. Kresa refashioned is home to 120,000 employees located in all 50 States and has operations in 25 foreign countries.

It is my privilege to commend Mr. Kresa for a career that helped modernize our defense industrial base and that significantly bolstered our national security.

Mr. Kresa was born in New York City and raised on Long Island. He received his education at the Massachusetts Institute of Technology, earning a bachelor's degree in 1959 and post-graduate degrees in 1961 and 1966, all in aeronautics and astronautics.

Before joining Northrop Grumman, Mr. Kresa served with the Defense Advanced Research Projects Agency, where he was responsible for applied research and development programs in the tactical and strategic defense arena. From 1961–68 he was associated with the Lincoln Laboratory at M.I.T., where he worked on ballistic missile defense research and re-entry technology.

During his distinguished career, Mr. Kresa received many of industry's and the government's most prestigious honors. In January, *Forbes Magazine* featured him on their cover and named Northrop Grumman the Company of the Year. In 2002, Mr. Kresa was awarded the Ellis Island Medal of Honor for his significant contributions to our nation's heritage. He received the Navy League's Admiral Chester W. Nimitz Award for outstanding support of the U.S. Navy.

Also last year, he was named president for a 1-year term of the American Institute of Aeronautics and Astronautics. And he was presented the California Institute of Technology's Management Association's Excellence in Management Award for demonstrating extraordinary vision and leadership.

In 2001, *BusinessWeek* magazine selected Mr. Kresa as one of the Nation's Top 25 managers. That same year he received the Private Sector Council's Leadership Award for his commitment to improving governmental efficiency. In May 2000, the Aerospace Historical Society presented Mr. Kresa with the International von Kyrman Wings award for his contributions to the industry. And in March of 2000, the California Manufacturers and Technology Association named Mr. Kresa and Northrop Grumman a Manufacturer of the Century.

Other honors include Honorary Fellow by the American Institute of Aeronautics and Astronautics in 1998; California Industrialist of the Year in 1996, by the California Museum of Science and Industry and the California Museum Foundation; the Navy League of New York's Admiral John J. Bergen Leadership Award in 1995; and the Air Force Association's John R. Alison Award for Industrial Leadership in 1994.

During Mr. Kresa's tenure at DARPA, he received the Arthur D. Flemming Award as one of the top 10 people in the U.S. Government in 1975; the Navy's Meritorious Public Service Citation the same year; and Secretary of Defense Meritorious Civilian Service Medal in 1974.

While impressive, this partial list of honors only begins to tell the story of Mr. Kresa's contributions to the defense industry and this country.

After joining Northrop in 1975, he was responsible for innovations in stealth and surveillance aircraft, such as the revolutionary B-2 stealth bomber. He was named president of the company in 1987, and CEO and chairman of the board in 1990.

Within the next few years, he embarked upon a decade-long effort that would not only transform Northrop Grumman but also make the company a major force in changing the nature of the defense business.

He and his staff foresaw that a post-cold war defense establishment would require a very different array of products and services, that America's military of the future would rely on systems and integrated networks to tremendously enhance the capabilities of its platforms. He worked tirelessly to help the Department of Defense achieve this vision of interconnected platforms working together to greatly increase the situational awareness and speed of engagement of our military forces.

To build a company that could better support the new direction of the Department of Defense, Mr. Kresa and his staff acquired 16 other major firms, many of them legends in their own right. These included Grumman, Westinghouse, Logicon, Litton Industries, Newport News Shipbuilding, and, most recently, TRW.

"This Amalgamation of great companies," to quote Mr. Kresa, created a corporate structure that has led to new efficiencies and much creative collaboration. Today, for instance, Navy ships can be built from top to bottom as well as networked with other platforms simply through the joint efforts of Northrop Grumman experts in information technology, avionics, satellite communications and other areas.

Mr. Kresa and was also instrumental in developing and gaining Congressional approval for several key platforms that will help form the backbone of our 21st century military. These include the Joint Strike Fighter, the DDX family of destroyers, cruisers and littoral combat ships, and the new generation of Coast Guard ships and aircraft known as the Deepwater project.

As Mr. Kresa moves on to exciting new challenges I wish him, his wife Joyce, and their daughter Kiren, every success and happiness.

For more than 42 years, Mr. Kresa has worked relentlessly in pushing for greater innovation, efficiency and readiness within our great Nation's defense establishment. My office will remember Mr. Kresa for his loyalty, dedicated service, and accomplishments—and we thank him.●

#### OUTSTANDING RHODE ISLANDER

● Mr. REED. Mr. President, I rise to pay tribute to an outstanding Rhode Islander, Jimmy McDonnell, who is celebrating his retirement from the Biltmore Hotel after 45 years of dedicated service.

Since his earnest beginnings in 1948 as a busboy in the Town Room Restaurant, Jimmy McDonnell has exemplified great professionalism, boundless enthusiasm, and is today an institution in Rhode Island's hospitality industry. Jimmy McDonnell is synonymous with

the Biltmore Hotel, located in the heart of the capital city of Providence.

As a waiter, manager, and director of catering service at the Biltmore Hotel for over five decades, he has become a hallmark of one of Rhode Island's finest institutions. Over his long and industrious career Jimmy McDonnell has attended to the needs of people from all walks of life—from Presidents and foreign heads of state, to CEOs and politicians, to television and movie celebrities and even to rock stars. Jimmy has been in the center of the Rhode Island restaurant and hotel industry and is well known to our community's most distinguished residents and visitors. Synonymous with the finest in service, Jimmy has, through his professionalism, skills and graciousness, always put Rhode Island's best foot forward and illuminated the kindness and generosity of our great State.

In addition to celebrities, he has touched the lives of virtually hundreds of Rhode Islanders and their families. He oversaw countless social events and charitable endeavors and he was "the person" to whom you entrusted the details of your son's bar mitzvah or who made sure your daughter's wedding went according to plan. He helped make cherished memories for so many, and his good heart and hard work footnoted many special events in our State and in our lives. His exemplary legacy of service leaves many Rhode Islanders with fond memories and stories of the man they knew as "Mr. Biltmore." His presence at the Biltmore will indeed be sorely missed.

I ask my colleagues to join me in commending Jimmy McDonnell for his many years of service at the Biltmore Hotel, and to the hospitality industry which makes Rhode Island such a special place to live, work, and visit.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### 6-MONTH PERIODIC REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—PM 23

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c), I am transmitting a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

GEORGE W. BUSH.  
THE WHITE HOUSE, March 12, 2003.

**NOTICE STATING THAT THE EMERGENCY DECLARED WITH RESPECT TO THE GOVERNMENT OF IRAN IS TO CONTINUE BEYOND MARCH 15, 2003—PM 24**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2002 (67 FR 11553).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to delivery them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.  
THE WHITE HOUSE, March 12, 2003.

**MESSAGES FROM THE HOUSE**

At 11:55 a.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 342. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

H.R. 399. An act to amend the Public Health Service Act to promote organ donation.

H.R. 659. An act to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals.

H.R. 663. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 85. Concurrent resolution expressing the sense of Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

The message further announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. STARK of California, Mrs. MALONEY of New York; Mr. WATT of North Carolina; and Mr. HILL of Indiana.

The message also announced that pursuant to section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives as Congressional Advisors on Trade Policy and Negotiations during the first session of the One Hundred Eighth Congress: Mr. THOMAS of California; Mr. CRANE of Illinois, Mr. SHAW of Florida, Mr. RANGEL of New York; and Mr. LEVIN of Michigan.

At 5:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

**MEASURES REFERRED**

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 342. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

H.R. 399. An act to amend the Public Health Service Act to promote organ donation; to the Committee on Health, Education, Labor, and Pensions.

H.R. 659. An act to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 663. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

**MEASURE PLACED ON THE CALENDAR**

The following bill was read the second time, and placed on the calendar:

S. 607. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

**MEASURE HELD AT THE DESK**

The following measure was ordered held at the desk until the close of business March 19, 2003, by unanimous consent:

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

**EXECUTIVE AND OTHER COMMUNICATIONS**

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1576. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Unshu Oranges from Honshu Island, Japan (Doc. No. 02-108-1)" received on March 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1577. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the Montgomery GI Bill (MGIB) Biennial Report to Congress, received on March 12, 2003; to the Committee on Armed Services.

EC-1578. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report relative to international agreements other than treaties entered into by the United States under the Case-Zablocki Act with Japan, Greece, France and Uzbekistan, received on March 12, 2003; to the Committee on Foreign Relations.

EC-1579. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6-50 and CF6-80C2 Turbofan Engines; Docket No. 2001-NE-19 (2120-

AA64) (2003-0147)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1580. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-00 Series Airplanes Modified by Supplemental Type Certificate ST0169AT-D Docket No. 2002-NM-56 [1-13/3-10] (2120-AA64) (2003-0131)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1581. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800 XP Airplanes; Docket no. 2001-NM-315 [1-13/3-10] (2120-AA64) (2003-0132)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1582. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honey International Inc. ALF502IL-2, -2C, ALF502R-3 and -3 and -3A Series Turbofan Engines; Docket no. 2002-NE-24 [1-15/3-10] (2120-AA64) (2003-0133)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1583. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller Inc. Model HC C2YR-4CF Propellers; docket no. 2001-NE-48 [2-4/3-10] (2120-AA64) (2003-0134)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1584. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328-100 and -300 Series Airplanes; docket no. 2002-NM-140 [2-5/3-10] (2120-AA64) (2003-0135)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1585. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: PIAGGIO AERO INDUSTRIES SpA Model P 180 Airplanes; Docket no. 2002-CE-46 [2-5/3-10] (2120-AA64) (2003-0136)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1586. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-600, 700, 700C, 800, and 900 Series Airplanes; Docket no. 2002-NM-240 (2120-AA64) (2003-0137)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1587. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller, INC, Model HD E6C 3B/E13890K Propellers; Docket no. 2000-NE-45 (2120-AA64) (2003-0138)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1588. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, trans-

mitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Robinson Helicopter Company Model R22 Helicopter; Docket no. 2001-SW-44 (2120-AA64) (2003-0139)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1589. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Robinson Helicopter Company Model R44 Helicopters; Docket no. 2001-SW-45 (2120-AA64) (2003-0140)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1590. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: PIAGGIO AERO INDUSTRIES SpA Model 180 Airplanes; Docket No. 2002-CE-47 (2120-AA64) (2003-0141)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1591. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: APEX Aircraft Model CAP 10 B Airplanes; Docket no. 2002-CE-04 (2120-AA64) (2003-0142)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1592. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model HP 137 Jetstream Mk I Jetstream Series 200, 3101, and 3201 Airplanes; Docket No. 2002-CE-14 (2120-AA64) (2003-0143)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1593. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives SCATA Griyoe AEROSOTUAKE Nideks TB 8m 10, 20, 21, and 200 Airplanes Docket no. 2002-CE-43 (2120-AA64) (2003-0144)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1594. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Aircraft Equipped with Honeywell Primus II RNZ 850-851 Integrated Navigation Unites; Docket No. 2003-NM-41 (2120-AA64) (2003-0145)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1595. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Shelbyville and Las Vergne, Tennessee (MM Docket No. 01-224)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1596. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Shafter and Buttonwillow, California (MM Docket No. 02-58)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1597. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Junction, Texas; Chino Valley, Arizona; Arkadelphia, Arkansas; Aspermont, Texas; Cotulla Texas) (MM Docket Nos. 01-263, 01-264, 01-265, 01266, 01-267)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1598. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Balmorhea, Texas (MB Docket No. 02-15, RM-10463)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1599. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Snyder, Littlefield, Wolforth and Floydada, Texas and Hobbs, New Mexico (MM Docket No. 01-144; RM-10406, RM-10340)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1600. A communication from the Deputy Chief, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems; Petition of City of Richardson, Texas: Order of Reconsideration (FCC 02-318; CC Docket 94-102)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1601. A communication from the Attorney/Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Governments Transfer Bands (WT Docket No. 02-8, FCC 02-152)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1602. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Virginia: Final Authorization of State Hazardous Waste Management Program Revisions (FRL 7465-8)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC-1603. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surfcoat Coating of Metal Coil (FRL 7467-1)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC-1604. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Mississippi Update, to Materials Incorporated by Reference (FRL 7445-5)" received on March 12, 2003; to the Committee on Environment and Public Works.



EC-1605. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri (FRL 7467-4)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC-1606. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; New York (FRL 7464-8)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC-1607. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Historic Area Remediation Site (HARS)-Specific Polychlorinated Biphenyl Worm Tissue Criteria (FRL 7467-6)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC-1608. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Thirteenth Annual Report to Congress relative to the Health and Safety activities relating to the Department of Energy's Defense nuclear facilities during calendar year 2002, received on March 12, 2003; to the Committee on Governmental Affairs.

EC-1609. A communication from the Director, Office of Federal Housing Enterprise Oversight (OFHEO), transmitting, pursuant to law, the OFHEO's Fiscal Year 2002 Performance Report, received on March 12, 2003; to the Committee on Governmental Affairs.

EC-1610. A communication from the Director, Office of Management, Budget and Evaluation/Chief Financial Officer, transmitting, pursuant to law, the report relative to the Department of Energy's annual list of Government activities that are not inherently governmental in nature, after review and consultation with the Office of Management and Budget (OMB); to the Committee on Governmental Affairs.

EC-1611. A communication from the Special Counsel, Office of the Special Counsel, transmitting, pursuant to law, the Annual Report of the Office of Special Counsel for Fiscal Year 2002, received on March 12, 2003; to the Committee on Governmental Affairs.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-64. A resolution adopted by the City of Warren, State of Michigan relative to solid waste; to the Committee on Environment and Public Works.

POM-65. A resolution adopted by the Town of New Castle, State of New York relative to the decommissioning of the Indian Point Power Plants; to the Committee on Environment and Public Works.

POM-66. A resolution adopted by Urbana City Council, State of Illinois relative to opposition to a war against Iraq; to the Committee on Foreign Relations.

POM-67. A resolution adopted by the Town of Mansfield, State of Connecticut relative to opposition to the war against Iraq; to the Committee of Foreign Relations.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Christine K. Alexander and ending Adam M. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

Coast Guard nominations beginning Diane J. Hauser and ending Lisa H. Degroot, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

Coast Guard nomination of Scott Aten. Coast Guard nominations beginning Paul S. Szwed and ending Darell Singleterry, which nominations were received by the Senate and appeared in the Congressional Record on February 25, 2003.

Coast Guard nomination of John P. Nolan. Coast Guard nomination of Christy L. Howard.

Coast Guard nominations beginning Bruce E. Graham and ending Bradford W. Youngkin, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2003.

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation.

\*Ellen G. Engleman, of Indiana, to be Chairman of the National Transportation Safety Board for a term of two years.

\*Ellen G. Engleman, of Indiana, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2007.

\*Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2006.

\*Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2005.

\*Charles E. McQueary, of North Carolina, to be Under Secretary for Science and Technology, Department of Homeland Security.

\*Jeffrey Shane, of the District of Columbia, to be Under Secretary of Transportation for Policy.

\*Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

\*Robert A. Sturgell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

\*Foreign Service nominations beginning Lyle J. Sebranek and ending Margaret K. Ting, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

\*Nomination was reported with recommendation that it be confirmed sub-

ject 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.)

The following executive reports of treaties were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 107-19 Tax Convention with the United Kingdom (Exec. Rept. No. 108-2)]

#### TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (Treaty Doc. 107-19).*

[Treaty Doc. 107-20 Protocol Amending Tax Convention with Australia (Exec. Rept. No. 108-3)]

#### TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (Treaty Doc. 107-20).*

[Treaty Doc. 108-3 Protocol Amending Tax Convention with Mexico (Exec. Rept. No. 108-4)]

#### TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Additional Protocol That Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108-3).*

#### 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. VOINOVICH:

S. 610. A bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. MILLER, and Mr. CRAPO):

S. 611. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, and platinum, in either coin or bar form, in the same manner as stocks and bonds for purposes of the maximum capital gains rate for individuals; to the Committee on Finance.

By Mr. BENNETT:

S. 612. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 613. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, Mr. DEWINE, Mr. DODD, Ms. COLLINS, Ms. CANTWELL, Ms. LANDRIEU, Mrs. LINCOLN, and Mr. BINGAMAN):

S. 614. A bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 615. A bill to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Ms. COLLINS (for herself, Mr. JEFFORDS, Mr. CHAFEE, Mr. KERRY, Mrs. HUTCHISON, Mr. REED, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DORGAN, and Mr. LEAHY):

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. DURBIN, Ms. MIKULSKI, Mr. SCHUMER, Mr. KENNEDY, Mr. DODD, Ms. LANDRIEU, and Mr. KERRY):

S. 617. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself and Mr. ENSIGN):

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes; to the Committee on Indian Affairs.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 619. A bill to provide for the transfer to the Secretary of Energy of title to, and full responsibility for the possession, transportation, and disposal of, radioactive waste associated with the West Valley Demonstration project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EDWARDS (for himself, Mr. LAUTENBERG, and Mr. LEVIN):

S. 620. A bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mrs. MURRAY, Mr. LEAHY, and Ms. CANTWELL):

S. 621. A bill to amend title XXI of the Social Security Act to allow qualifying States

to use allotments under the State children's health insurance program for expenditures under the medicaid program; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. BAUCUS, Ms. SNOWE, Mr. DASCHLE, Mr. SMITH, Mr. KERRY, Mr. THOMAS, Mr. BINGAMAN, Mr. BUNNING, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. JEFFORDS, Mr. ENZI, Mr. SARBANES, Mr. DOMENICI, Mr. JOHNSON, Mr. ENSIGN, Mrs. MURRAY, Mr. HOLLINGS, Ms. STABENOW, Mr. CORZINE, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. REID, Mr. DEWINE, Mr. REED, Ms. COLLINS, Mr. MILLER, Mr. LUGAR, Mr. LIEBERMAN, Mr. LEAHY, Mr. CHAFEE, Mr. KOHL, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MCCAIN, Mr. DORGAN, Mr. ROBERTS, Mr. DODD, Mr. DAYTON, Ms. CANTWELL, Mr. BREAUX, Mr. BIDEN, Ms. MIKULSKI, Mr. LEVIN, Ms. LANDRIEU, Mr. INOUE, Mr. HARKIN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Mr. BAYH, and Mr. AKAKA):

S. 622. A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Ms. COLLINS):

S. 623. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. LEVIN):

S. 624. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 625. A bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself and Mr. MILLER):

S. 626. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself, Mr. SHELBY, and Mrs. FEINSTEIN):

S. 627. A bill to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself, Ms. MIKULSKI, Mr. BOND, and Ms. MURKOWSKI):

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter; ordered held at the desk.

By Mr. FEINGOLD:

S.J. Res. 9. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 83. A resolution commending the service of Dr. Lloyd J. Ogilvie, the Chaplain of the United States Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 84. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; considered and agreed to.

By Mr. MILLER:

S. Res. 85. A resolution to amend paragraph 2 of rule XXII of the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 86. A resolution to authorize testimony and legal representation in *W. Curtis Shain v. Hunter Bates, et al*; considered and agreed to.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. INHOFE, Mr. JEFFORDS, Mr. DASCHLE, Mr. CRAPO, Mr. KERRY, Ms. CANTWELL, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. WARNER, Mrs. MURRAY, Mrs. HUTCHISON, Ms. MIKULSKI, Mr. SARBANES, Mr. LAUTENBERG, Mr. CHAFEE, Mr. DURBIN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. VOINOVICH, Mr. HOLLINGS, Mrs. BOXER, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. ALLARD, Mr. DODD, and Mr. EDWARDS):

S. Res. 87. A resolution commemorating the Centennial Anniversary of the National Wildlife Refuge System; considered and agreed to.

By Mr. HATCH:

S. Res. 88. A resolution honoring the 80th birthday of James L. Buckley, former United States Senator for the state of New York; considered and agreed to.

By Mr. DAYTON (for himself and Mr. COLEMAN):

S. Res. 89. A resolution honoring the life of former Governor of Minnesota Orville L. Freeman, and expressing the deepest condolences of the Senate to his family on his death; considered and agreed to.

By Mr. LOTT (for himself and Mr. DODD):

S. Con. Res. 20. A concurrent resolution permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman; considered and agreed to.

By Mr. BUNNING (for himself and Mrs. LINCOLN):

S. Con. Res. 21. A concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NICKLES (for himself, Mr. BAYH, Mr. BUNNING, Mr. FITZGERALD, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. REED, and Mr. ROBERTS):

S. Con. Res. 22. A concurrent resolution expressing the sense of the Congress regarding

housing affordability and urging fair and expeditious review by international trade tribunals to ensure a competitive North American market for softwood lumber; to the Committee on Finance.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Special Report entitled "Legislative Activities Report, 107th Congress" (Rept. No. 108-19).

#### ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 68

At the request of Mr. INOUE, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 189

At the request of Mr. WYDEN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 204

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 204, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2003.

S. 262

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 262, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wild-life species.

S. 304

At the request of Mr. DODD, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 304, a bill to

amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

S. 319

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 319, a bill to amend chapter 89 of title 5, United States Code, to increase the Government contribution for Federal employee health insurance.

S. 320

At the request of Mr. GREGG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 320, a bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes.

S. 321

At the request of Mr. MCCAIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 333

At the request of Mr. BREAU, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 355

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 355, a bill to amend the Internal Revenue Code of 1986 to allow a credit for biodiesel fuel.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 395

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-

year extension of the credit for producing electricity from wind.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 461

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 461, a bill to establish a program to promote hydrogen fuel cells, and for other purposes.

S. 464

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 499

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 499, a bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 532

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 532, a bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 582

At the request of Mr. BUNNING, the names of the Senator from Montana (Mr. BURNS) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting,

repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. CON. RES. 6

At the request of Ms. LANDRIEU, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Mr. BREAU), the Senator from Florida (Mr. NELSON), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. DODD), the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUE), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. Con. Res. 6, A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel "Chappie" James, the Nation's first African-American four-star general.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Georgia (Mr. MILLER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. BOND), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Mr. LEVIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 7, A concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. MILLER, and Mr. CRAPO):

S. 611. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, and platinum, in either coin or bar form, in the same manner as stocks and bonds for purposes of the maximum capital gains rate for individuals; to the Committee on Finance.

Mr. REID. Mr. President, last Congress, I introduced the Fair Treatment for Precious Metals Investors Act to correct a flawed capital gains tax definition, which includes precious metals investments as "collectibles." This simple flaw in the tax code has discouraged investments in gold and other precious metals for nearly fifteen years. I rise today to reintroduce the Fair Treatment for Precious Metals Investors Act to correct this problem.

My State, Nevada, is the third largest producer of gold in the world behind Australia and South Africa. Largely because of Nevada's exports, America enjoys a good trade surplus of more than \$1 billion. U.S. gold is purchased around the world in financial markets from London to Zurich to Hong Kong.

Historically, precious metals investments derived their value from their rarity. Today, however, precious metals coins and bars are specifically designed and produced by governments to be used as an investment vehicle for those commodities similar to stocks and bonds. My legislation will correct the outdated tax classification of precious metal bullion and apply to precious metals holdings the same capital gains tax treatment as stocks, bonds, and mutual funds.

In 1997 and 1998, The Taxpayer Relief Act and the Internal Revenue Service Restructuring and Reform Act set two basic types of capital gains tax rates: short-term capital gains, which are taxed at between 15 and 39.6 percent, and long-term capital gains which are taxed at a maximum rate of 20 percent. Long-term capital gains attributable to investments defined as "collectibles", (vintage wines, rare coins, and the like), however, are taxed at a maximum rate of 28 percent. Although precious metal bullion coins are intended to be used as investments in the precious metals they contain, they are still classified as "collectibles", and

are taxed at the 28 percent maximum rate. The Taxpayer Relief Act allowed precious metal bullion coins held in IRA accounts to be taxed at the same rate as stocks and other capital assets. The bill I introduce today would treat all precious metal investments with the same tax equity.

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. 611

*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 "Fair Treatment for Precious Metals Investors Act".

#### SEC. 2. GOLD, SILVER, AND PLATINUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (A) of section 1(h)(6) of the Internal Revenue Code of 1986 (relating to definition of collectibles gain and loss) is amended by striking "without regard to paragraph (3) thereof" and inserting "without regard to so much of paragraph (3) thereof as relates to palladium and the bullion requirement for physical possession by a trustee".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

By Mr. BENNETT:

S. 612. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I rise today to introduce the "Glen Canyon National Recreation Area Boundary Revision Act."

This legislation will revise the total acreage within the National Recreation Area's, NRA, boundary to reflect the actual acreage within the NRA, and it will also do much to protect the scenic view of Lake Powell as seen by those traveling along U.S. Highway Route 89.

As enacted into law, the enabling legislation for the Glen Canyon National Recreation Area, inaccurately reflected the acreage within the NRA boundary. This legislation would correct the acreage ceiling by estimating the acreage within the NRA to be 1,256,000 instead of 1,236,880.

Secondly, this bill would authorize the Secretary of the Interior, to exchange 320 NRA acres for 152 acres of privately owned land in Kane County, UT. Currently, Page One L.L.C. owns 152 acres between U.S. Highway 89 and the southwestern shore of Lake Powell. This private land provides a breathtaking view of Lake Powell from Highway 89, which is the main viewshed corridor between the highway and the lake. This land also encompasses three highway access rights-of-way and a developed culinary water well. In an effort to protect this viewshed and better manage its boundaries along its most visited entrance, the National Park

Service, NPS, has been negotiating with Page One to exchange 370 acres of NRA lands for these 152 acres. The approximate value of the NRA lands is \$480,000 whereas the private land's appraised value is \$856,000. Page One has agreed to donate the balance of appraised value to the NPS.

By authorizing this land exchange, this bill will allow the NPS to preserve and better manage the corridor between the park and Highway 89, which affords such a scenic view of Lake Powell. This boundary change would not add any facilities, increase operating costs, or require additional staff and as such, it will not add to the NPS maintenance backlog.

Because of the common interest in preserving this scenic corridor from development, this legislation has garnered the support of the administration, the Kane County Planning and Zoning Commission, the National Parks Conservation Association, and the Southern Utah Planning Advisory Council. In light of the benefits provided by and community support for this proposal, I look forward to working with my Senate colleagues and the administration to pass this legislation this year.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 613. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing a bill to facilitate the move of the Denver Veterans Affairs Medical Center, DVAMC, from its present site in Denver to the former Fitzsimons Army Medical Center in Aurora, Colorado. I am pleased to be joined in this effort by my friend and colleague Senator ALLARD as an original co-sponsor.

The bill would authorize the Secretary of Veterans Affairs to construct, lease or modify major medical facilities at the site of the former Fitzsimons Army Medical Center. It instructs the Secretary to work with the Department of Defense in planning a joint Federal project that would serve the health care needs of active duty Air Force and the VA. It would also require the Secretary to submit a report to the Committees on Appropriations and the Committees on Veterans Affairs of the Senate and the House of Representatives. This report would detail the options selected by the Secretary and any information on further planning needed to carry out the move.

The relocation of the DVAMC to the former Fitzsimons site offers a unique opportunity to provide the highest quality medical care for our veterans and certain members of our military. The University of Colorado Health Sciences Center, UCHSC, is moving its facilities from its overcrowded location

near downtown Denver to the Fitzsimons site, a decommissioned Army base. The UCHSC and the DVAMC have long operated on adjacent campuses and have shared faculty, medical residents, and access to equipment. A DVAMC move to the new location in conjunction with the DOD would allow such cost-effective cooperation to continue, for the benefit of our veterans, active duty Air Force members and all taxpayers.

The need to move is pressing. A recent VA study concludes that the Colorado State veterans' population will experience one of the highest percent increases nationally in veterans age 65 and over between 1990 and 2020. The present VA hospital was built in the 1950's. While still able to provide service, the core facilities are approaching the end of their useful lives and many of the patient care units have fallen horribly out of date. Studies indicate that co-location with the University on a state-of-the-art medical campus would be a cost effective way to give veterans and active duty Air Force members in the region the highest quality of care. The move would also provide a tremendous opportunity to showcase a nationwide model of cooperation between the University, the Department of Veterans Affairs, VA, and the Department of Defense.

The VA needs to move quickly. Assisting our veterans with their medical needs is a promise we, as a country, made long ago.

The savings we can realize by approving the timely transfer of our veterans' medical treatment facilities in the Denver region compels me to urge my colleagues to act quickly on this bill. We must not miss out on this opportunity to serve America's veterans and their families by ensuring that they receive the excellent medical care they deserve.

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. 613

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' New Fitzsimons Health Care Facilities Act of 2003".

#### SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS, FORMER FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out major medical facility projects under section 8104 of title 38, United States Code, at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado. Projects to be carried out at such site shall be selected by the Secretary and may include inpatient and outpatient facilities providing acute, sub-acute, primary, and long-term care services. Project costs shall be limited to an amount not to exceed a total of \$300,000,000 if a combination of direct construction by the Department of Veterans

Affairs and capital leasing is selected under subsection (b) and no more than \$30,000,000 per year in capital leasing costs if a leasing option is selected as the sole option under subsection (b).

(b) SELECTION OF CAPITAL OPTION.—The Secretary of Veterans shall select the capital option to carry out the authority provided in subsection (a) of either—

(1) direct construction by the Department of Veterans Affairs or a combination of direct construction and capital leasing; or

(2) capital leasing alone.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal years 2004, 2005, 2006, and 2007 for "Construction, Major Projects" for the purposes authorized in subsection (a)—

(1) a total of \$300,000,000, if direct construction, or a combination of direct construction and capital leasing, is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a); and

(2) \$30,000,000 for each such fiscal year, if capital leasing alone is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a).

(d) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004, 2005, 2006, or 2007 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004, 2005, 2006, or 2007 for a category of activity not specific to a project.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and the Committees on Veterans Affairs of the Senate and House of Representatives a report on this section. The report shall include notice of the option selected by the Secretary pursuant to subsection (b) to carry out the authority provided by subsection (a), information on any further planning required to carry out the authority provided in subsection (a), and other information of assistance to the committees with respect to such authority.

#### SEC. 3. JOINT ACTIVITIES TO ADDRESS HEALTH CARE NEEDS OF VETERANS AND MEMBERS OF THE AIR FORCE.

The Secretary of Veterans Affairs and the Secretary of the Air Force shall undertake such joint activities as the Secretaries consider appropriate to address the health care needs of veterans and members of the Air Force on active duty.

By Ms. COLLINS (for herself, Mr. JEFFORDS, Mr. CHAFFEE, Mr. KERRY, Mrs. HUTCHISON, Mr. REED, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DORGAN, and Mr. LEAHY):

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce the Mercury Reduction Act of 2003. I am pleased that my colleagues, Senators JEFFORDS,

CHAFEE, KERRY, HUTCHISON, REED, LIEBERMAN, VOINOVICH, DORGAN, and LEAHY have joined me in this initiative. Our legislation addresses the very serious problems of mercury in the environment and mercury disposal. It takes special aim at one of the most common and widely distributed sources of mercury: mercury fever thermometers while also for the first time creating a nationwide policy for dealing with surplus mercury.

Mercury is a potent neurotoxin that is widespread in the environment and particularly harmful to developing children. In fact, according to a draft report recently released by the EPA, approximately 5 million American women of childbearing age have mercury levels in their bloodstream above safe levels. Tragically, the children of these women will have an elevated risk of birth defects.

When mercury enters the environment, it takes on a highly toxic organic form known as methylmercury. Methylmercury is almost completely absorbed into the blood and distributed to all tissues including the brain. This organic mercury can accumulate in the food chain and become concentrated in some species of fish, posing a health threat to some people who consume them. For this reason, 40 States have issued freshwater fish advisories that warn certain individuals to restrict or avoid consuming fish from affected bodies of water.

One prevalent source of mercury in the environment is from mercury fever thermometers. Many of us know from personal experience that they are easily broken. In fact, in 1998 the American Poison Control Center received 18,000 phone calls from consumers who had broken mercury thermometers.

One mercury thermometer contains a little under one gram of mercury. Despite its small size, the mercury in one thermometer, if it were released annually into the environment, is enough to contaminate all the fish in a 20-acre lake.

The bill we are introducing today calls for a nationwide ban on the sale of mercury fever thermometers. It would also provide grants for swap programs to help consumers exchange mercury thermometers for digital or other alternatives.

Our legislation would allow millions of consumers across the Nation to receive free digital thermometers in exchange for their mercury thermometers. By bringing mercury thermometers in for proper disposal, consumers will ensure the mercury from their thermometers does not end up polluting our lakes and threatening our health. It will also reduce the risk of breakage and contamination inside the home.

An important component of our bill is the safe disposal of the mercury collected from thermometer exchange programs, which are increasingly popular in communities throughout our country. I want to make sure that we

are actually removing surplus mercury from the environment and from commerce, rather than simply recycling it. It obviously does little good to collect all this mercury from thermometer exchange programs if it is going to be recycled into new products and put back into commerce and eventually into our environment. This bill directs the EPA to ensure that the mercury is properly collected and stored in order to keep it out of the environment and out of commerce. Once the mercury is collected, my intention is it will never again be able to pose a threat to the health of our children.

The mercury collected from thermometer exchange programs is only part of the problem. There is a bigger problem, and that is the global circulation of mercury. Let me give an example. When the HoltraChem manufacturing plant in Orrington, ME, shut down a few years ago, the plant was left with over 100 tons of unwanted mercury and no known way to permanently and safely dispose of it. In total, about 3,000 tons of mercury is held at similar plants across the country.

Yet despite this surplus mercury, large amounts of mercury are still being mined around the world. In addition, the Department of Defense currently has a stockpile of over 4,000 tons of surplus mercury; it does not know what to do with and for which it does not have any use.

In view of these facts, why are Algeria and other countries still mining huge amounts of an element that is a known neurotoxin, when the United States and other countries are doing their best to remove this extremely toxic element from the environment? How will the United States dispose of the huge amounts of mercury at chlor-alkali plants and other sources that no longer are understood?

Our bill would create an interchange task force to address these very questions. The task force would be chaired by the Administrator of the Environmental Protection Agency and would be comprised of members from other Federal agencies involved with mercury. Our legislation directs this task force to find ways to reduce the mercury threat to humans and to our environment, to identify long-term means of disposing of mercury safely and properly, and to address the excess mercury problems from mines as well as industrial sources. This task force would also be directed to identify comprehensive solutions to the global mercury problem. One year from the creation of this task force, it would be required to submit its recommendations to the Congress for permanently disposing of mercury and for reducing the amount of new mercury mined every year.

In the meantime, this legislation would make significant progress toward reducing one of the most widespread sources of mercury contamination in the environment, a source that is found in many of our homes; that is,

the mercury thermometer. Perhaps even more important, this legislation would, for the first time ever, establish a national policy, which is what we need to deal with surplus mercury in order to protect our environment in the long term, as well as our health, and particularly the health of developing children, from this highly toxic element.

I hope many more of my colleagues will join me in cosponsoring this legislation and that it will be signed into law this year.

By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. DURBIN, Ms. MIKULSKI, Mr. SCHUMER, Mr. KENNEDY, Mr. DODD, Ms. LANDRIEU, and Mr. KERRY):

S. 617. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce the No Taxation Without Representation Act of 2003 legislation that will right an ongoing injustice experienced by 600,000 American citizens—the citizens of the District of Columbia—who have historically been denied voting representation in Congress.

This injustice is felt directly by District residents, but it is also a stain on the fabric of our democracy for the Nation as a whole. By now, we should all understand that the vote is a civic entitlement of every American citizen. It is democracy's most essential right, our most useful tool.

I am proud to be the chief Senate sponsor of this bill, which Congresswoman NORTON is also today introducing in the House. I am delighted that Senator FEINGOLD, who has worked with me for two years on this legislation, is joining me again as an original sponsor, as are Senators DASCHLE, DURBIN, MIKULSKI, SCHUMER, KENNEDY, DODD, LANDRIEU and KERRY. The aim of the legislation is simple: It would provide full voting representation in Congress—through two senators and a member of the House—to citizens of the District, providing to them the same rights to participate in our democracy as citizens in the 50 States. Despite this bill's title, it would not exempt residents of the District from paying income taxes.

Last year, the Governmental Affairs Committee, which I then chaired, held a hearing on this issue in May. It was the first time since 1994 that Congress had held a hearing on the issue. Five months later, in October, the Committee reported out legislation identical to the bill we introduce today. I am proud that we progressed as far as we did last year. Unfortunately it was not far enough.

Today, I think it is particularly ironic—though painfully so—that we are introducing this legislation as the Nation stands on the brink of a decision



about war with Iraq to protect our national security. If war does come, citizens of Washington D.C. will serve their fellow Americans with pride, as they have in every previous war. In fact, the District suffered more casualties in Vietnam than the citizens of 10 states. Furthermore, over 1,000 Army and Air National Guardsmen and women from the District have already been called upon to help in the war on terrorism. Yet—to our shame—D.C. citizens cannot choose representatives to the legislature that governs them. There is something wrong with this picture.

The people of this city have also been the direct target of terrorists, and yet citizens of the District have no one who can cast a vote in Congress on policies to protect their homeland security. Citizens of Washington, D.C., pay income taxes just like everyone else. Actually, they pay more. Per capita, District residents have the second highest Federal tax obligation. And yet they have no say in how high those taxes will be or how their tax dollars will be spent.

They fight and die and pay for our democracy, but they cannot participate fully in it. How can we countenance this? How can we promote democracy abroad effectively while denying it to hundreds of thousands of citizens in our Nation's Capital?

The citizens who live in our Nation's Capital deserve more than a nonvoting delegate

in the House. Notwithstanding the strong service of the Honorable Congresswoman ELEANOR HOLMES NORTON and her ability to vote in committee, a representative without the power to vote on the floor of the House simply isn't good enough.

Prior to the District's establishment in 1790, residents of the area who were eligible to vote had full representation in Congress. When the framers of the Constitution placed our Capital under the jurisdiction of the Congress, they placed with Congress the responsibility of ensuring that D.C. citizens' rights would be protected in the future, just as Congress should protect the rights of all citizens throughout the land. For more than 200 years, Congress has failed to meet this obligation. And I, for one, am not prepared to make D.C. citizens wait another 200 years.

Today, no other democratic nation denies the residents of its capital representation in the national legislature. What must visitors from around the world think when they come to see our beautiful landmarks, our monuments, and our Capitol dome—proud symbols of the world's leading democracy—only to learn that the citizens of this city have no voice in Congress? What would we do if the residents of Boston, Nashville, Denver, Seattle, or El Paso had no voting rights? All those cities are roughly the same size as Washington, D.C.—and I know we as a Nation wouldn't let their citizens go voiceless in the Congress.

Incredibly, the vast majority of Americans already believe that D.C. residents have voting representation in the Congress. When they are informed that they don't, 80 percent of Americans, according to one poll, say that they should. That is overwhelming support and by righting this wrong, we will be following the will of the American people.

The people of the District of Columbia have been without this key right for far too long. I urge all of my colleagues to support this legislation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes; to the Committee on Indian Affairs.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to reintroduce the Western Shoshone Claims Distribution Act. Last year the Senate unanimously passed this bill, which will at last release funds the United States has held in trust for the Western Shoshone people for over 24 years. Unfortunately the House was unable to complete its consideration of the bill before the last Congress adjourned.

Historically, the Western Shoshone people have resided on land within the central portion of Nevada and parts of California, Idaho, and Utah. For more than a hundred years, the Western Shoshone have not received a fair compensation for the loss of their tribal land and resources. In 1946 the Indian Claims Commission was established to compensate Indians for lands and resources taken from them by the United States. In 1962 the commission determined that the Western Shoshone land had been taken through "gradual encroachment." In 1977 the commission awarded the tribe in excess of \$26 million dollars. The United States Supreme Court has upheld the commission's award. It was not until 1979 that the United States appropriated over \$26 million dollars to reimburse the descendants of these tribes for their loss.

The Western Shoshone are not a wealthy people. A third of the tribal members are unemployed; for many of those who do have jobs, it is a struggle to live from paycheck to the next. Wood stoves often provide the only source of heat in their aging homes. Like other American Indians, the Western Shoshone continue to be disproportionately affected by poverty and low educational attainment. The high school completion rate for Indian people between the ages of 20 and 24 is dismally low. American Indians have a drop-out rate that is 12.5 percent higher than the rest of the Nation. For the Western Shoshone, the money contained in the settlement funds could lead to drastic lifestyle improvements.

After 24 years the judgment funds still remain in the United States

Treasury. The Western Shoshone have not received a single penny of this money which is rightfully theirs. In those twenty-four years, the original trust fund has grown to well over \$121 million dollars. It is the past time that this money should be delivered into the hands of its owners. The Western Shoshone Steering Committee has officially requested that Congress enact legislation to affect this distribution. It has become increasingly apparent in recent years that the vast majority of those who qualify to receive these funds support an immediate distribution of their money.

This Act will provide payments to eligible Western Shoshone tribal members and ensure that future generations of Western Shoshone will be able to enjoy the benefit of the distribution in perpetuity. Through the establishment of a tribally controlled grant trust fund, individual members of the Western Shoshone will be able to apply for money for education and other needs within limits set by a self-appointed committee of tribal members. I will continue my ongoing work with the members of the Western Shoshone and the Department of Interior to help resolve any current land issues.

It is clear that the Western Shoshone want the funds from their claim distributed without further delay. They have already voted twice to firmly and decisively voice their interests. Members of the Western Shoshone gathered in Fallon and Elko, NV in May of 1998. They cast a vote overwhelmingly in favor of distributing the funds. 1,230 supported the distribution in the statewide vote; only 53 were opposed. Again on June 2002 they cast a vote overwhelmingly in support of the distribution of the judgment funds at a rate of 100 percent per capita. 1,647 Western Shoshone voted in favor of the distribution of the funds; only 156 opposed. I rise today in support and recognition of their decision. The final distribution of this fund has lingered for more than twenty years. During the 107th Congress, the Indian Affairs Committee approved and the full Senate unanimously passed this bill. It is clear that the best interests of the Tribe will not be served by prolonging their wait. Twenty-four years has been more than long enough. I ask unanimous consent that the full 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. 618

*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 "Western Shoshone Claims Distribution Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) COMMITTEE.—The term "Committee" means the administrative committee established under section 4(c)(1).

(2) WESTERN SHOSHONE JOINT JUDGMENT FUNDS.—The term "Western Shoshone joint judgment funds" means—

(A) the funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326-A-1 and 326-A-3 before the United States Court of Claims; and

(B) all interest earned on those funds.

(3) **WESTERN SHOSHONE JUDGMENT FUNDS.**—The term “Western Shoshone judgment funds” means—

(A) the funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326-K before the Indian Claims Commission; and

(B) all interest earned on those funds.

(4) **JUDGMENT ROLL.**—The term “judgment roll” means the Western Shoshone judgment roll established by the Secretary under section 3(b)(1).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(6) **TRUST FUND.**—The term “Trust Fund” means the Western Shoshone Educational Trust Fund established under section 4(b)(1).

(7) **WESTERN SHOSHONE MEMBER.**—The term “Western Shoshone member” means an individual who—

(A)(i) appears on the judgment roll; or

(ii) is the lineal descendant of an individual appearing on the roll; and

(B)(i) satisfies all eligibility criteria established by the Committee under section 4(c)(4)(D)(iii);

(ii) meets any application requirements established by the Committee; and

(iii) agrees to use funds distributed in accordance with section 4(b)(2)(B) for educational purposes approved by the Committee.

### **SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT FUNDS.**

(a) **IN GENERAL.**—The Western Shoshone judgment funds shall be distributed in accordance with this section.

(b) **JUDGMENT ROLL.**—

(1) **IN GENERAL.**—The Secretary shall establish a Western Shoshone judgment roll consisting of all individuals who—

(A) have at least  $\frac{1}{4}$  degree of Western Shoshone blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) **INELIGIBLE INDIVIDUALS.**—Any individual that is certified by the Secretary to be eligible to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be listed on the judgment roll.

(3) **REGULATIONS REGARDING JUDGMENT ROLL.**—The Secretary shall—

(A) publish in the Federal Register all regulations governing the establishment of the judgment roll; and

(B) use any documents acceptable to the Secretary in establishing proof of eligibility of an individual to—

(i) be listed on the judgment roll; and

(ii) receive a per capita payment under this Act.

(4) **FINALITY OF DETERMINATION.**—The determination of the Secretary on an application of an individual to be listed on the judgment roll shall be final.

(c) **DISTRIBUTION.**—

(1) **IN GENERAL.**—On establishment of the judgment roll, the Secretary shall make a per capita distribution of 100 percent of the Western Shoshone judgment funds, in shares as equal as practicable, to each person listed on the judgment roll.

(2) **REQUIREMENTS FOR DISTRIBUTION PAYMENTS.**—

(A) **LIVING COMPETENT INDIVIDUALS.**—The per capita share of a living, competent indi-

vidual who is 19 years or older on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid directly to the individual.

(B) **LIVING, LEGALLY INCOMPETENT INDIVIDUALS.**—The per capita share of a living, legally incompetent individual shall be administered in accordance with regulations promulgated and procedures established by the Secretary under section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)).

(C) **DECEASED INDIVIDUALS.**—The per capita share of an individual who is deceased as of the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid to the heirs and legatees of the individual in accordance with regulations promulgated by the Secretary.

(D) **INDIVIDUALS UNDER THE AGE OF 19.**—The per capita share of an individual who is not yet 19 years of age on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be—

(i) held by the Secretary in a supervised individual Indian money account; and

(ii) distributed to the individual—

(I) after the individual has reached the age of 18 years; and

(II) in 4 equal payments (including interest earned on the per capita share), to be made—

(aa) with respect to the first payment, on the eighteenth birthday of the individual (or, if the individual is already 18 years of age, as soon as practicable after the date of establishment of the Indian money account of the individual); and

(bb) with respect to the 3 remaining payments, not later than 90 days after each of the 3 subsequent birthdays of the individual.

(3) **APPLICABLE LAW.**—Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), a per capita share (or the availability of that share) paid under this section shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources for any purpose; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or Western Shoshone member would otherwise be entitled to receive under—

(i) the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) any other Federal or federally-assisted program.

(4) **UNPAID FUNDS.**—The Secretary shall add to the Western Shoshone joint judgment funds held in the Trust Fund under section 4(b)(1)—

(A) all per capita shares (including interest earned on those shares) of living competent adults listed on the judgment roll that remain unpaid as of the date that is—

(i) 6 years after the date of distribution of the Western Shoshone judgment funds under paragraph (1); or

(ii) in the case of an individual described in paragraph (2)(D), 6 years after the date on which the individual reaches 18 years of age; and

(B) any other residual principal and interest funds remaining after the distribution under paragraph (1) is complete.

### **SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT JUDGMENT FUNDS.**

(a) **IN GENERAL.**—The Western Shoshone joint judgment funds shall be distributed in accordance with this section.

(b) **WESTERN SHOSHONE EDUCATIONAL TRUST FUND.**—

(1) **ESTABLISHMENT.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States, for the benefit of Western Shoshone members, a trust fund to be

known as the “Western Shoshone Educational Trust Fund”, consisting of—

(A) the Western Shoshone joint judgment funds; and

(B) the funds added under in section 3(b)(4).

(2) **AMOUNTS IN TRUST FUND.**—With respect to amounts in the Trust fund—

(A) the principal amount—

(i) shall not be expended or disbursed; and

(ii) shall be invested in accordance with section 1 of the Act of June 24, 1938 (25 U.S.C. 162a); and

(B) all interest income earned on the principal amount after the date of establishment of the Trust fund—

(i) shall be distributed by the Committee—

(I) to Western Shoshone members in accordance with this Act, to be used as educational grants or for other forms of educational assistance determined appropriate by the Committee; and

(II) to pay the reasonable and necessary expenses of the Committee (as defined in the written rules and procedures of the Committee); but

(ii) shall not be distributed under this paragraph on a per capita basis.

(c) **ADMINISTRATIVE COMMITTEE.**—

(1) **ESTABLISHMENT.**—There is established an administrative committee to oversee the distribution of educational grants and assistance under subsection (b)(2).

(2) **MEMBERSHIP.**—The Committee shall be composed of 7 members, of which—

(A) 1 member shall represent the Western Shoshone Te-Moak Tribe and be appointed by that Tribe;

(B) 1 member shall represent the Duckwater Shoshone Tribe and be appointed by that Tribe;

(C) 1 member shall represent the Yomba Shoshone Tribe and be appointed by that Tribe;

(D) 1 member shall represent the Ely Shoshone Tribe and be appointed by that Tribe;

(E) 1 member shall represent the Western Shoshone Committee of the Duck Valley Reservation and be appointed by that Committee;

(F) 1 member shall represent the Fallon Band of Western Shoshone and be appointed by that Band; and

(G) 1 member shall represent the general public and be appointed by the Secretary.

(3) **TERM.**—

(A) **IN GENERAL.**—Each member of the Committee shall serve a term of 4 years.

(B) **VACANCIES.**—If a vacancy remains unfilled in the membership of the Committee for a period of more than 60 days—

(i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and

(ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

(4) **DUTIES.**—The Committee shall—

(A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i);

(B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;

(C) ensure that those funds are used in a manner consistent with this Act;

(D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—

(i) operating procedures;

(ii) rules of conduct;

(iii) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);

(iv) application selection procedures;

(v) procedures for appeals to decisions of the Committee;

(vi) fund disbursement procedures; and

(vii) fund recoupment procedures;

(E) carry out financial management in accordance with paragraph (6); and

(F) in accordance with subsection (b)(2)(C)(ii), use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than \$100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D).

(5) JURISDICTION OF TRIBAL COURTS.—At the discretion of the Committee and with the approval of the appropriate tribal government, a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations (or a successor regulation), shall have jurisdiction to hear an appeal of a decision of the Committee.

(6) FINANCIAL MANAGEMENT.—

(A) FINANCIAL STATEMENT.—The Committee shall employ an independent certified public accountant to prepare a financial statement for each fiscal year that discloses—

(i) the operating expenses of the Committee for the fiscal year; and

(ii) the total amount of funds disbursed under subsection (b)(2)(B)(i) for the fiscal year.

(B) DISTRIBUTION OF INFORMATION.—For each fiscal year, the Committee shall provide to the Secretary, to each organization represented on the Committee, and, on the request of a Western Shoshone member, to the Western Shoshone member, a copy of—

(i) the financial statement prepared under subparagraph (A); and

(ii) the list of names compiled under paragraph (4)(B).

(d) CONSULTATION.—The Secretary shall consult with the Committee on the management and investment of the funds distributed under this section.

#### SEC. 5. REGULATIONS.

The Secretary may promulgate such regulations as are necessary to carry out this Act.

By Mr. EDWARDS (for himself,  
Mr. LAUTENBERG, and Mr.  
LEVIN):

S. 620. A bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pension.

Mr. EDWARDS. Mr. President, I rise today along with my colleagues Mr. LAUTENBERG and Mr. LEVIN to re-introduce the College Fire Prevention Act. This measure would provide Federal matching grants for the installation of fire sprinkler systems in college and university dormitories and fraternity and sorority houses. I believe the time is now to address the sad situation of deadly fires that occur in our children's college living facilities.

The tragic fire that occurred at Seton Hall University on Wednesday, January 19th, 2000, will not be forgotten. Three freshmen, all 18 years old, died. Fifty-four students, two South Orange firefighters and two South Orange police officers were injured. The dormitory, Boland Hall, was a six-

story, 350-room structure built in 1952 that housed approximately 600 students. Astonishingly, the fire was contained to the third floor lounge of Boland Hall. This dormitory was equipped with smoke alarms but no sprinkler system.

Unfortunately, the Boland Hall fire was not the first of its kind. And it reminded many people in North Carolina of their own tragic experience with dorm fires. In 1996, on Mother's Day and Graduation Day, a fire in the Phi Gamma Delta fraternity house at the University of North Carolina at Chapel Hill killed five college juniors and injured three others. The three-story fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

Sadly, dorm fires are not rare. On December 9, 1997, a student died in a dormitory fire at Greenville College in Greenville, IL. The dormitory, Kinney Hall, was built in the 1960s and had no fire sprinkler system. On January 10, 1997, a student died at the University of Tennessee at Martin. The dormitory, Ellington Hall, had no fire sprinkler system. On January 3, 1997, a student died in a dormitory fire at Central Missouri State University in Warrensburg, MO. On October 21, 1994, five students died in a fraternity house fire in Bloomsburg, PA. The list goes on and on. In a typical year between 1980 and 1998, the National Fire Protection Association estimates there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving one death, 70 injuries, and \$8 million in property damage.

So now we must ask, what can be done? What can we do to curtail these tragic fires from taking the lives of our children, our young adults? We should focus our attention on the lack of fire sprinklers in college dormitories and fraternity and sorority houses. Sprinklers save lives.

Despite the clear benefits of sprinklers, many college dorms do not have them. New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings. In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent of them had fire sprinklers present.

At my State's flagship university at Chapel Hill, for example, only 14 of the 33 residence halls have sprinklers. Only 3 of 9 dorms at North Carolina Central University are equipped with the life-saving devices, and there are sprinklers in 4 of the 18 dorms at the University of North Carolina at Greensboro.

The legislation I introduce today authorizes the Secretary of Education, in consultation with the United States Fire Administration, to award grants to States, private or public colleges or

universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories. These entities would be required to produce matching funds equal to one-half of the cost of the project. This legislation authorizes \$80 million for fiscal years 2004 through 2008.

In North Carolina, we decided to initiate a drive to install sprinklers in our public college and university dorms. The overall cost is estimated at \$57.5 million. Given how much it is going to cost North Carolina's public colleges and universities to install sprinklers, I think it's clear that the \$100 million that this measure authorizes is just a drop in the bucket. But my hope is that by providing this small incentive we can encourage more colleges to institute a comprehensive review of their dorm's fire safety and to install sprinklers. All they need is a helping hand. With this modest measure of prevention, we can help prevent the needless and tragic loss of young lives.

Parents should not have to worry about their children living in fire traps. When we send our children away to college, we are sending them to a home away from home where hundreds of other students eat, sleep, burn candles, use electric appliances and smoke. We must not compromise on their safety. As the Fire Chief from Chapel Hill wrote me: "Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing . . . The only complete answer to making student-housing safe is to install fire sprinkler systems." In short, the best way to ensure the protection of our college students is to install fire sprinklers in our college dormitories and fraternity and sorority houses. My proposal has been endorsed by the National Fire Protection Association. I ask all of my colleagues to join me in supporting this important legislation. Thank you.

I ask unanimous consent that the text of the legislation and the letters of support be printed in the RECORD.

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

MARCH 4, 2003.

Hon. JOHN EDWARDS,  
U.S. Senate,  
Washington, DC.

SENATOR EDWARDS: On behalf of the National Fire Prevention Association (NFPA) and our 70,000 members, I want to thank you for introducing the College Fire Prevention Act. We are pleased to support your legislative efforts to provide federal assistance for the installation of fire sprinkler systems in college and university housing and dormitories.

Each year, an estimated 1,800 fires occur in dormitories and fraternity and sorority houses. These fires are responsible for an average of one death, seventy injuries and over \$8 million in property damage. Of these fires, only 35% had fire sprinkler systems present.

As you know, in your home state of North Carolina, a tragic fire on Mother's Day in 1996 killed five students in a fraternity house.

Our statistics show that properly installed and maintained fire sprinkler systems have a proven track records of protecting lives and property in all types of occupancies. In particular, the retrofitting of fire sprinkler systems in college and university housing will greatly improve the safety of these public and private institutions.

Thank you for your leadership on this crucial issue. NFPA is ready to assist in any way to see this legislation passed.

Sincerely,

JOHN C. BIECHMAN,  
Vice-President, Government Affairs.

Chapel Hill Fire Department, Chapel Hill, NC,  
March 12, 2003.

Senator JOHN EDWARDS,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR EDWARDS: One of the most under addressed fire safety problems in America today is university and college student housing. Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing. We in Chapel Hill experienced a worst-case scenario, when in 1996 a fire in a fraternity house on Mother's Day/Graduation Day claimed five young lives and injured three more. We recognized the only complete answer to making student-housing safe is to install fire sprinkler systems.

I had the privilege of reading a draft copy of your proposed legislation amending the Higher Education Act of 1965 to create a matching grants program supporting the lifesaving step of installing fire sprinkler systems in student housing. I strongly urge you to introduce this legislation and I pledge to assist you in promoting this important Bill. Your proposed legislation is the only real solution to the fire threat in student housing. Higher education cannot prepare our young people to contribute to society if they do not survive the experience.

After thirteen years of being responsible for fire protection at the University of North Carolina—Chapel Hill, I am convinced that where students reside, alarms systems are not enough, clear exit ways are not enough, quick fire department response is not enough and educational programs are not enough. The only way you can insure fire safety for college student housing is to place a fire sprinkler system over them. Thank you for recognizing the magnitude of this threat and for proposing a solution to it.

Tell me how we can help.

Sincerely,

DANIEL JONES,  
Fire Chief.

S. 620

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

#### SECTION 1. COLLEGE FIRE PREVENTION ASSISTANCE.

Title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.) is amended by adding at the end the following:

##### "PART E—COLLEGE FIRE PREVENTION ASSISTANCE

###### "SEC. 771. SHORT TITLE.

"This part may be cited as the 'College Fire Prevention Act'.

###### "SEC 772. FINDINGS.

"Congress makes the following findings:

"(1) On Wednesday, January 19, 2000, a fire occurred at a Seton Hall University dor-

mitory. Three male freshmen, all 18 years of age, died. Fifty-four students, 2 South Orange firefighters, and 2 South Orange police officers were injured. The dormitory was a 6-story, 350-room structure built in 1952, that housed approximately 600 students. It was equipped with smoke alarms but no fire sprinkler system.

"(2) On Mother's Day 1996 in Chapel Hill, North Carolina, a fire in the Phi Gamma Delta Fraternity House killed 5 college juniors and injured 3. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

"(3) It is estimated that between 1980 and 1998, an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 70 injuries, and \$8,000,000 in property damage were reported to public fire departments.

"(4) Within dormitories, fraternities, and sororities the number 1 cause of fires is arson or suspected arson. The second leading cause of college building fires is cooking, while the third leading cause is smoking.

"(5) New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings.

"(6) In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent had fire sprinklers present.

###### "SEC. 773. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part \$80,000,000 for each of the fiscal years 2004 through 2008.

###### "SEC. 774. GRANTS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary, in consultation with the United States Fire Administration, is authorized to award grants to States, private or public colleges or universities, fraternities, and sororities to assist them in providing fire sprinkler systems, or other fire suppression or prevention technologies, for their student housing and dormitories.

"(b) MATCHING FUNDS REQUIREMENT.—The Secretary may not award a grant under this section unless the entity receiving the grant provides, from State, local, or private sources, matching funds in an amount equal to not less than one-half of the cost of the activities for which assistance is sought.

###### "SEC. 775. PROGRAM REQUIREMENTS.

"(a) APPLICATION.—Each entity desiring a grant under this part shall submit to the Secretary an application at such time and in such manner as the Secretary may require.

"(b) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to applicants that demonstrate in the application submitted under subsection (a) the inability to fund the sprinkler system, or other fire suppression or prevention technology, from sources other than funds provided under this part.

"(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—An entity that receives a grant under this part shall not use more than 4 percent of the grant funds for administrative expenses.

###### "SEC. 776. DATA AND REPORT.

"The Comptroller General shall—

"(1) gather data on the number of college and university housing facilities and dormitories that have and do not have fire sprinkler systems and other fire suppression or prevention technologies; and

"(2) report such data to Congress.

###### "SEC. 777. ADMISSIBILITY.

"Notwithstanding any other provision of law, any application for assistance under

this part, any negative determination on the part of the Secretary with respect to such application, or any statement of reasons for the determination, shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity."

By Mr. BINGAMAN (for himself,  
Mr. JEFFORDS, Mrs. MURRAY,  
Mr. LEAHY, and Ms. CANTWELL):

S. 621. A bill to amend title XXI of the Social Security Act to allow qualifying States to use allotments under the State children's health insurance program for expenditures under the Medicaid program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators JEFFORDS, MURRAY, LEAHY, and CANTWELL entitled the "Children's Health Equity Act of 2003." This bill addresses an inequity that was created during the establishment of the State Children's Health Insurance Program, CHIP, that unfairly penalized certain States that had done the right thing and had expanded Medicaid coverage to children prior to the enactment of the bill.

While the Congress recognized this fact for some States and "grandfathered" in their expansions so those States could use the new CHIP funding for the children of their respective States, the legislation failed to do so for others, including New Mexico, Vermont, and Washington, among others. This had the effect of penalizing a certain group of States for having done the right thing.

The "Children's Health Equity Act of 2003" addresses this inequity by allowing those States, which had expanded coverage to children up to 185 percent of poverty by April 15, 1997, before the enactment of CHIP, to be allowed to also utilize their CHIP allotments for coverage of those children covered by Medicaid above 133 percent of poverty—putting them on a more level field with all other States in the country.

As you know, in 1997 Congress and President Clinton agreed to establish the State Children's Health Insurance Program, CHIP, and provide \$48 billion over ten years as an incentive to States to provide health care coverage to uninsured, low-income children up to 200 percent of poverty or beyond.

During the negotiations of the Balanced Budget Act, BBA, of 1997, Congress and the Administration properly recognized that certain States were already undertaking Medicaid or separate State-run expansions of coverage to children up to 185 percent of poverty or above and that they would be allowed to use the new CHIP funding for those purposes. The final bill specifically allowed the States of Florida, New York, and Pennsylvania to convert their separate State-run programs into CHIP expansions and States that had expanded coverage to children through Medicaid after March 31, 1997, were also allowed to use CHIP funding for their expansions.

Unfortunately, New Mexico and other States that had enacted similar expansions prior to March 1997 were denied the use of CHIP funding for their expansions. This created an inequity among the States where some were allowed to have their prior programs "grandfathered" into CHIP and others were denied. Therefore, our bill addresses this inequity.

New Mexico has a strong record of attempting to expand coverage to children through the Medicaid program. In 1995, prior to the enactment of CHIP, New Mexico expanded coverage to for all children through age 18 through the Medicaid program up to 185 percent of poverty. After CHIP was passed, New Mexico further expanded its coverage up to 235 percent of poverty—above the level of the vast majority of states across the country.

Due to the inequity caused by CHIP, New Mexico has been allocated \$266 million from CHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over \$26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its federal CHIP allocations.

New Mexico is unable to spend its funding because it had enacted its expansion of coverage to children up to 185 percent of poverty prior to the enactment of CHIP and our State was not "grandfathered" into CHIP as other comparable states were.

The consequences for the children of New Mexico are enormous. According to the Census Bureau, New Mexico has an estimated 114,000 uninsured children. In other words, almost 21 percent of all the children in New Mexico are uninsured, despite the fact the State has expanded coverage up to 235 percent of poverty. This is the second highest rate of uninsured children in the country.

This is a result of the fact that an estimated 80 percent of the uninsured children in New Mexico are below 200 percent of poverty. These children are, consequently, often eligible for Medicaid but currently unenrolled. With the exception of those few children between 185 and 200 percent of poverty who are eligible for CHIP funding, all of the remaining uninsured children below 185 percent of poverty in New Mexico are denied CHIP funding despite their need.

Exacerbating this inequity is the fact that many States are accessing their CHIP allotments to cover kids at poverty levels far below New Mexico's current or past eligibility levels. The children in those States are certainly no more worthy of health insurance coverage than the children of New Mexico.

As the health policy statement by the National Governors' Association reads, "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP, which provides enhanced funding to meet these goals. To this end, the

Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states."

Consequently, the bill I am introducing today corrects this inequity. The bill reflects a carefully-crafted response to the unintended consequences of CHIP and brings much needed assistance to children currently uninsured in my State and other similarly situated States, including Washington and Vermont.

Rather than simply changing the effective date included in the BBA that helped a smaller subset of States, this initiative includes strong maintenance of effort language as well as incentives for our State to conduct outreach and enrollment efforts and program simplification to find and enroll uninsured kids because we feel strongly that they must receive the health coverage for which they are eligible.

The bill does not take money from other States' CHIP allotments. It simply allows our States to spend our States' specific CHIP allotments from the Federal Government on our uninsured children—just as other states across the country are doing.

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. 621

*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 "Children's Health Equity Act of 2003".

#### SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE SCHIP FUNDS FOR MEDICAID EXPENDITURES.

Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

"(g) AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

"(1) STATE OPTION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to fiscal years in which allotments for a fiscal year under section 2104 (beginning with fiscal year 1998) are available under subsections (e) and (g) of that section, a qualifying State (as defined in paragraph (2)) may elect to use such allotments (instead of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

"(B) PAYMENTS TO STATES.—

"(i) IN GENERAL.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

"(ii) EXPENDITURES DESCRIBED.—For purposes of clause (i), the expenditures de-

scribed in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 133 percent of the poverty line.

"(iii) NO IMPACT ON DETERMINATION OF BUDGET NEUTRALITY FOR WAIVERS.—In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

"(2) QUALIFYING STATE.—In this subsection, the term 'qualifying State' means a State that—

"(A) as of April 15, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is up to 185 percent of the poverty line or above; and

"(B) satisfies the requirements described in paragraph (3).

"(3) REQUIREMENTS.—The requirements described in this paragraph are the following:

"(A) SCHIP INCOME ELIGIBILITY.—The State has a State child health plan that (whether implemented under title XIX or this title)—

"(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

"(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

"(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

"(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

"(C) ADDITIONAL REQUIREMENTS.—The State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

"(i) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

"(ii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

"(iii) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

"(iv) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes

under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

“(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(1)(2)(B) consistent with section 1902(a)(55).”.

By Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. BAUCUS, Ms. SNOWE, Mr. DASCHLE, Mr. SMITH, Mr. KERRY, Mr. THOMAS, Mr. BINGAMAN, Mr. BUNNING, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. JEFFORDS, Mr. ENZI, Mr. SARBANES, Mr. DOMENICI, Mr. JOHNSON, Mr. ENSIGN, Mrs. MURRAY, Mr. HOLLINGS, Ms. STABENOW, Mr. CORZINE, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. REID, Mr. DEWINE, Mr. REED, Ms. COLLINS, Mr. MILLER, Mr. LUGAR, Mr. LIEBERMAN, Mr. LEAHY, Mr. CHAFEE, Mr. KOHL, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MCCAIN, Mr. DORGAN, Mr. ROBERTS, Mr. DODD, Mr. DAYTON, Ms. CANTWELL, Mr. BREAUX, Mr. BIDEN, Ms. MIKULSKI, Mr. LEVIN, Ms. LANDRIEU, Mr. INOUE, Mr. HARKIN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Mr. BAYH, and Mr. AKAKA):

S. 622. A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, Senator KENNEDY and I are happy to announce the introduction of the Family Opportunity Act of 2003, a bill to promote family, work, and opportunity. Every day, across the country, thousands of families struggle to obtain affordable and appropriate health care coverage for children with special health care needs, including children with conditions such as autism, mental retardation, cerebral palsy, developmental delays, or mental illness.

Low and middle income parents who have employer sponsored family health care coverage often find that their private insurance doesn't adequately cover the array of services that are critical to their child's well-being, such as mental health services, personal care services, durable medical equipment, special nutritional supplements, and respite care. Because Medicaid, our nation's health care program for low-income individuals, offers the type of comprehensive care that best meets the needs of children with disabilities, it can become a lifeline on which many parents depend.

Yet, Medicaid is a safety net program and one must be impoverished in order to be eligible. This presents a terrible

choice for many low and middle income families who have a child with special health care needs: they must choose between work or impoverishment. Or, in the worst cases, parents consider the devastating choice of relinquishing custody for an out-of-home placement so their child can obtain services they so desperately need. Truly, there is nothing more heartbreaking for a parent than to be unable to provide for a child in need.

Consider the following example: Mr. and Mrs. Jones have two daughters, Heather and Hannah. Hannah was born with cerebral palsy. The family earns \$29,000 a year and is insured through employer sponsored health insurance. Mr. Jones recently lost his job because of down-sizing. Last year, even with insurance, the family spent nearly \$9,000 on out-of-pocket medical expenses. Mr. Jones has found a new job; unfortunately, the family's insurance premium has risen to \$200 a month and does not cover essential occupational and physical therapy. The family dipped into their 401K when Hannah was born. The family's earnings minus the health care premiums, minus out of pocket expenses puts this family at an annual income of \$17,600. The federal poverty level for a family of four is \$18,400. This hard-working family is being impoverished because of their commitment to care for their disabled child.

Over the past three years, I have worked with Senator KENNEDY and Representative PETE SESSIONS to advance this important legislation on behalf of thousands of families who need our help. Each year, more than 70 Senators have signed on as co-sponsors of the legislation. I understand the many pressing challenges facing our nation's health care system, but I urge the Senate to show its support for helping these families and pass the Family Opportunity Act this year.

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. 622

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

# SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Family Opportunity Act of 2003” or the “Dylan Lee James Act”.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; table of contents.

Sec. 2. Opportunity for families of disabled children to purchase medicaid coverage for such children.

Sec. 3. Treatment of inpatient psychiatric hospital services for individuals under age 21 in home or community-based services waivers.

Sec. 4. Development and support of family-to-family health information centers.

Sec. 5. Restoration of medicaid eligibility for certain SSI beneficiaries.

## SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking “or” at the end of subclause (XVII);

(ii) by adding “or” at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

“(XIX) who are disabled children described in subsection (cc)(1);”;

(B) by adding at the end the following new subsection:

“(cc)(1) Individuals described in this paragraph are individuals—

“(A) who have not attained 18 years of age;

“(B) who would be considered disabled under section 1614(a)(3)(C) but for having earnings or deemed income or resources (as determined under title XVI for children) that exceed the requirements for receipt of supplemental security income benefits; and

“(C) whose family income does not exceed such income level as the State establishes and does not exceed—

“(i) 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

“(ii) such higher percent of such poverty line as a State may establish, except that—

“(I) any medical assistance provided to an individual whose family income exceeds 250 percent of such poverty line may only be provided with State funds; and

“(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.”.

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

“(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

“(i) require such parent to apply for, enroll in, and pay premiums for, such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

“(ii) if such coverage is obtained—

“(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

“(II) treat such coverage as a third party liability under subsection (a)(25).

“(B) In the case of a parent to which subparagraph (A) applies, a State, subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium



for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance."

(b) **STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.**—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (h)"; and

(2) by adding at the end the following new subsection:

"(h)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) does not exceed 5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship."

(c) **CONFORMING AMENDMENTS.**—Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII)."

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 2005.

**SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21 IN HOME OR COMMUNITY-BASED SERVICES WAIVERS.**

(a) **IN GENERAL.**—Section 1915(c) (42 U.S.C. 1396n(c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded"; and

(B) in the second sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21" before the period;

(2) in paragraph (2)(B), by striking "or services in an intermediate care facility for the mentally retarded" each place it appears and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21";

(3) in paragraph (2)(C)—

(A) by inserting ", or who are determined to be likely to require inpatient psychiatric hospital services for individuals under age 21," after ", or intermediate care facility for the mentally retarded"; and

(B) by striking "or services in an intermediate care facility for the mentally retarded" and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21"; and

(4) in paragraph (7)(A)—

(A) by inserting "or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded"; and

(B) by inserting "or who would require inpatient psychiatric hospital services for individuals under age 21" before the period.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) apply with respect to medical assistance provided on or after January 1, 2004.

**SEC. 4. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.**

Section 501 (42 U.S.C. 701) is amended by adding at the end the following new subsection:

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2)—

"(i) there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(I) \$3,000,000 for fiscal year 2004;

"(II) \$4,000,000 for fiscal year 2005; and

"(III) \$5,000,000 for fiscal year 2006; and

"(ii) there is authorized to be appropriated to the Secretary, \$5,000,000 for each of fiscal years 2007 and 2008.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, children with disabilities or special health care needs;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed by families of children with disabilities or special health care needs who have expertise in Federal and State public and private health care systems and health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) under this subsection in accordance with the following:

"(A) With respect to fiscal year 2004, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2005, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2006, such centers shall be developed in not less than 50 States and the District of Columbia.

"(4) The provisions of this title that are applicable to the funds made available to the

Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia."

**SEC. 5. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.**

(a) **IN GENERAL.**—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking "(i) and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following'".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the first day of the first calendar quarter that begins after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, it is an honor to join my colleague Senator GRASSLEY today in re-introducing the Family Opportunity Act of—so that once and for all, we can remove the health care barriers for children with disabilities that so often prevent families from staying together and staying employed, and that so often prevent their children from growing up to live independent lives and become fully contributing members of their communities.

More than 9 percent of children in this country have significant disabilities, many of whom do not have access to the basic health services they need to maintain their health status, let alone prevent its continuing deterioration. To obtain these health services for their children, families are being forced to become poor, stay poor, put their children in institutions or ever give up custody of their children—all so that their children can qualify for the health coverage available under Medicaid.

In a recent survey of 20 States, families of special needs children report they are turning down jobs, turning down raises, turning down overtime, and unable even to save money for the future of their children and family—all so that their child can stay eligible for Medicaid through the Social Security Income Program. The lack of adequate health care in our country today continues to force these families into poverty in order to obtain the care they need for their disabled children.

The legislation we are reintroducing will close the health care gap for the nation's most vulnerable population, and enable families of disabled children to be equal partners in the American dream.

In the words of President George Bush in his "New Freedom Initiative," "To many Americans with disabilities remain trapped in bureaucracies of dependence, and are denied the access

necessary for success—and we need to tear down these barriers.

The Family Opportunity. Act will do just that. It will tear down the unfair barriers to needed health care that so many disabled and special needs children are denied. It will make health insurance coverage more widely available for children with significant disabilities, through opportunities to buy-in to Medicaid at an affordable rate. States will have greater flexibility to enable children with mental health disabilities to obtain the health services they need in order to live at home and in their communities. It will establish Family to Family Information Centers in each state to assist families with special needs children.

The passage of Work Incentives Improvement Act in 1999 demonstrated the nation's commitment to give adults with disabilities the right to lead independent and productive lives without giving up their health care. It is time for Congress to show the same commitment to children with disabilities.

We came very close to passing the Family Opportunity Act in the last Congress. I look forward to working members of this new Congress to enact this important legislation, and give disabled children and their families their rightful opportunity to fulfill their dreams and participate fully in the life of our nation.

By Mr. WARNER (for himself and Ms. COLLINS):

S. 623. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WARNER. Mr. President, today I am introducing legislation to provide some relief for our Nation's retired Federal employees from the severe increases in Federal Employee Health Benefit, FEHB, program premiums. This measure extends premium conversion to federal and military retirees, allowing them to pay their health insurance premiums with pre-tax dollars.

Over 9 million Federal employees, retirees and their families are covered under FEHBP. In 2003 premiums are expected to rise an average of 11 percent, the third year in a row the average increase has exceeded 10 percent.

The increasing cost of health care is a critical issue, especially to retirees living on a fixed income. The 2003 Cost of Living Adjustment, COLA, for Federal civil service annuitants is only 1.4 percent, the lowest since a 1.3 percent increase in 1999. The modest COLA is completely diminished by increased health care costs.

In the fall of 2000 premium conversion became available to current federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees.

While premium conversion does not directly affect the amount of the FEHBP premium, it helps to offset some of the increase by reducing an individual's federal tax liability.

Extending this benefit to federal retirees requires a change in the tax law, specifically Section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code.

Under the legislation, the benefit is concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing Federal and military retirees are strongly behind this initiative, including the National Association of Retired Federal Employees, the Military Coalition, the Fleet Reserve Association, and the Association of the U.S. Army.

I encourage my colleagues to support this critical legislation and show their support for our Nation's dedicated Federal civilian and military retirees. 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. 623

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

**SECTION 1. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.**

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

“(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

“(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

“(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.**

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

“SEC. 223. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.

“(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the

health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

“(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).”

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (18) the following new paragraph:

“(19) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 223.”

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

“Sec. 223. TRICARE supplemental premiums or enrollment fees.

“Sec. 224. Cross reference.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 3. IMPLEMENTATION.**

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

By Mr. BAUCUS (for himself and Mr. LEVIN):

S. 624. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the U.S.-Russia Trade Act of 2003.

This legislation would grant Permanent Normal Trade Relations to Russia. However—and I want to be very clear about this point—this legislation would also ensure that Congress retains proper oversight of negotiations to bring Russia into the World Trade Organization.

Congress typically grants PNTR to a Jackson-Vanik country only when that country is about to join the WTO. This is, for example, exactly what Congress did when China joined the WTO.

The Administration and some of my colleagues have suggested that Congress should grant PNTR to Russia

prior to their joining the WTO. If we are going to do down this path, we must ensure that there is adequate Congressional oversight.

This legislation would ensure Congressional involvement in the following way: after negotiations are completed, Congress would be guaranteed a vote on a resolution to disapprove of Russia's joining the WTO, if such a resolution is introduced.

Congress has a key role to play in negotiating an agreement on Russia's entering the WTO. China's WTO accession demonstrates this. The Administration was able to obtain a better deal with China because of Congressional involvement.

And there are some real concerns with Russia. The Russian government has announced that it plans to add additional restrictions on imports of U.S. agricultural products, including poultry, pork, and beef. That's unacceptable, and it is behavior that should not be rewarded.

I look forward to working with my colleagues to ensure that Congress continues to have an important role in Russia's accession to the WTO.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 624

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

#### SECTION 1. FINDINGS.

The Congress finds that—

(1) the Russian Federation has adopted constitutional protections and statutory and administrative procedures that accord its citizens the right and opportunity to emigrate, free of anything more than a nominal tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of such citizens to emigrate to the country of their choice or to return to the Russian Federation;

(2) the Russian Federation has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1994;

(3) the Russian Federation has taken important steps toward the creation of democratic institutions and a free-market economy and, as a participating state of the Organization for Security and Cooperation in Europe (in this Act referred to as the "OSCE"), is committed to developing a system of governance in accordance with the principles regarding human rights and humanitarian affairs that are set forth in the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act") and successive documents;

(4) the Russian Federation is committed to addressing issues relating to its national and religious minorities as a participating state of the OSCE, to adopting measures to ensure that persons belonging to national minorities have full equality both individually and communally, and to respecting the independence of minority religious communities, although problems still exist regarding the registration of religious groups, visa, and im-

migration requirements, and other laws, regulations, and practices that interfere with the activities or internal affairs of minority religious communities;

(5) the Russian Federation has enacted legislation providing protection against discrimination or incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination, including anti-Semitism;

(6) the Russian Federation has committed itself, including through exchanges of letters, to ensuring freedom of religion, equal treatment of all religious groups, and combating racial, ethnic, and religious intolerance and hatred, including anti-Semitism;

(7) the Russian Federation has engaged in efforts to combat ethnic and religious intolerance by cooperating with various United States nongovernmental organizations;

(8) the Russian Federation is continuing the restitution of religious properties, including religious and communal properties confiscated from national and religious minorities during the Soviet era, facilitating the reemergence of these minority groups in the national life of the Russian Federation, and has committed itself, including through exchanges of letters, to continue the restitution of such properties;

(9) the Russian Federation has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force on June 17, 1992;

(10) the Russian Federation is making progress toward accession to the World Trade Organization, recognizing that many central issues remain to be resolved, including removal of unjustified restrictions on agricultural products of the United States, commitments relating to tariff reductions for goods, trade in services, protection of intellectual property rights, reform of the industrial energy sector, elimination of export incentives for industrial goods, reform of customs procedures and technical, sanitary, and phytosanitary measures, and inclusion of trade remedy provisions;

(11) the Russian Federation has enacted some protections reflecting internationally recognized labor rights, but serious gaps remain both in the country's legal regime and its enforcement record;

(12) the Russian Federation has provided constitutional guarantees of freedom of the press, although infringements of this freedom continue to occur; and

(13) the Russian Federation has demonstrated a strong desire to build a friendly and cooperative relationship with the United States.

#### SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE RUSSIAN FEDERATION.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the Russian Federation; and

(2) after making a determination under paragraph (1) with respect to the Russian Federation, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of the Russian Federation, chapter 1 of title IV of the Trade Act of 1974 shall cease to apply to that country.

#### SEC. 3. POLICY OF THE UNITED STATES.

It is the policy of the United States to remain fully committed to a multifaceted en-

gagement with the Russian Federation, including by—

(1) urging the Russian Federation to ensure that its national, regional, and local laws, regulations, practices, and policies fully, and in conformity with the standards of the OSCE—

(A) provide for the free emigration of its citizens;

(B) safeguard religious liberty throughout the Russian Federation, including by ensuring that the registration of religious groups, visa and immigration requirements, and other laws, regulations, and practices are not used to interfere with the activities or internal affairs of minority religious communities;

(C) enforce and enhance existing Russian laws at the national and local levels to combat ethnic, religious, and racial discrimination and related violence;

(D) expand the restitution of religious and communal properties, including by establishing a legal framework for the timely completion of such restitution; and

(E) respect fully freedom of the press;

(2) working with the Russian Federation, including through the Secretary of Labor and other appropriate executive branch officials, to address the issues described in section 1(11); and

(3) continuing rigorous monitoring by the United States of human rights issues in the Russian Federation, including the issues described in paragraphs (1) and (2), providing assistance to nongovernmental organizations and human rights groups involved in human rights activities in the Russian Federation, and promoting annual discussions and ongoing dialog with the Russian Federation regarding those issues, including the participation of United States and Russian nongovernmental organizations in such discussions.

#### SEC. 4. REPORTING REQUIREMENT.

The reports required by sections 102(b) and 203 of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b) and 6433) shall include an assessment of the status of the issues described in subparagraphs (A) through (D) of section 3(1).

#### SEC. 5. CONTINUED ENJOYMENT OF RIGHTS UNDER THE JUNE 17, 1992, BILATERAL TRADE AGREEMENT.

(a) FINDING.—The Congress finds that the trade agreement between the United States and the Russian Federation that entered into force on June 17, 1992, remains in force between the 2 countries and provides the United States with important rights, including the right to use specific safeguard rules to respond to import surges from the Russian Federation.

(b) APPLICABILITY OF SAFEGUARD.—Section 421 of the Trade Act of 1974 (19 U.S.C. 2451) shall apply to the Russian Federation to the same extent as such section applies to the People's Republic of China.

#### SEC. 6. EXERCISE OF CONGRESSIONAL OVERSIGHT OVER WTO ACCESSION NEGOTIATIONS.

(a) NOTICE OF AGREEMENT ON ACCESSION TO WTO BY RUSSIAN FEDERATION.—Not later than 5 days after the date on which the United States has entered into a bilateral agreement with the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, the President shall so notify the Congress, and the President shall transmit to the Congress, not later than 15 days after that agreement is entered into, a report that sets forth the provisions of that agreement.

(b) RESOLUTION OF DISAPPROVAL.—

(1) INTRODUCTION.—If a resolution of disapproval is introduced in the House of Representatives or the Senate during the 30-day

period (not counting any day which is excluded under section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)), beginning on the date on which the President first notifies the Congress under subsection (a) of the agreement referred to in that subsection, that resolution of disapproval shall be considered in accordance with this subsection.

(2) **RESOLUTION OF DISAPPROVAL.**—In this subsection, the term “resolution of disapproval” means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress does not approve the agreement between the United States and the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, of which Congress was notified on \_\_\_\_,” with the blank space being filled with the appropriate date.

(3) **PROCEDURES FOR CONSIDERING RESOLUTIONS.**—

(A) **INTRODUCTION AND REFERRAL.**—Resolutions of disapproval—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(i) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) **COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.**—The provisions of subsections (c) through (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(c) through (f)) (relating to committee discharge and floor consideration of certain resolutions in the House and Senate) apply to a resolution of disapproval to the same extent as such subsections apply to resolutions under such section.

(C) **RULES OF HOUSE OF REPRESENTATIVES AND SENATE.**—Subsection (b) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

By Mr. SANTORUM (for himself and Mr. MILLER):

S. 626. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, today, I am pleased to introduce, along with my colleague Senator MILLER, the bipartisan Teacher Paperwork Reduction Act of 2003. During the 107th Congress, we were successful in legislating sweeping reforms in education with the passage of the No Child Left Behind Act. This year we hope to complete reauthorization of another important federal education initiative—the reauthorization of the Individuals with Dis-

abilities Education Act, IDEA, this year. As we consider this legislation, our greatest responsibility is to improve the quality of the education that students with special needs receive.

One of the problems fostered by the current system, which stands in direct contrast to our purpose, is the excessive paperwork burden imposed on our special education teachers. This burden takes valuable time away from classroom instruction and is a source of ongoing frustration for the special education teachers working on the frontlines. As a result, this undermines the goal of providing the best quality education possible to all children. The Teacher Paperwork Reduction Act addresses this problem and seeks to offer solutions that will benefit special education teachers and most importantly the children they instruct.

This bipartisan legislation includes four main provisions to correct the problem of burdensome paperwork. First, the Department of Education, in cooperation with state and local educational agencies, would be required to reduce the amount of paperwork by 50 percent within 18 months of enactment of the legislation and would be encouraged to make additional reductions. Second, the General Accounting Office, GAO, would conduct a study to determine how much of the paperwork burden is caused by Federal regulations compared to State and local regulations; the number of mediations that have been conducted since mediations were required to be made available under the 1997 IDEA amendments; the use of technology in reducing the paperwork burden; and GAO would make recommendations on steps that Congress, the U.S. Department of Education, and the States and local districts can take to reduce this burden within six months of the passage of this legislation.

Third, mediation would be mandatory for all legal disputes related to Individual Education Programs, IEPs, to better empower parents and schools to focus resources on a quality education for children rather than unnecessary litigation within one year of enactment of this legislation. Fourth, the Department of Education is directed to conduct research to determine best practices for successful mediation, including training practices, that can help contribute to the effort to reduce paperwork, improve student outcomes, and free up teacher resources for teaching. The Department would also provide mediation training support services to support state and local efforts. The resources to fund these requirements would come from money appropriated through Part D of IDEA.

The Council for Exceptional Children, CEO, states, “No barrier is so irksome to special educators as the paperwork that keeps them from teaching.” According to a CEC report, concerns about paperwork ranked third among special education teachers, out of a list of 10 issues. The CEC also reports that

special education teachers are leaving the profession at almost twice the rate of general educators. Statistics concerning the amount of time special education teachers spend completing paperwork are telling. 53 percent of special education teachers report that routine duties and paperwork interfere with their job to a great extent. They spend an average of five hours per week on paperwork, compared to general education teachers who spend an average of two hours per week. More than 60 percent of special education teachers spend a half to one and a half days a week completing paperwork. One of the biggest sources of paperwork, the individualized education program, IEP, averages between 8 and 16 pages long, and 83 percent of special education teachers report spending from a half to one and a half days each week in IEP-related meetings.

One special education teacher expressed her frustration with excessive paperwork to me. “I began my professional career as a lawyer, but found that I had a passion for interacting with and helping students and became a teacher. However, I decided last year that I could no longer work with special education students from my district. I came this decision reluctantly and solely on the basis of the increasing and burdensome amount of paperwork required for special education summer services. As a teacher, your job is to interact, teach, and participate in a student’s learning experience, in particular that of a student of special needs. As a result of the paperwork and fear of lawsuits by school districts, I am no longer able to interact with my students.”

There are three primary factors associated with burdensome paperwork. The first factor is federal regulations. The 1997 IDEA regulations set forth the necessary components of the IEP and require teachers to complete an array of paperwork in addition to the IEP. According to the National School Boards Association, NSBA, “These requirements result in consuming substantial hours per child and cumulatively are having a negative impact on special educators and their function.” Second, there are misconceptions at the state and local levels regarding Federal regulations that result in additional requirements imposed by the States and local school districts. The U.S. Department of Education compiled a sample IEP with all the necessary components, and it is five pages long. However, most IEPs are much longer. The third factor is litigation and the threat of litigation. In order to be prepared for due process hearings and court proceedings, school district officials often require extensive documentation so that they are able to prove that a free appropriate public education, FAPE, was provided to the special education student.

A key provision of the bill makes mediation mandatory for all legal disputes related to IEPs. There are several benefits to using mediation as an

alternative to due process hearings and court proceedings. According to the Consortium for Appropriate Dispute Resolution in Special Education, CADRE, mediation is a constructive option for children, parents, and teachers and allows families to maintain a positive relationship with teachers and service providers. Parents have the benefit of working together with educator and service providers as partners instead of as adversaries. If an agreement cannot be reached as a result of mediation, parties to the dispute would retain existing due process and legal options.

Mediation is also a much less costly, less time consuming alternative for all parties concerned. Parents do not have to pay for mediation sessions, because under the 1997 IDEA amendments, States are required to bear the cost for mediation. States and local districts save a lot of money as well. According to the Michigan Special Education Mediation Program, MSEMP, the average hearing cost to the state is \$40,000; it pays approximately \$700 per mediation session. The NSBA reports that attorney fees for school districts average between \$10,000 to \$25,000. In contrast, the Pennsylvania Bureau of Education says that it pays mediators \$250 per session. The cost effectiveness of mediation is apparent. Not only does mediation save money, it saves time as well. According to the Washington State Department of Education, a mediation session may generally be scheduled within 14 days of a parental request, whereas it may take up to a year to secure a court date.

Most importantly, mediation is a successful alternative to due process hearings. At least some form of agreement is reached in 80 percent of sessions nationwide. In Pennsylvania, 85 percent of voluntary special education mediations end in agreement in which both parties are satisfied. According to the New York State Dispute Resolution Association, mediation ending in resolution of the conflict occurs for 75 percent of referrals, and in Wisconsin, approximately 84 percent of those who chose mediation would use it again.

The Teacher Paperwork Reduction Act is meant to alleviate a serious problem that causes frustration and discouragement among dedicated special education teachers who expend energy and countless hours in order to give students with disabilities an equal opportunity to learn. It is only fair and right to find ways to reduce paperwork in order to give teachers more time to spend educating our students and changing their lives, and less time wading through stacks of paper. I would invite my colleagues to join us in cosponsoring this legislation to help teachers, schools, and parents provide a better education for all students so that no child is left behind.

By Mr. KYL (for himself, Mr. SHELBY, and Mrs. FEINSTEIN):

S. 627. A bill to prevent the use of certain payments instruments, credit

cards, and fund transfers for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KYL. Mr. President, 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. 627

*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 "Unlawful Internet Gambling Funding Prohibition Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers;

(2) the National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them;

(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry;

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability;

(5) gambling through the Internet, which has grown rapidly in the half-decade preceding the enactment of this Act, opens up the possibility of immediate, individual, 24-hour access in every home to the full range of wagering opportunities on sporting events or casino-like contests, such as roulette, slot machines, poker, or black-jack; and

(6) the extent to which gambling is permitted and regulated in the United States has been primarily a matter for determination by individual States and, if applicable, Indian tribes, with Federal law serving to prevent interstate or other attempts to evade or avoid such determinations.

#### SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT SYSTEM INSTRUMENT, CREDIT CARD, OR FUND TRANSFER FOR UNLAWFUL INTERNET GAMBLING.

Chapter 53 of title 31, United States Code, is amended by adding at the end the following:

##### "SUBCHAPTER IV—FUNDING OF ILLEGAL INTERNET GAMBLING

##### "§ 5361. Definitions

"For purposes of this subchapter, the following definitions shall apply:

"(1) BET OR WAGER.—The term 'bet or wager'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code;

"(D) includes any instructions or information pertaining to the establishment or movement of funds in, to, or from an account by the bettor or customer with regard to the business of betting or wagering; and

"(E) does not include—

"(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

"(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

"(iii) any over-the-counter derivative instrument;

"(iv) any other transaction that—

"(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

"(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

"(v) any contract of indemnity or guarantee;

"(vi) any contract for insurance;

"(vii) any deposit or other transaction with an insured institution;

"(viii) any participation in a simulation sports game, or an educational game or contest, that—

"(I) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event;

"(II) has an outcome that reflects the relative knowledge and skill of the participants, with such outcome determined predominantly by accumulated statistical results of sporting events; and

"(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; or

"(ix) any lawful transaction with a business licensed or authorized by a State.

"(2) BUSINESS OF BETTING OR WAGERING.—The term 'business of betting or wagering' does not include, other than for purposes of section 5366, any creditor, credit card issuer, insured institution, or other financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service.

"(3) DESIGNATED PAYMENT SYSTEM.—The term 'designated payment system' means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, that the Secretary, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, determines, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

"(4) INTERNET.—The term 'Internet' means the international computer network of interoperable packet switched data networks.

"(5) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' has the same meaning as in section 230(f) of the Communications Act of 1934.

"(6) OFFICE.—The term 'Office' means the Office of Electronic Funding Oversight, established under section 5362.

“(7) RESTRICTED TRANSACTION.—The term ‘restricted transaction’ means any transaction or transmittal involving any credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(9) UNLAWFUL INTERNET GAMBLING.—The term ‘unlawful Internet gambling’ means the placing, receipt, or other transmission of a bet or wager by any means which involves the use, at least in part, of the Internet, where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

“(10) OTHER TERMS.—

“(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit card’, and ‘card issuer’ have the same meanings as in section 103 of the Truth in Lending Act.

“(B) ELECTRONIC FUND TRANSFER.—The term ‘electronic fund transfer’—

“(i) has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

“(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

“(C) FINANCIAL INSTITUTION.—The term ‘financial institution’ has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

“(D) INSURED INSTITUTION.—The term ‘insured institution’ means—

“(i) an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act; and

“(ii) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

“(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms ‘money transmitting business’ and ‘money transmitting service’ have the same meanings as in section 5330(d) (determined without regard to any regulations issued by the Secretary thereunder).

**“§ 5362. Office of electronic funding oversight; policies and procedures to identify and prevent restricted transactions**

“(a) ESTABLISHMENT OF TREASURY OFFICE.—

“(1) IN GENERAL.—There is established within the Department of the Treasury, the Office of Electronic Funding Oversight, the purposes of which are—

“(A) to coordinate Federal efforts to prohibit restricted transactions; and

“(B) otherwise to carry out the duties of the Office, as specified in this subchapter.

“(2) DIRECTOR.—The Office shall be headed by a Director, appointed by the Secretary. The director of the Office may serve as the designee of the Secretary, at the request of the Secretary, for any purpose under this subchapter.

“(b) REGULATIONS.—Not later than 6 months after the date of enactment of this subchapter, the Office, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, shall prescribe regulations requiring any designated payment system, and all participants therein, to establish policies and procedures reasonably designed to identify and prevent restricted transactions through the establishment of policies and procedures that—

“(1) allow the payment system and any person involved in the payment system to

identify restricted transactions by means of codes in authorization messages or by other means;

“(2) block restricted transactions identified as a result of the policies and procedures developed pursuant to paragraph (1); and

“(3) prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

“(c) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations pursuant to subsection (b), the Office shall—

“(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be ‘reasonably designed to identify’ and ‘reasonably designed to block’ or to ‘prevent the acceptance of the products or services’ with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;

“(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with, restricted transactions; and

“(3) consider exempting restricted transactions from any requirement imposed under such regulations, if the Office finds that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

“(d) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, shall be considered to be in compliance with the regulations prescribed under subsection (b), if—

“(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant—

“(A) to identify and block restricted transactions; or

“(B) to otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

“(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (b).

“(e) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that is subject to a regulation prescribed or order issued under this subchapter and blocks, or otherwise refuses to honor, a restricted transaction, or as a member of a designated payment system relies on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under this section, shall not be liable to any party for such action.

“(f) REGULATORY ENFORCEMENT.—Regulations issued by the Office under this subchapter shall be enforced by the Federal functional regulators and the Federal Trade Commission, in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

**“§ 5363. Prohibition on acceptance of any bank instrument for unlawful internet gambling**

“No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

“(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

“(2) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

“(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

“(4) the proceeds of any other form of financial transaction, as the Secretary may prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

**“§ 5364. Civil remedies**

“(a) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this subchapter or the rules or regulations issued under this subchapter by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

“(b) PROCEEDINGS.—

“(1) INSTITUTION BY FEDERAL GOVERNMENT.—

“(A) IN GENERAL.—The United States, acting through the Attorney General, or, in the case of rules or regulations issued under this subchapter, through an agency authorized to enforce such regulations in accordance with this subchapter, may institute proceedings under this section to prevent or restrain a violation or a threatened violation of this subchapter or such rules or regulations.

“(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter or the rules or regulations issued under this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

“(A) IN GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of this subchapter allegedly has occurred or will occur may institute proceedings under this section to prevent or restrain the violation or threatened violation.

“(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(3) INDIAN LANDS.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a violation of this subchapter or the rules or regulations issued under this subchapter that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

“(i) the United States shall have the enforcement authority provided under paragraph (1); and

“(ii) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act shall be carried out in accordance with that compact.

“(B) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, superseding, or otherwise affecting



the application of the Indian Gaming Regulatory Act.

“(C) EXPEDITED PROCEEDINGS.—In addition to any proceeding under subsection (b), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this subchapter or the rules or regulations issued under this subchapter, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), in accordance with rule 65(b) of the Federal Rules of Civil Procedure.

“(d) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

“(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

“(A) be limited to the removal of, or disabling of access to, an online site violating this subchapter, or a hypertext link to an online site violating this subchapter, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section pursuant to section 5366;

“(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

“(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

“(D) specify the interactive computer service to which it applies; and

“(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

“(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084 of title 18, United States Code, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

“(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

“(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

“(3) RULE OF CONSTRUCTION.—The provisions of paragraph (2) do not affect any potential liability of an interactive computer service or other person under any provision of title 18, United States Code, other than as specifically provided in paragraph (2).

“(e) FACTORS TO BE CONSIDERED IN CERTAIN CASES.—In considering granting relief under this section against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, the court shall consider—

“(1) the extent to which the person extending credit or transmitting funds knew or should have known that the transaction was in connection with unlawful Internet gambling;

“(2) the history of such person in extending credit or transmitting funds when such person knew or should have known that the transaction is in connection with unlawful Internet gambling;

“(3) the extent to which such person has established and is maintaining policies and procedures in compliance with rules and regulations issued under this subchapter;

“(4) the extent to which it is feasible for any specific remedy prescribed as part of such relief to be implemented by such person without substantial deviation from normal business practice; and

“(5) the costs and burdens that the specific remedy will have on such person.

“(f) NOTICE TO REGULATORS AND FINANCIAL INSTITUTIONS.—Before initiating any proceeding under subsection (b) with respect to a violation or potential violation of this subchapter or the rules or regulations issued under this subchapter by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, the Attorney General of the United States, an attorney general of a State (or other appropriate State official), or an agency authorized to initiate such proceeding under this subchapter, shall—

“(1) notify such person, and the appropriate regulatory agency (as determined in accordance with section 5362(f) for such person) of such violation or potential violation and the remedy to be sought in such proceeding; and

“(2) allow such person 30 days to implement a reasonable remedy for the violation or potential violation, consistent with the factors described in subsection (e), and in conjunction with such action as the appropriate regulatory agency may take.

#### “§ 5365. Criminal penalties

“(a) IN GENERAL.—Whoever violates this subchapter or the rules or regulations issued under this subchapter shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

#### “§ 5366. Circumventions prohibited

“Notwithstanding section 5361(2), a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service, may be liable under this subchapter if such creditor, issuer, institution, operator, business, network, or participant has actual knowledge and control of bets and wagers, and—

“(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

“(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made,

or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.”.

#### SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

(a) IN GENERAL.—In deliberations between the United States Government and any other country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act and the amendments made by this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

#### SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVISIONS.

(a) AMENDMENT TO DEFINITION.—Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with “The term” as paragraphs (1) through (5), respectively; and

(2) in paragraph (5), as so designated—

(A) by striking “wire communication” and inserting “communication”;

(B) by inserting “satellite, microwave,” after “cable,”; and

(C) by inserting “(whether fixed or mobile)” after “connection”.

(b) INCREASE IN PENALTY FOR UNLAWFUL WIRE TRANSFERS OF WAGERING INFORMATION.—Section 1084(a) of title 18, United States Code, is amended by striking “two years” and inserting “5 years”.

By Mr. STEVENS (for himself,  
Ms. MIKULSKI, Mr. BOND, and  
Ms. MURKOWSKI):

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia* Orbiter; ordered held at the desk.

Mr. STEVENS. Madam President, on February 1, 2003, the Space Shuttle *Columbia* was lost during re-entry into Earth's atmosphere. We all mourn that tragic loss. But although our hearts have been filled with sorrow, we have also taken comfort in the knowledge that there was so much about these heroic astronauts for us to be grateful for.

They were, indeed, remarkable people for they truly represented the best of the human spirit. As such, it is only fitting that we endeavor to remember them for their outstanding contributions.

Today, along with Senators BOND and MIKULSKI, I introduce legislation to construct a memorial to the crew of the *Columbia* Orbiter at Arlington National Cemetery.

This memorial would be located in close proximity to the memorial to the crew of the *Challenger* Orbiter at Arlington Cemetery and that the design

of the Columbia Memorial is intended to be consistent with the artistic sensibilities of the Challenger Memorial.

This legislation would authorize the Secretary of the Army, in consultation with NASA, to place the Columbia Memorial at Arlington and would make available \$500,000 from funds already appropriated in the Fiscal Year 2003 DOD Appropriations Act for the Memorial.

The bill also authorizes NASA to collect gifts and donations for the Columbia Memorial at Arlington Cemetery or for another appropriate memorial or monument. This authority to collect donations and gifts expires after 5 years.

We will never forget the wonderful legacy of the *Columbia* astronauts. They have been an inspiration to us all.

Lastly, I take this opportunity to invite any Senator to join with me in cosponsoring this legislation to establish this memorial to these outstanding individuals.

I ask unanimous consent that the bill be held at the desk until the close of business Wednesday, March 19, so that such Senators will be shown as original cosponsors of this legislation. It is my further hope that this bill will be speedily cleared on each side of the aisle so that it may be sent to the House next week, if at all possible. I send the bill to the desk, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be held at the desk until the close of business, Wednesday, March 19.

By Mr. FEINGOLD:

S.J. Res. 9. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I introduce a Senate companion to a joint resolution already introduced in the House by Congressman SHERROD BROWN of Ohio.

This resolution is quite simple. It requires the President to report to Congress on the potential costs and consequences of military action in Iraq before ordering the United States Armed Forces to war in Iraq. This is a resolution that simply requires that this country know what it is we are getting into before, not after, war breaks out.

Of course, it is my hope, and I very much believe the President when he asserts that it is his hope, that there will be no war. But judging from the administration's statements and Iraq's behavior, with each passing day it becomes more and more likely that the United States will engage in a major military operation in Iraq. It is entirely possible that we will undertake this operation without a great deal of international support. And while I have no doubt in my mind that our admi-

nable men and women in uniform will be successful in any military engagement, I do have doubts about whether or not the American people truly understand the magnitude of the task the country is setting for itself—not only with regard to the military engagement itself, but with regard to occupation and reconstruction.

I do not believe that Americans have been told much about what the future holds beyond the most optimistic of scenarios, and frankly I do not believe that Congress has heard much about the full range of potential scenarios either.

This resolution would require that the President provide that information before ordering our men and women in uniform to war in Iraq.

The resolution asks for a full accounting of the implications for homeland security of initiating military action against Iraq. It asks for an accounting of the implications for the fight against terrorism. It asks for an accounting of the implications for regional stability in the Middle East, and for an accounting of the implications of war in Iraq for the proliferation of weapons of mass destruction.

This resolution recognizes that there may be positive and negative implications to consider. It does not pre-judge these issues. But it does acknowledge that Members of Congress, the elected representatives of the people, should be privy to the thinking of our experts and leaders in the executive branch about the effect of war in Iraq on all of these issues. It is our responsibility to weigh these questions, to weigh the consequences of starting a war.

And, while I do not doubt for a moment the skills and competence of our brave service men and women, I do know that their efforts alone are not enough to ensure a lasting victory. It is crucial to the ultimate success of U.S. policy, that the American people understand the potential risks and the potential rewards of this national undertaking. We are considering the American military occupation of a major Middle Eastern country, and we are considering this in a very dangerous time. This country must have its eyes open before we move forward.

This resolution also requires that the administration explain to Congress the steps that the United States and our allies will take to ensure that any and all weapons of mass destruction will be safeguarded from dispersal to other rogue states or international terrorist organizations. If the goal is disarmament, then defeating Saddam Hussein's forces is not going to accomplish the mission at hand. Do we know where the WMD sites are? One would assume that we would share that information with the inspectors if we had it. But if we do not, how will we ensure that WMD and the means to make them are not dispersed across Iraq's borders, or sold off to the highest bidder, in the event of invasion. Saddam Hussein's order is despicable and dangerous. But

disorder is dangerous too. Again, we need to understand the risks, and we need to understand the plan.

This resolution requires the Administration to explain the plan for stabilization and reconstruction. Earlier this week the Senate Foreign Relations Committee held a hearing on reconstruction in Iraq. We had hoped to get answers to some of the basic questions that senior officials from the State and Defense Departments were utterly unable to respond to as recently as February. But the Administration canceled the appearance of General Jay Garner, the director for the Pentagon's Office of Reconstruction and Humanitarian Assistance, who was slated to come before the committee. And so the Foreign Relations Committee of the United States Senate is left scanning the newspapers to get a sense of Administration plans, extrapolating from tidbits in the press to understand potential costs, and quizzing very capable experts—but experts not privy to Administration planning—about the universe of possibilities. This is simply unacceptable.

This resolution calls for the Administration to clearly report to Congress on the nature and extent of the international support for military action against Iraq and the impact of military action against Iraq on allied support for the broader war on terrorism. I believe that this is the single most important issue before us. I know that I disagree with some of my colleagues on the wisdom of the Administration's policy in Iraq. But I am certain that none of us disagree on the proposition that the first priority of all of us in government must be the fight against terrorism. And we all know that we cannot fight terrorism alone. But I have heard directly from foreign officials who are telling me that it will be more difficult for them to be strong supporters of the fight against terrorism if the U.S. acts in Iraq without the United Nations' approval.

This resolution calls on the Administration to explain clearly the steps that it will take to protect United States soldiers, allied forces, and Iraqi civilians from any known or suspected environmental hazards resulting from military operations. Everyone in this body has heard from veterans of the Gulf War who suffer and struggle even today, long after their period of sacrifice for their country should have ended. Based on what we know from these veterans, it is entirely reasonable to demand a plan now, not after the fact.

The resolution also calls for the Administration to provide estimates of the American and allied military casualties, Iraqi military casualties, and Iraqi civilian casualties resulting from military action against Iraq, and measures that will be taken to prevent civilian casualties and adhere to international humanitarian law. I know that America is a resilient society and a resolute society. But I am not at all

sure that Americans have been prepared for anything but the best-case scenario, and that is a disservice to the American people and a disservice to our military.

This resolution calls for an estimate of the full costs associated with military action against Iraq, including, but not limited to, providing humanitarian aid to the Iraqi people and to neighboring nations in light of possible refugee flows, reconstructing Iraq with or without allied support, and securing long-term political stability in Iraq and the region insofar as it is affected by such military action. I can tell you that right now in the Budget committee, we are flying blind, trying to make fiscally responsible decisions for the future while the Administration remains unwilling to provide an honest accounting of what this war will cost, or what it will cost to meet the humanitarian needs of Iraq, or what the long process of reconstruction will cost. We know that these are not small figures. And unfortunately, it looks as though we will be proceeding without a great deal of international support, meaning less burden-sharing and more shouldering of this cost on our own. And that is why this resolution also calls for an accounting of the anticipated short and long term effects of military action on the United States economy and the Federal budget.

I feel strongly that we should have demanded this information long ago. But we continue to ask, because Congress continues to have constitutional responsibilities. And I continue to hear from a tremendous number of my constituents who are deeply concerned about the prospect of a war with Iraq. The sources of their concern and their views on the issue vary, but in virtually all cases, they want to understand the range of options before us, and they are demanding more information about the costs and commitments they will incur as a result of decisions that we make here. They are right to insist on that information, to insist that we exercise some foresight here and wrestle honestly with the consequences that may follow from taking military action. Without such a discussion, we cannot hope to answer the most important question before us—will a given course of action make the U.S. more or less secure in the end.

I urge my colleagues to support this resolution, and to insist that the Administration provide this information before war breaks out. I voted against the resolution authorizing the use of force in Iraq last fall, because I was uncomfortable with the Administration's shifting justifications for war, dissatisfied with the vague answers available at the time relating to our plans for dealing with weapons of mass destruction and reconstruction in Iraq, and most of all, because I was concerned that this action would actually alienate key allies in the fight against terrorism. But even those who voted differently surely must believe that we

have a responsibility to answer these questions now, and to share the answers with our constituents, so that this great country is operating not on wishful thinking or simple ignorance, but with an understanding of the facts before us, and the awesome task ahead.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 83—COM-MENDING THE SERVICE OF DR. LLOYD J. OGILVIE, THE CHAP-LAIN OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

##### S. RES. 83

Whereas Dr. Lloyd J. Ogilvie became the 61st Senate Chaplain on March 13, 1995, and has faithfully served the Senate for 8 years as Senate Chaplain;

Whereas Dr. Ogilvie is the author of 49 books, including "Facing the Future without Fear"; and

Whereas Dr. Ogilvie graduated from Lake Forest College, Garrett Theological Seminary of Northwestern University and New College, University of Edinburgh, Scotland, and has served as a Presbyterian minister throughout his professional life, including being the senior pastor at First Presbyterian Church, Hollywood, California: Now, therefore, be it

*Resolved*, That—

(1) the Senate hereby honors Dr. Lloyd J. Ogilvie for his dedicated service as the Chaplain of the United States Senate; and

(2) the Secretary transmit an enrolled copy of this resolution to Dr. Ogilvie.

##### SENATE RESOLUTION 84—PRO-VIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

##### S. RES. 84

*Resolved*, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Chambliss, Mr. Cochran, Mr. Smith, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Lott, Mr. Cochran, Mr. Dodd, and Mr. Schumer.

##### SENATE RESOLUTION 85—TO AMEND PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. MILLER submitted the following resolution; which was referred to the Committee on Rules and Administration:

##### S. RES. 85

*Resolved*, That paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. (a)(1) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by 16 Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day but 1, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yeas-and-nays vote the question: "Is it the sense of the Senate that the debate shall be brought to a close?"

"(2) If the question in clause (1) is agreed to by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then that measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"(3) After cloture is invoked, no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least 1 hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"(4) After no more than 30 hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The 30 hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any 1 calendar day.

"(5) If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"(6) No Senator shall call up more than 2 amendments until every other Senator shall have had the opportunity to do likewise.

"(7) Notwithstanding other provisions of this rule, a Senator may yield all or part of

his 1 hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than 2 hours so yielded to him and may in turn yield such time to other Senators.

“(8) Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least 10 minutes, is, if he seeks recognition, guaranteed up to 10 minutes, inclusive, to speak only.

“(9) After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than 24 hours.

“(b)(1) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent motions to bring debate to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent cloture motions on any measure, motion, or other matter pending before the Senate, except by unanimous consent, until the previous motion has been disposed of.

“(2) Such subsequent motions shall be made in the manner provided by, and subject to the provisions of, subparagraph (a), except that the affirmative vote required to bring to a close debate upon that measure, motion, or other matter, or unfinished business (other than a measure or motion to amend Senate rules) shall be reduced by 3 votes on the second such motion, and by 3 additional votes on each succeeding motion, until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn. The required vote shall then be an affirmative vote of a majority of the Senators duly chosen and sworn. The requirement of an affirmative vote of a majority of the Senators duly chosen and sworn shall not be further reduced upon any vote taken on any later motion made pursuant to this subparagraph with respect to that measure, motion, matter, or unfinished business.”.

#### SENATE RESOLUTION 86—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN *W. CURTIS SHAIN v. HUNTER BATES, ET AL.*

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution, which was considered and agreed to:

##### S. RES. 86

Whereas, in the case of *W. Curtis Shain v. G. Hunter Bates, et al.*, No. 03-CI-00153, pending in Division II of the Oldham Circuit Court, Twelfth Judicial Circuit, Commonwealth of Kentucky, an affidavit has been requested from Senator Mitch McConnell;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent him-

self from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Senator McConnell is authorized to provide testimony in the case of *W. Curtis Shain v. G. Hunter Bates, et al.*, except concerning matters for which a privilege should be asserted and when his attendance at the Senate is necessary for the performance of his legislative duties.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator McConnell in connection with any testimony authorized in section one of this resolution.

#### SENATE RESOLUTION 87—COMMEMORATING THE CENTENNIAL ANNIVERSARY OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. INHOFE, Mr. JEFFORDS, Mr. DASCHLE, Mr. CRAPO, Mr. KERRY, Ms. CANTWELL, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. WARNER, Mrs. MURRAY, Mrs. HUTCHISON, Ms. MIKULSKI, Mr. SARBANES, Mr. LAUTENBERG, Mr. CHAFEE, Mr. DURBIN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. VOINOVICH, Mr. HOLLINGS, Mrs. BOXER, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. ALLARD, Mr. DODD, and Mr. EDWARDS) submitted the following resolution; which was considered and agreed to:

##### S. RES. 87

Whereas March 14, 2003, will mark the Centennial Anniversary of the National Wildlife Refuge System;

Whereas the United States Senate continues to fully support the mission of the National Wildlife Refuge System, and shares President Theodore Roosevelt's view that: "Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander";

Whereas President Theodore Roosevelt's vision in 1903 to conserve wildlife started with the plants and animals on the tiny Pelican Island on Florida's East Coast, and has flourished across the United States and its territories, allowing for the preservation of a vast array of species; and

Whereas the National Wildlife Refuge System of 540 refuges, that now hosts 35,000,000 visitors annually, with the help of 30,000 volunteers, is home to wildlife of almost every variety in every state of the union within an hour's drive of almost every major city: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the National Wildlife Refuge System on its Centennial Anniversary;

(2) expresses strong support for the National Wildlife Refuge System's continued success in the next 100 years and beyond;

(3) encourages the National Wildlife Refuge System in its continued efforts to broaden understanding and appreciation for the Refuge System, to increase partnerships on behalf of the National Wildlife Refuge System to better manage and monitor wildlife, and to continue its support of outdoor recreational activities; and

(4) reaffirms its commitment to continued support for the National Wildlife Refuge Sys-

tem, and the conservation of our Nation's rich natural heritage.

#### SENATE RESOLUTION 88—HONORING THE 80TH BIRTHDAY OF JAMES L. BUCKLEY, FORMER UNITED STATES SENATOR FOR THE STATE OF NEW YORK

Mr. HATCH submitted the following resolution; which was considered and agreed to:

##### S. RES. 88

Whereas James Buckley served in the United States Senate with great dedication, integrity, and professionalism as a trusted colleague from the State of New York;

Whereas James Buckley served with distinction for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit;

Whereas James Buckley's long and distinguished career in public service also included serving in the U.S. Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe;

Whereas James Buckley celebrated his 80th birthday earlier this week: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges and honors the tremendous contributions made by James Buckley during his distinguished career to the executive, legislative, and judicial branches of the United States; and

(2) congratulates and expresses best wishes to James Buckley on the celebration of his 80th birthday.

#### SENATE RESOLUTION 89—HONORING THE LIFE OF FORMER GOVERNOR OF MINNESOTA ORVILLE L. FREEMAN, AND EXPRESSING THE DEEPEST CONDOLENCE OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. DAYTON (for himself and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

##### S. RES. 89

Whereas the Senate has learned with sadness of the death of former Governor of Minnesota Orville L. Freeman;

Whereas Orville L. Freeman, born in Minneapolis, Minnesota, greatly distinguished himself by his long commitment to public service;

Whereas Orville L. Freeman, football star, student council president, and Phi Beta Kappa honors student, graduated magna cum laude from the University of Minnesota;

Whereas Orville L. Freeman, a Major in the Marine Corps, served the United States with honor and distinction during World War II, and was awarded a Purple Heart for wounds associated with his heroism;

Whereas the organizational leadership of Orville L. Freeman helped build the Minnesota Democratic-Farmer-Labor Party into a successful political party;

Whereas, in 1954, Orville L. Freeman became the first Democratic-Farmer-Labor candidate to be elected Governor of Minnesota;

Whereas Orville L. Freeman, elected to 3 consecutive terms as Governor, advanced the concept of governance now known as "the Minnesota Consensus," which views government as a positive force in the lives of citizens, and government programs as investments in Minnesota's future;

Whereas, during his service as Governor of Minnesota, Orville L. Freeman increased State funding for education, improved health and rehabilitation programs, expanded conservation efforts, and achieved many other successes that improved his State and the lives of its citizens;

Whereas Orville L. Freeman served as the Secretary of Agriculture in the administrations of President John F. Kennedy and President Lyndon B. Johnson, during which service he initiated global food assistance programs and developed the domestic food stamp and school breakfast programs;

Whereas, in addition to his outstanding public service, Orville L. Freeman was also a successful international lawyer and business executive;

Whereas Orville L. Freeman was a devoted husband to his wife, Jane, for 62 years, a loving father to two exceptional children, Constance and Michael, and a proud grandfather to three talented grandchildren, Elizabeth, Kathryn, and Matthew; and

Whereas Orville L. Freeman led a life that was remarkable for its breadth of pursuits, multitude of accomplishments, standards of excellence, dedication to public service, and important contributions to the improvement of his country and the lives of his fellow citizens: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) pays tribute to the outstanding career and devoted work of the great Minnesota and national leader, Orville L. Freeman;

(2) expresses its deepest condolences to the family of Orville L. Freeman on his death; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Orville L. Freeman.

**SENATE CONCURRENT RESOLUTION 20—PERMITTING THE CHAIRMAN OF THE COMMITTEE ON RULES AND ADMINISTRATION OF THE SENATE TO DESIGNATE ANOTHER MEMBER OF THE COMMITTEE TO SERVE ON THE JOINT COMMITTEE ON PRINTING IN PLACE OF THE CHAIRMAN**

Mr. LOTT (for himself and Mr. DODD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 20

*Resolved by the Senate (the House of Representatives concurring)*, That effective for the One Hundred Eighth Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

**SENATE CONCURRENT RESOLUTION 21—EXPRESSING THE SENSE OF THE CONGRESS THAT COMMUNITY INCLUSION AND ENHANCED LIVES FOR INDIVIDUALS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES IS AT SERIOUS RISK BECAUSE OF THE CRISIS IN RECRUITING AND RETAINING DIRECT SUPPORT PROFESSIONALS, WHICH IMPEDES THE AVAILABILITY OF A STABLE, QUALITY DIRECT SUPPORT WORKFORCE.**

Mr. BUNNING (for himself and Mrs. LINCOLN) submitted the following con-

current resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 21

Whereas there are more than 8,000,000 Americans who have mental retardation or other developmental disabilities;

Whereas individuals with developmental disabilities include those with mental retardation, autism, cerebral palsy, Down syndrome, epilepsy, and other related conditions;

Whereas individuals with mental retardation or other developmental disabilities have substantial limitations on their functional capacities, including limitations in two or more of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, independent living, and economic self-sufficiency, as well as the continuous need for individually planned and coordinated services;

Whereas for the past two decades individuals with mental retardation or other developmental disabilities and their families have increasingly expressed their desire to live and work in their communities, joining the mainstream of American life;

Whereas the Supreme Court, in its *Olmstead* decision, affirmed the right of individuals with mental retardation or other developmental disabilities to receive community-based services as an alternative to institutional care;

Whereas the demand for community supports and services is rapidly growing, as States comply with the *Olmstead* decision and continue to move more individuals from institutions into the community;

Whereas the demand will also continue to grow as family caregivers age, individuals with mental retardation or other developmental disabilities live longer, waiting lists grow, and services expand;

Whereas our Nation's long-term care delivery system is dependent upon a disparate array of public and private funding sources, and is not a conventional industry, but rather is financed primarily through third-party insurers;

Whereas Medicaid financing of supports and services to individuals with mental retardation or other developmental disabilities varies considerably from State to State, causing significant disparities across geographic regions, among differing groups of consumers, and between community and institutional supports;

Whereas outside of families, private providers that employ direct support professionals deliver the majority of supports and services for individuals with mental retardation or other developmental disabilities in the community;

Whereas direct support professionals provide a wide range of supportive services to individuals with mental retardation or other developmental disabilities on a day-to-day basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, and housekeeping and other home management-related supports and services so that these individuals can live and work in their communities;

Whereas direct support professionals generally assist individuals with mental retardation or other developmental disabilities to lead a self-directed family, community, and social life;

Whereas private providers and the individuals for whom they provide supports and services are in jeopardy as a result of the growing crisis in recruiting and retaining a direct support workforce;

Whereas providers of supports and services to individuals with mental retardation or other developmental disabilities typically

draw from a labor market that competes with other entry-level jobs that provide less physically and emotionally demanding work, and higher pay and other benefits, and therefore these direct support jobs are not currently competitive in today's labor market;

Whereas annual turnover rates of direct support workers range from 40 to 75 percent;

Whereas high rates of employee vacancies and turnover threaten the ability of providers to achieve their core mission, which is the provision of safe and high-quality supports to individuals with mental retardation or other developmental disabilities;

Whereas direct support staff turnover is emotionally difficult for the individuals being served;

Whereas many parents are becoming increasingly afraid that there will be no one available to take care of their sons and daughters with mental retardation or other developmental disabilities who are living in the community; and

Whereas this workforce shortage is the most significant barrier to implementing the *Olmstead* decision and undermines the expansion of community integration as called for by President Bush's New Freedom Initiative, placing the community support infrastructure at risk: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*,

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the "Direct Support Professional Recognition Resolution".

**SEC. 2. SENSE OF CONGRESS REGARDING SERVICES OF DIRECT SUPPORT PROFESSIONALS TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.**

It is the sense of the Congress that the Federal Government and the States should make it a priority to ensure a stable, quality direct support workforce for individuals with mental retardation or other developmental disabilities that advances our Nation's commitment to community integration for such individuals and to personal security for them and their families.

**SENATE CONCURRENT RESOLUTION 22—EXPRESSING THE SENSE OF THE CONGRESS REGARDING HOUSING AFFORDABILITY AND URGING FAIR AND EXPEDITIOUS REVIEW BY INTERNATIONAL TRADE TRIBUNALS TO ENSURE A COMPETITIVE NORTH AMERICAN MARKET FOR SOFTWOOD LUMBER**

Mr. NICKLES (for himself, Mr. BAYH, Mr. BUNNING, Mr. FITZGERALD, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. REED, and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Finance.

S. CON. RES. 22

Whereas the United States and Canada have, since 1989, worked to eliminate tariff and nontariff barriers to trade;

Whereas free trade has greatly benefitted the United States and Canadian economies;

Whereas the U.S. International Trade Commission only found the potential for a Threat of Injury (as opposed to actual injury) to domestic lumber producers but the Department of Commerce imposed a 27 percent duty on U.S. lumber consumers;

Whereas trade restrictions on Canadian lumber exported to the U.S. market have been an exception to the general rule of bilateral free trade;

Whereas the legitimate interests of consumers are often overlooked in trade disputes;

Whereas the availability of affordable housing is important to American home buyers and the need for the availability of such housing, particularly in metropolitan cities across America, is growing faster than it can be met;

Whereas imposition of special duties on U.S. consumers of softwood lumber, essential for construction of on-site and manufactured homes, jeopardizes housing affordability;

Whereas the United States has agreed to abide by dispute settlement procedures in the World Trade Organization and the North American Free Trade Agreement, providing for international review of national remedy actions; and,

Whereas the World Trade Organization and North American Free Trade Agreement dispute panels are reviewing findings by the ITC: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), that it is the sense of the Congress that—*

(1) The Department of Commerce and U.S. Trade Representative should work to assure that no delays occur in resolving the current disputes before the NAFTA and WTO panels, supporting a fair and expeditious review;

(2) U.S. anti-dumping and countervail law is a rules-based system that should proceed to conclusion in WTO and NAFTA trade panels;

(3) The President should continue discussions with the Government of Canada to promote open trade between the United States and Canada on softwood lumber free of trade restraints that harm consumers;

(4) The President should consult with all stakeholders, including consumers of lumber products in future discussions regarding any terms of trade in softwood lumber between the United States and Canada.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Wednesday, March 19, 2003, in room SR 301, Russell Senate Office Building, to conduct an oversight hearing on the operations of the Secretary of the Senate and the Architect of the Capitol.

For further information concerning this meeting, please contact Susan Wells at 202-224-6352.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 9:30 a.m., in open and possibly closed session, to receive testimony from unified and regional commanders on their military strategy and operational requirements, in review of the Defense Authorization Request for Fiscal Year 2004 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Com-

mittee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 13, 2003, at 10 a.m., to conduct a hearing on "The Administration's Proposed Fiscal Year 2004 Budget for the Federal Transit Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 13, 2003, at 9:30 a.m., in SR-253, for an executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 13 at 10 a.m., to receive testimony on gaining an understanding of the impacts of last year's fires and then looking forward to the potential 2003 fire season.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 13, at 2:30 p.m., is to conduct oversight on the designation and management of national heritage areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, Federal and non-Federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 2 p.m., to hold a members briefing on Iraq's political future.

Briefer: The Honorable William Burns, Assistant Secretary for Middle East, Department of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing entitled "Setting the Record Straight: The Nomination of Justice Priscilla Owen" on Thursday, March 13, 2003, at 10 a.m., in the Dirksen Senate Office Building, room 106.

## Witness list

Panel I: The Honorable Kay Bailey Hutchison and The Honorable John Cornyn.

Panel II: Priscilla Richmond Owen to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 13, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reserve Association, and the Air Force Sergeants Association.

The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, March 13, at 9:30 a.m. to conduct an oversight hearing on the implementation of the CMAQ and Conformity programs. This meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON READINESS AND MANAGEMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session on the Senate on Thursday, March 13, 2003, at 2 p.m., in open session to receive testimony on the impacts of environmental laws on readiness and the related administration legislative proposal in review of the Defense Authorization Request for Fiscal Year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Bruce Artim and Dr. Mark Carlson from Senator HATCH's staff be granted floor privileges for the remainder of the session.

The PRESIDING OFFICER. Without objection, it is so ordered.



**GILA RIVER INDIAN COMMUNITY  
JUDGMENT FUND DISTRIBUTION  
ACT OF 2003**

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 30, S. 162.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 162) to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 162) was read the third time and passed, as follows:

S. 162

*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 “Gila River Indian Community Judgment Fund Distribution Act of 2003”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

**TITLE I—GILA RIVER JUDGMENT FUND  
DISTRIBUTION**

Sec. 101. Distribution of judgment funds.

Sec. 102. Responsibility of Secretary; applicable law.

**TITLE II—CONDITIONS RELATING TO  
COMMUNITY JUDGMENT FUND PLANS**

Sec. 201. Plan for use and distribution of judgment funds awarded in Docket No. 228.

Sec. 202. Plan for use and distribution of judgment funds awarded in Docket No. 236-N.

**TITLE III—EXPERT ASSISTANCE LOANS**

Sec. 301. Waiver of repayment of expert assistance loans to Gila River Indian Community.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) on August 8, 1951, the Gila River Indian Community filed a complaint before the Indian Claims Commission in *Gila River Pima-Maricopa Indian Community v. United States*, Docket No. 236, for the failure of the United States to carry out its obligation to protect the use by the Community of water from the Gila River and the Salt River in the State of Arizona;

(2) except for Docket Nos. 236-C and 236-D, which remain undistributed, all 14 original dockets under Docket No. 236 have been resolved and distributed;

(3) in *Gila River Pima-Maricopa Indian Community v. United States*, 29 Ind. Cl. Comm. 144 (1972), the Indian Claims Commission held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236-C;

(4) in *Gila River Pima-Maricopa Indian Community v. United States*, 684 F.2d 852 (1982), the United States Claims Court held that the United States, as trustee, was liable

to the Community with respect to the claims made in Docket No. 236-D;

(5) with the approval of the Community under Community Resolution GR-98-98, the Community entered into a settlement with the United States on April 27, 1999, for claims made under Dockets Nos. 236-C and 236-D for an aggregate total of \$7,000,000;

(6) on May 3, 1999, the United States Court of Federal Claims ordered that a final judgment be entered in consolidated Dockets Nos. 236-C and 236-D for \$7,000,000 in favor of the Community and against the United States;

(7)(A) on October 6, 1999, the Department of the Treasury certified the payment of \$7,000,000, less attorney fees, to be deposited in a trust account on behalf of the Community; and

(B) that payment was deposited in a trust account managed by the Office of Trust Funds Management of the Department of the Interior; and

(8) in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit an Indian judgment fund use or distribution plan to Congress for approval.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **ADULT.**—The term “adult” means an individual who—

(A) is 18 years of age or older as of the date on which the payment roll is approved by the Community; or

(B) will reach 18 years of age not later than 30 days after the date on which the payment roll is approved by the Community.

(2) **COMMUNITY.**—The term “Community” means the Gila River Indian Community.

(3) **COMMUNITY-OWNED FUNDS.**—The term “Community-owned funds” means—

(A) funds held in trust by the Secretary as of the date of enactment of this Act that may be made available to make payments under section 101; or

(B) revenues held by the Community that—

(i) are derived from trust resources; and

(ii) qualify for an exemption under section 7 or 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

(4) **IIM ACCOUNT.**—The term “IIM account” means an individual Indian money account.

(5) **JUDGMENT FUNDS.**—The term “judgment funds” means the aggregate amount awarded to the Community by the Court of Federal Claims in Dockets Nos. 236-C and 236-D.

(6) **LEGALLY INCOMPETENT INDIVIDUAL.**—The term “legally incompetent individual” means an individual who has been determined to be incapable of managing his or her own affairs by a court of competent jurisdiction.

(7) **MINOR.**—The term “minor” means an individual who is not an adult.

(8) **PAYMENT ROLL.**—The term “payment roll” means the list of eligible, enrolled members of the Community who are eligible to receive a payment under section 101(a), as prepared by the Community under section 101(b).

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

**TITLE I—GILA RIVER JUDGMENT FUND  
DISTRIBUTION**

**SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.**

(a) **PER CAPITA PAYMENTS.**—Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any other provision of law (including any regulation promulgated or plan developed under such a law), the amounts paid in satisfaction of an award granted to the Gila River Indian Community in Dockets Nos. 236-C and 236-D before the United States Court of Federal Claims, less attorney fees and litigation expenses and including all ac-

crued interest, shall be distributed in the form of per capita payments (in amounts as equal as practicable) to all eligible enrolled members of the Community.

(b) **PREPARATION OF PAYMENT ROLL.**—

(1) **IN GENERAL.**—The Community shall prepare a payment roll of eligible, enrolled members of the Community that are eligible to receive payments under this section in accordance with the criteria described in paragraph (2).

(2) **CRITERIA.**—

(A) **INDIVIDUALS ELIGIBLE TO RECEIVE PAYMENTS.**—Subject to subparagraph (B), the following individuals shall be eligible to be listed on the payment roll and eligible to receive a per capita payment under subsection (a):

(i) All enrolled Community members who are eligible to be listed on the per capita payment roll that was approved by the Secretary for the distribution of the funds awarded to the Community in Docket No. 236-N (including any individual who was inadvertently omitted from that roll).

(ii) All enrolled Community members who are living on the date of enactment of this Act.

(iii) All enrolled Community members who died—

(I) after the effective date of the payment plan for Docket No. 236-N; but

(II) on or before the date of enactment of this Act.

(B) **INDIVIDUALS INELIGIBLE TO RECEIVE PAYMENTS.**—The following individuals shall be ineligible to be listed on the payment roll and ineligible to receive a per capita payment under subsection (a):

(i) Any individual who, before the date on which the Community approves the payment roll, relinquished membership in the Community.

(ii) Any minor who relinquishes membership in the Community, or whose parent or legal guardian relinquishes membership on behalf of the minor, before the date on which the minor reaches 18 years of age.

(iii) Any individual who is disenrolled by the Community for just cause (such as dual enrollment or failure to meet the eligibility requirements for enrollment).

(iv) Any individual who is determined or certified by the Secretary to be eligible to receive a per capita payment of funds relating to a judgment—

(I) awarded to another community, Indian tribe, or tribal entity; and

(II) appropriated on or before the date of enactment of this Act.

(v) Any individual who is not enrolled as a member of the Community on or before the date that is 90 days after the date of enactment of this Act.

(c) **NOTICE TO SECRETARY.**—On approval by the Community of the payment roll, the Community shall submit to the Secretary a notice that indicates the total number of individuals eligible to share in the per capita distribution under subsection (a), as expressed in subdivisions that reflect—

(1) the number of shares that are attributable to eligible living adult Community members; and

(2) the number of shares that are attributable to deceased individuals, legally incompetent individuals, and minors.

(d) **INFORMATION PROVIDED TO SECRETARY.**—The Community shall provide to the Secretary enrollment information necessary to allow the Secretary to establish—

(1) estate accounts for deceased individuals described in subsection (c)(2); and

(2) IIM accounts for legally incompetent individuals and minors described in subsection (c)(2).

(e) **DISBURSEMENT OF FUNDS.**—

(1) IN GENERAL.—Not later than 30 days after the date on which the payment roll is approved by the Community and the Community has reconciled the number of shares that belong in each payment subdivision described in subsection (c), the Secretary shall disburse to the Community the funds necessary to make the per capita distribution under subsection (a) to eligible living adult members of the Community described in subsection (c)(1).

(2) ADMINISTRATION AND DISTRIBUTION.—On disbursement of the funds under paragraph (1), the Community shall bear sole responsibility for administration and distribution of the funds.

(f) SHARES OF DECEASED INDIVIDUALS.—

(1) IN GENERAL.—The Secretary, in accordance with regulations promulgated by the Secretary and in effect as of the date of enactment of this Act, shall distribute to the appropriate heirs and legatees of deceased individuals described in subsection (c)(2) the per capita shares of those deceased individuals.

(2) ABSENCE OF HEIRS AND LEGATEES.—If the Secretary and the Community make a final determination that a deceased individual described in subsection (c)(2) has no heirs or legatees, the per capita share of the deceased individual and the interest earned on that share shall—

(A) revert to the Community; and

(B) be deposited into the general fund of the Community.

(g) SHARES OF LEGALLY INCOMPETENT INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of legally incompetent individuals described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—The IIM accounts described in paragraph (1) shall be administered in accordance with regulations and procedures established by the Secretary and in effect as of the date of enactment of this Act.

(h) SHARES OF MINORS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of minors described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall hold the per capita share of a minor described in subsection (c)(2) in trust until such date as the minor reaches 18 years of age.

(B) NONAPPLICABLE LAW.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held by the Secretary under this Act.

(C) DISBURSEMENT.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in subsection (c)(2) until such date as the minor reaches 18 years of age.

(i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LISTED ON PAYMENT ROLL.—

(1) IN GENERAL.—An individual who is not listed on the payment roll, but is eligible to receive a payment under this Act, as determined by the Community, may be paid from any remaining judgment funds after the date on which—

(A) the Community makes the per capita distribution under subsection (a); and

(B) all appropriate IIM accounts are established under subsections (g) and (h).

(2) INSUFFICIENT FUNDS.—If insufficient judgment funds remain to cover the cost of a payment described in paragraph (1), the Community may use Community-owned funds to make the payment.

(3) MINORS, LEGALLY INCOMPETENT INDIVIDUALS, AND DECEASED INDIVIDUALS.—In a case in which a payment described in paragraph (2) is to be made to a minor, a legally incom-

petent individual, or a deceased individual, the Secretary—

(A) is authorized to accept and deposit funds from the payment in an IIM account or estate account established for the minor, legally incompetent individual, or deceased individual; and

(B) shall invest those funds in accordance with applicable law.

(j) USE OF RESIDUAL FUNDS.—On request by the governing body of the Community to the Secretary, and after passage by the governing body of the Community of a tribal council resolution affirming the intention of the governing body to have judgment funds disbursed to, and deposited in the general fund of, the Community, any judgment funds remaining after the date on which the Community completes the per capita distribution under subsection (a) and makes any appropriate payments under subsection (i) shall be disbursed to, and deposited in the general fund of, the Community.

(k) REVERSION OF PER-CAPITA SHARES TO TRIBAL OWNERSHIP.—

(1) IN GENERAL.—In accordance with the first section of Public Law 87-283 (25 U.S.C. 164), the share for an individual eligible to receive a per-capita share under subsection (a) that is held in trust by the Secretary, and any interest earned on that share, shall be restored to Community ownership if, for any reason—

(A) subject to subsection (i), the share cannot be paid to the individual entitled to receive the share; and

(B) the share remains unclaimed for the 6-year period beginning on the date on which the individual became eligible to receive the share.

(2) REQUEST BY COMMUNITY.—In accordance with subsection (j), the Community may request that unclaimed funds described in paragraph (1)(B) be disbursed to, and deposited in the general fund of, the Community.

#### SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE LAW.

(a) RESPONSIBILITY FOR FUNDS.—After the date on which funds are disbursed to the Community under section 101(e)(1), the United States and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the funds disbursed.

(b) DECEASED AND LEGALLY INCOMPETENT INDIVIDUALS.—Funds subject to subsections (f) and (g) of section 101 shall continue to be held in trust by the Secretary until the date on which those funds are disbursed under this Act.

(c) APPLICABILITY OF OTHER LAW.—Except as otherwise provided in this Act, all funds distributed under this Act shall be subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

#### TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

##### SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 228.

(a) DEFINITION OF PLAN.—In this section, the term “plan” means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 228 of the United States Claims Court (52 Fed. Reg. 6887 (March 5, 1987)), as modified in accordance with Public Law 99-493 (100 Stat. 1241).

(b) CONDITIONS.—Notwithstanding any other provision of law, the Community shall modify the plan to include the following conditions with respect to funds distributed under the plan:

(1) APPLICABILITY OF OTHER LAW RELATING TO MINORS.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to

any per capita share of a minor that is held, as of the date of enactment of this Act, by the Secretary.

(2) SHARE OF MINORS IN TRUST.—The Secretary shall hold a per capita share of a minor described in paragraph (1) in trust until such date as the minor reaches 18 years of age.

(3) DISBURSAL OF FUNDS FOR MINORS.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in paragraph (1) until such date as the minor reaches 18 years of age.

(4) USE OF REMAINING JUDGMENT FUNDS.—On request by the governing body of the Community, as manifested by the appropriate tribal council resolution, any judgment funds remaining after the date of completion of the per capita distribution under section 101(a) shall be disbursed to, and deposited in the general fund of, the Community.

##### SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 236-N.

(a) DEFINITION OF PLAN.—In this section, the term “plan” means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 236-N of the United States Court of Federal Claims (59 Fed. Reg. 31092 (June 16, 1994)).

(b) CONDITIONS.—

(1) PER CAPITA ASPECT.—Notwithstanding any other provision of law, the Community shall modify the last sentence of the paragraph under the heading “Per Capita Aspect” in the plan to read as follows: “Upon request from the Community, any residual principal and interest funds remaining after the Community has declared the per capita distribution complete shall be disbursed to, and deposited in the general fund of, the Community.”

(2) GENERAL PROVISIONS.—Notwithstanding any other provision of law, the Community shall—

(A) modify the third sentence of the first paragraph under the heading “General Provisions” of the plan to strike the word “minors”; and

(B) insert between the first and second paragraphs under that heading the following: “Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of the Gila River Indian Community Judgment Fund Distribution Act of 2003, by the Secretary. The Secretary shall hold a per capita share of a minor in trust until such date as the minor reaches 18 years of age. No judgment funds, or any interest earned on judgment funds, shall be disbursed from the account of a minor until such date as the minor reaches 18 years of age.”

#### TITLE III—EXPERT ASSISTANCE LOANS

##### SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO GILA RIVER INDIAN COMMUNITY.

Notwithstanding any other provision of law—

(1) the balance of all outstanding expert assistance loans made to the Community under Public Law 88-168 (77 Stat. 301) and relating to Gila River Indian Community v. United States (United States Court of Federal Claims Docket Nos. 228 and 236 and associated subdockets) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Community from any liability associated with those loans.

# ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar Item No. 31, S. 222.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 222) to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, 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 bill (S. 222) was read the third time and passed, as follows:

S. 222

*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 “Zuni Indian Tribe Water Rights Settlement Act of 2003”.

## SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered

into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

## SEC. 3. DEFINITIONS.

In this Act:

(1) EASTERN LCR BASIN.—The term “Eastern LCR basin” means the portion of the Little Colorado River basin in Arizona upstream from the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term “Fund” means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term “Intergovernmental Agreement” means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) PUMPING PROTECTION AGREEMENT.—The term “Pumping Protection Agreement” means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) RESERVATION; ZUNI HEAVEN RESERVATION.—The term “Reservation” or “Zuni Heaven Reservation”, also referred to as “Kolhu:wala:wa”, means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) SRP.—The term “SRP” means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) TEP.—The term “TEP” means Tucson Electric Power Company.

(10) TRIBE, ZUNI TRIBE, OR ZUNI INDIAN TRIBE.—The terms “Tribe”, “Zuni Tribe”, or “Zuni Indian Tribe” means the body politic and federally recognized Indian nation, and its members.

(11) ZUNI LANDS.—The term “Zuni Lands” means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are—

(A) within the Zuni Heaven Reservation;

(B) held in trust by the United States for the benefit of the Tribe or its members; or

(C) held in fee within the Little Colorado River basin by or for the Tribe.

## SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.

(a) SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), \$19,250,000, to be allocated by the Secretary as follows:

(1) \$3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).

(2) \$15,750,000, of which \$5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) OTHER AGREEMENTS.—Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

#### SEC. 5. TRUST LANDS.

(a) NEW TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;

(C) Section 30: W 1/2, SE 1/4; and

(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) FUTURE TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26 E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;

(B) Section 16: S 1/2 SW 1/4 SE 1/4;

(C) Section 19: S 1/2 SE 1/4 SE 1/4;

(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) NEW RESERVATION LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) LIMITATION ON SECRETARIAL DISCRETION.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) LANDS REMAINING IN FEE STATUS.—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) FINAL AGENCY ACTION.—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) NO FEDERAL WATER RIGHTS.—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) STATE WATER RIGHTS.—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) FORFEITURE AND ABANDONMENT.—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) AD VALOREM TAXES.—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) AUTHORITY OF TRIBE.—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) FEDERAL ACKNOWLEDGEMENT OF INTERGOVERNMENTAL AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) NO ABROGATION.—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) REMOVAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) EXCEPTION.—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) DISCLAIMER.—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98-408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101-486; 104 Stat. 1174)).

#### SEC. 6. DEVELOPMENT FUND.

(a) ESTABLISHMENT OF THE FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) ADDITIONAL DEPOSITS.—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) LIABILITY.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS FOR ACQUISITION OF WATER RIGHTS.—

(1) WATER RIGHTS ACQUISITIONS.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) RIGHT TO SET OFF.—In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) WATER RIGHTS.—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

## SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.

(a) FULL SATISFACTION OF MEMBERS' CLAIMS.—

(1) IN GENERAL.—The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights,

shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) NO RECOGNITION OR ESTABLISHMENT OF INDIVIDUAL WATER RIGHT.—Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) TRIBE AND UNITED STATES AUTHORIZATION AND WATER QUANTITY WAIVERS.—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) TRIBAL WAIVERS AGAINST THE UNITED STATES.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time im-

memorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) TRIBAL WAIVER OF WATER QUALITY CLAIMS AND INTERFERENCE WITH TRUST CLAIMS.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) INTERFERENCE WITH TRUST RESPONSIBILITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) INJURY OR THREAT OF INJURY TO WATER QUALITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance

of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) **CLAIMS OF THE UNITED STATES.**—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(3) **LIMITATIONS.**—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D)(3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) **WAIVER OF UNITED STATES WATER QUALITY CLAIMS RELATED TO SETTLEMENT LAND AND WATER.**—

(1) **PAST AND PRESENT CLAIMS.**—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising

from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) **FUTURE CLAIMS.**—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) **EFFECT.**—Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

#### SEC. 8. MISCELLANEOUS PROVISIONS.

(a) **WAIVER OF SOVEREIGN IMMUNITY.**—If any party to the Settlement Agreement or a

Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of Article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under Article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

#### (b) TRIBAL USE OF WATER.—

(1) **IN GENERAL.**—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

#### (2) LIMITATION.—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on



the Zuni Heaven Reservation to any other place.

(B) EXCEPTION.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) RIGHTS-OF-WAY.—

(1) NEW AND FUTURE TRUST LAND.—The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) ADDITIONAL RIGHTS-OF-WAY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) VESTED RIGHTS.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) OTHER CLAIMS.—Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) NO MAJOR FEDERAL ACTION.—

(1) IN GENERAL.—Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) SETTLEMENT AGREEMENT.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

#### SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.

(a) IN GENERAL.—The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) DEADLINE FOR EFFECTIVE DATE.—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to para-

graph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

#### DESIGNATING SERVICE IN THE JOINT COMMITTEE ON PRINTING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 20, which was submitted earlier today by Senators LOTT and DODD.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 20) was agreed to, as follows:

S. CON. RES. 20

*Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Eighth Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.*

#### PROVIDING FOR MEMBERS OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 84, which was submitted earlier today by Senators LOTT and DODD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 84) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 84) was agreed to, as follows:

S. RES. 84

*Resolved, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:*

JOINT COMMITTEE ON PRINTING: Mr. Chambliss, Mr. Cochran, Mr. Smith, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Lott, Mr. Cochran, Mr. Dodd, and Mr. Schumer.

### IMPROVED FIRE SAFETY IN NONRESIDENTIAL BUILDINGS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 85, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 85) expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REED. Mr. President, yesterday the House passed H. Con. Res. 85, a resolution paying respect to the victims of the tragic nightclub fire on February 20, 2003 in West Warwick, RI, and expressing the sense of Congress regarding the need for improved fire safety in buildings used by the public. I thank my colleagues for expediting consideration of this important resolution in the Senate today.

The West Warwick fire is a devastating loss that has affected the lives of thousands of Rhode Islanders. Mr. President, 99 people have died, and nearly 190 people were injured, many of whom are still in hospitals in critical condition.

In the first minutes and hours of this tragedy, our firefighters, police, and emergency medical personnel performed heroically under horrific circumstances, as did many of the patrons who were at the scene and helped to save others.

I want to express my heartfelt condolences to the many families of those who perished in the West Warwick fire, and to let them know that our thoughts and prayers are with them and with the survivors who will struggle with the physical and mental toll of this horrible event for the rest of their lives.

This was a catastrophe brought on by a series of bad decisions. Fault will be sorted out in time, but there are already lessons learned.

State and local officials across the country are, and should be, reexamining their fire and building codes and stepping up enforcement of safety practices in public buildings to make sure that a tragedy like this does not happen again. Congress should do everything it can to support this effort and to encourage both state and local governments and federal agencies to adopt and strictly enforce the most current fire and building consensus codes.

In addition, as our nation continues to fight the war on terror, the response to the West Warwick fire provides a

good illustration of how far we've come—and how far we have to go—in improving our emergency management capabilities. Local first responders were on the scene within minutes to help rescue victims, treat the injured, and fight the tremendous blaze that consumed the Station nightclub. As casualties continued to mount, the Rhode Island Emergency Management Agency coordinated the massive rescue and recovery efforts by state and local agencies from Rhode Island, Massachusetts, and Connecticut. Several hospitals in Rhode Island and Massachusetts received scores of victims suffering from severe burns and smoke inhalation, many of whom remain in critical condition today.

There is no question that the response to the West Warwick fire was better than it would have been before September 11, 2001, thanks to our state's efforts over the past 18 months to strengthen emergency preparedness. Federal assistance in this regard has helped, including equipment and training grants from the Department of Justice's Office of Domestic Preparedness, FIRE Grants from the Federal Emergency Management Agency, and bioterror preparedness grants from the Department of Health and Human Services, which included funding to create regional hospital plans to respond to terrorism.

But we can do better. As tragic as the West Warwick fire was, it was a localized event involving deaths and injuries in the hundreds rather than thousands, yet it overwhelmed our state's emergency response systems and hospital emergency room capacity. Assistance from surrounding states and Federal agencies was required to manage the immense tasks of emergency response, medical care, and identifying scores of bodies.

Rhode Island and other states, with the support of the Federal Government, will continue our efforts to strengthen the security of our homeland, and we will apply the hard lessons learned in West Warwick about safety in public buildings.

Mr. President, I thank my colleagues for supporting this important resolution to urge state and local officials and owners of entertainment facilities to examine their safety practices, fire codes, and enforcement capabilities to ensure that such a tragedy never befalls any community again.

Mr. CHAFEE. Mr. President, 3 weeks ago—on a cold winter evening—several hundred people gathered at the Station nightclub, a popular venue for live bands in West Warwick, RI. They had come to spend time with friends and to listen to music. Too quickly, this festive occasion turned to horror.

A local television cameraman—who ironically was there to shoot footage for a news story on nightclub safety—captured the scene in an extraordinary piece of video that will haunt Rhode Islanders for many years. A pyrotechnic display on stage ignited nearby sound-

proofing material, and the flames spread through the nightclub with shocking speed. By most estimates, it took only 2 minutes—2 minutes—from the moment that soundproofing caught fire, until the building was engulfed in flames and filled with superheated, toxic, black smoke.

As this disaster unfolded, heroic emergency personnel rushed to the rescue, placing their own lives in jeopardy. Eyewitness accounts described amazing acts of bravery at the scene. Firefighters saved dozens of men and women, whom they pulled from the doorways and windows of the burning building. Meanwhile, EMTs did their best to stabilize those who were gravely injured and worked with the police to help bring order to the prevailing chaos.

Rhode Island is blessed with a network of fine hospitals, several of which have received national recognition for the quality of their care. On that night, medical teams provided the best treatment for the injured, many of whom have a long recovery ahead. At Rhode Island Hospital—which received 65 fire victims, nearly all at once—an entire floor was converted into a burn unit overnight. Surgeons, nurses, technicians and other support staff must have been overwhelmed by the trauma, but they persevered.

Rhode Island's new Governor, Don Carcieri has been brilliant in managing the State's response to this crisis. Less than 2 months after taking office, Governor Carcieri has demonstrated remarkable leadership abilities in the aftermath of the fire. His efforts came at a critical time and helped ensure that every public official delivered a consistent, productive message.

Whether speaking to all Rhode Islanders at a televised press conference or visiting quietly with grieving families, Governor Carcieri has emerged as a strong, reassuring presence during a very difficult time for Rhode Island. He has expressed our anger at what when wrong, and our compassion for the victims and their loved ones.

Federal agencies also responded immediately to this enormous tragedy. I am grateful for all of the assistance that Rhode Island has received thus far: from the Bureau of Alcohol, Tobacco, and Firearms, the Department of Health and Human Services, and the Small Business Administration.

My family and I extend our heartfelt sympathy to the families at this time of great sadness. I hope they will take some comfort in knowing that even with a population of more than 1 million people, Rhode Island is small enough that its citizens consider one another as neighbors. That sense of closeness—developed over decades of shared experiences, both joyful and sorrowful—binds us together and is part of what makes Rhode Island unique among the States.

Those connections are especially strongly felt in small towns and villages, such as Potowomut, where my

family has made its home for many years. Potowomut is a close-knit community, somewhat isolated from the rest of the city of Warwick and Rhode Island—on a peninsula that juts out into Narragansett Bay. Sadly, a fellow Potowomut resident, Tracy King, was among those who perished in the fire.

Tracy was working at the Station nightclub on the night of the fire, and as least initially, managed to escape the blaze. Once outside, however, he rushed back into the building to help others scramble to safety. Tracy was a tall, powerful man—always bursting with energy—and I am certain that he helped save some lives. I share in the heartbreak that all of Tracy's friends feel, knowing that he did not make it back out in time.

In recent years, Tracy had achieved a measure of fame in Rhode Island, as he had an unusual talent for balancing large, heavy objects on his chin—Christmas trees, ladders, desks—even a refrigerator—all balanced perfectly on his chin.

In 1993, he appeared on "The Late Show with David Letterman," and balanced a 17-foot canoe. Imagine that—a 17-foot canoe, straight up in the air! Tracy was a wonderful entertainer, and he especially enjoyed performing for groups of children. He generously shared his talent at local festivals, schools, and hospitals—everyone delighted in seeing him in action.

Tracy King leaves behind his wife, Evelyn, and three sons—Joshua, Jacob, and Jordan. I ask my colleagues to remember the King family in their prayers.

We also remember that there are many other families in Rhode Island, and across the State line in Massachusetts, that are still coping with this sudden, traumatic loss. In the days following the fire, survivors and family members of those who had died or been injured gathered together to mourn, to ask questions, and to share their stories. May they continue to draw strength from one another, and be sustained by the enduring support of their community.

The Senate is considering this concurrent resolution recently approved in the House, cosponsored by my colleagues in the Rhode Island delegation, expressing the importance of improved fire safety in nonresidential buildings in the aftermath of this tragic fire. I urge adoption of the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 85) was agreed to.

The preamble was agreed to.

#### AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 86, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 86) to authorize testimony and legal representation in *W. Curtis Shain v. G. Hunter Bates, et al.*

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 86) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 86

Whereas, in the case of *W. Curtis Shain v. G. Hunter Bates, et al.*, No. 03-CI-00153, pending in Division II of the Oldham Circuit Court, Twelfth Judicial Circuit, Commonwealth of Kentucky, an affidavit has been requested from Senator Mitch McConnell;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Senator McConnell is authorized to provide testimony in the case of *W. Curtis Shain v. G. Hunter Bates, et al.*, except concerning matters for which a privilege should be asserted and when his attendance at the Senate is necessary for the performance of his legislative duties.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator McConnell in connection with any testimony authorized in section one of this resolution.

#### CENTENNIAL ANNIVERSARY OF NATIONAL WILDLIFE REFUGE SYSTEM

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 87, introduced earlier today by Senator NELSON of Florida.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 87) commemorating the Centennial Anniversary of the National Wildlife Refuge System.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAHAM of Florida. 100 years ago tomorrow, President Theodore Roosevelt ordered that a small island in Florida's Indian River be forever protected as a "preserve and breeding ground for native birds." With this simple promise of wildlife protection, the National Wildlife Refuge System was born. A century later, the refuge system has grown to include more than 530 refuges on more than 94 million acres with locations in every state.

Florida's National Wildlife Refuges have been fulfilling the promise of protecting wildlife for a full century. Pelican Island, the first refuge, is being restored to its original size so that birds may be able to find refuge there for the next hundred years. Archie Carr National Wildlife Refuge in Titusville protects endangered sea turtles so they have an undisturbed place to lay their eggs. And, Florida Panther National Wildlife Refuge in Naples is protecting our state animal, the Florida Panther, which is on the brink of extinction.

The National Wildlife Refuges in Florida have been protecting more than just animals. As part of the greater Everglades ecosystem, Ten Thousand Islands National Wildlife Refuge and the Arthur R. Marshall Loxahatchee National Wildlife Refuge are protecting both the wildlife and habitats that make up part of America's Everglades.

Florida is a destination for sportsmen and nature lovers throughout the world. Be they avid hunters or fishermen or tourists traveling to visit our unsurpassed beaches or the pristine beauty of Florida's interior, the National Wildlife Refuge System is part of the allure, with facilities and locations to cater to any person who wants to visit nature.

Nationwide, more than 35 million people visit national wildlife refuges to see some of the world's most amazing wildlife spectacles, or to fish, hunt, photograph nature, and learn about our natural and cultural history.

The centennial anniversary of the National Wildlife Refuge System is a time to celebrate these natural treasures and recognize their value to our society. Today there is a celebration of Pelican Island to commemorate this historic day. Throughout the year, there will be other celebrations in honor of 100 years of successful preservation. Because National Wildlife Refuges have been such an important part of the ecological preservation of our nation, I joined with my colleague from Florida, Senator NELSON, in sponsoring a resolution that would reaffirm the strong support that the National Wildlife Refuge System enjoys in this body.

National Wildlife Refuges are a key component of our nation's conservation network. Because of the establishment of the Refuge System, wildlife of all types have a safe place to live and human beings have a place to interact with the wildlife and nature in an ecologically responsible way. The National Wildlife Refuge System has had a successful 100 years and I hope we can continue to support the system so it prospers for the next 100 years.

Mr. JEFFORDS. Mr. President, I join my colleagues from Florida in commemorating the 100th anniversary of the founding of the National Wildlife Refuge System. One hundred years ago, President Teddy Roosevelt established the first wildlife refuge, Florida's 3-acre Pelican Island. This small beginning has given rise to more than 500 National Wildlife Refuges throughout our country, demonstrating that Americans want unique places for wildlife to flourish and allow for recreation.

While Florida is home to the first refuge, my state of Vermont home to two refuges, the Missisquoi National Wildlife Refuge and the Silvio O. Conte National Wildlife Refuge.

The Missisquoi Refuge, founded in 1943, was established to provide a resting feeding area for migratory waterfowl, and as a general wildlife refuge. It spans 6,592 acres on the eastern shore of Lake Champlain. It is a mix of hardwood forests and open fields and home to the largest heron rookery in Vermont. More than 200,000 ducks converge on the refuge each fall and most of Vermont's black terns nest on the refuge. Osprey nest on the refuge and Missisquoi River and the shoreline of Lake Champlain provide outstanding fishing opportunities.

Our Silvio O. Conte Refuge, founded in 1997, is shared with New Hampshire and Massachusetts. It was established to protect the abundance and diversity of native species throughout the 7.2 million-acre Connecticut River watershed. In addition to protecting rare species, native plants and animals and their habitat, managers of this refuge are working with partners throughout New England to help control invasive species.

The wildlife and recreation opportunities provided by our refuges are made possible by the dedication of the Fish and Wildlife Service employees, who I could like to congratulate today. Without their expertise and dedication to providing visitors with hunting, fishing, wildlife observation, photography, interpretation and environmental education opportunities, our refuge system would not be enjoying the success we are celebrating today. They provided this public service to more than 55,000 annual visitors at our 2 refuges and I hope that these classrooms of natural continue to provide children and adult alike a unique educational experience.

In addition, I would like to acknowledge the thousands of volunteers nationwide who give their time and ex-

pertise to making the National Wildlife Refuge experience a memorable one for all of us.

Congratulations to all involved in the National Wildlife Refuge System.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 87) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 87

Whereas March 14, 2003, will mark the Centennial Anniversary of the National Wildlife Refuge System;

Whereas the United States Senate continues to fully support the mission of the National Wildlife Refuge System, and shares President Theodore Roosevelt's view that: "Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander";

Whereas President Theodore Roosevelt's vision in 1903 to conserve wildlife started with the plants and animals on the tiny Pelican Island on Florida's East Coast, and has flourished across the United States and its territories, allowing for the preservation of a vast array of species; and

Whereas the National Wildlife Refuge System of 540 refuges, that now hosts 35,000,000 visitors annually, with the help of 30,000 volunteers, is home to wildlife of almost every variety in every state of the union within an hour's drive of almost every major city: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the National Wildlife Refuge System on its Centennial Anniversary;

(2) expresses strong support for the National Wildlife Refuge System's continued success in the next 100 years and beyond;

(3) encourages the National Wildlife Refuge System in its continued efforts to broaden understanding and appreciation for the Refuge System, to increase partnerships on behalf of the National Wildlife Refuge System to better manage and monitor wildlife, and to continue its support of outdoor recreational activities; and

(4) reaffirms its commitment to continued support for the National Wildlife Refuge System, and the conservation of our Nation's rich natural heritage.

#### HONORING THE 80TH BIRTHDAY OF JAMES L. BUCKLEY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 88 which was submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 88) honoring the 80th birthday of James L. Buckley, former United States Senator for the State of New York.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 88) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 88

Whereas James Buckley served in the United States Senate with great dedication, integrity, and professionalism as a trusted colleague from the State of New York;

Whereas James Buckley served with distinction for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit;

Whereas James Buckley's long and distinguished career in public service also included serving in the U.S. Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe;

Whereas James Buckley celebrated his 80th birthday earlier this week: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges and honors the tremendous contributions made by James Buckley during his distinguished career to the executive, legislative, and judicial branches of the United States; and

(2) congratulates and expresses best wishes to James Buckley on the celebration of his 80th birthday.

#### HONORING FORMER GOVERNOR ORVILLE L. FREEMAN

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 89, which was introduced earlier today by Senators Dayton and Coleman.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 89) honoring the life of former Governor of Minnesota Orville L. Freeman, and expressing the deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 89) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 89

Whereas the Senate has learned with sadness of the death of former Governor of Minnesota Orville L. Freeman;

Whereas Orville L. Freeman, born in Minneapolis, Minnesota, greatly distinguished himself by his long commitment to public service;

Whereas Orville L. Freeman, football star, student council president, and Phi Beta Kappa honors student, graduated magna cum laude from the University of Minnesota;

Whereas Orville L. Freeman, a Major in the Marine Corps, served the United States with honor and distinction during World War II, and was awarded a Purple Heart for wounds associated with his heroism;

Whereas the organizational leadership of Orville L. Freeman helped build the Minnesota Democratic-Farmer-Labor Party into a successful political party;

Whereas, in 1954, Orville L. Freeman became the first Democratic-Farmer-Labor candidate to be elected Governor of Minnesota;

Whereas Orville L. Freeman, elected to 3 consecutive terms as Governor, advanced the concept of governance now known as "the Minnesota Consensus," which views government as a positive force in the lives of citizens, and government programs as investments in Minnesota's future;

Whereas, during his service as Governor of Minnesota, Orville L. Freeman increased State funding for education, improved health and rehabilitation programs, expanded conservation efforts, and achieved many other successes that improved his State and the lives of its citizens;

Whereas Orville L. Freeman served as the Secretary of Agriculture in the administrations of President John F. Kennedy and President Lyndon B. Johnson, during which service he initiated global food assistance programs and developed the domestic food stamp and school breakfast programs;

Whereas, in addition to his outstanding public service, Orville L. Freeman was also a successful international lawyer and business executive;

Whereas Orville L. Freeman was a devoted husband to his wife, Jane, for 62 years, a loving father to two exceptional children, Constance and Michael, and a proud grandfather to three talented grandchildren, Elizabeth, Kathryn, and Matthew; and

Whereas Orville L. Freeman led a life that was remarkable for its breadth of pursuits, multitude of accomplishments, standards of excellence, dedication to public service, and important contributions to the improvement of his country and the lives of his fellow citizens: Now, therefore, be it

*Resolved*, That the United States Senate—  
(1) pays tribute to the outstanding career and devoted work of the great Minnesota and national leader, Orville L. Freeman;

(2) expresses its deepest condolences to the family of Orville L. Freeman on his death; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Orville L. Freeman.

#### PRINTING OF TRIBUTES TO DR. LLOYD OGILVIE

Mr. BENNETT. Mr. President, I ask unanimous consent that the tributes to Dr. Lloyd Ogilvie, the retiring Senate Chaplain, be printed as a Senate document, with the understanding that Members have until 12 noon, Friday, March 21, to submit these tributes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR FILING BY BUDGET COMMITTEE

Mr. BENNETT. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, the Budget Committee have from 11 a.m. until noon on March 14 to report legislative matters.

#### EXECUTIVE SESSION

##### TREATIES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following treaties on today's Executive Calendar: Nos. 2, 3, and 4.

I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that any statements be inserted in the RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaties the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

Mr. BENNETT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the ratification of these treaties, please rise. (After a pause.) Those opposed will rise and stand until counted.

With two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification are as follows:

##### CALENDAR NO. 2

*Resolved*, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (Treaty Doc. 107-19).

##### CALENDAR NO. 3

*Resolved*, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the

Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (Treaty Doc. 107-20).

##### CALENDAR NO. 4

*Resolved*, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Additional Protocol That Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108-3).

#### ORDERS FOR MONDAY, MARCH 17, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1 p.m., Monday, March 17. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired and 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 then begin a period of morning business until the hour of 2 p.m., with the time equally divided between the two leaders or their designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, on Monday the Senate will be in a period of morning business until 2 p.m. Under a previous agreement, at 2 p.m. the Senate will begin consideration of the budget resolution. I remind my colleagues that under the budget procedures, there will be up to 50 hours for debate on the resolution. Members, therefore, should anticipate late sessions and numerous rollcall votes next week.

As a reminder, another cloture motion was filed on the Estrada nomination today. That cloture vote will occur on Tuesday morning. As announced earlier, there will be no rollcall votes on Monday. The next rollcall vote will occur on Tuesday morning, and Senators will be notified of the time when that vote will occur.

#### ADJOURNMENT UNTIL 1 P.M., MONDAY, MARCH 17, 2003

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Monday, March 17, 2003, at 1 p.m.

#### NOMINATIONS

Executive nominations received by the Senate March 13, 2003:

DEPARTMENT OF JUSTICE

R. HEWITT PATE, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE CHARLES A. JAMES, JR.

THE JUDICIARY

DAVID G. CAMPBELL, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107-273, APPROVED NOVEMBER 5, 2002.

DEPARTMENT OF STATE

HELEN R. MEAGHER LA LIME, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL JEFFERY L. ARNOLD, 0000  
BRIGADIER GENERAL ROBERT M. CARROTHERS, 0000  
BRIGADIER GENERAL MICHAEL G. CORRIGAN, 0000  
BRIGADIER GENERAL GEORGE R. FAY, 0000  
BRIGADIER GENERAL JOHN R. HAWKINS III, 0000  
BRIGADIER GENERAL MICHAEL K. JELINSKY, 0000  
BRIGADIER GENERAL TERRILL K. MOFFETT, 0000  
BRIGADIER GENERAL PAUL D. PATRICK, 0000  
BRIGADIER GENERAL HARRY J. PHILIPS JR., 0000  
BRIGADIER GENERAL JERRY W. RESHETAR, 0000  
BRIGADIER GENERAL STEPHEN B. THOMPSON, 0000  
BRIGADIER GENERAL STEPHEN D. TOM, 0000  
BRIGADIER GENERAL GEORGE W. WELLS JR., 0000  
BRIGADIER GENERAL ROBERT J. WILLIAMSON, 0000

*To be brigadier general*

COLONEL CHARLES J. BARR, 0000  
COLONEL DAVID N. BLACKLEDGE, 0000  
COLONEL BRIAN J. BOWERS, 0000  
COLONEL EDWIN S. CASTLE, 0000

COLONEL OSCAR S. DEPRIEST IV, 0000  
COLONEL MARI K. EDER, 0000  
COLONEL DENNIS P. GEOGHAN, 0000  
COLONEL ALAN E. GRICE, 0000  
COLONEL PAUL F. HAMM, 0000  
COLONEL PHILIP L. HANRAHAN, 0000  
COLONEL CHRISTOPHER A. INGRAM, 0000  
COLONEL JANIS L. KARPINSKI, 0000  
COLONEL JOHN F. MCNEILL, 0000  
COLONEL WILLIAM MONK III, 0000  
COLONEL GARY M. PROFIT, 0000  
COLONEL DOUGLAS G. RICHARDSON, 0000  
COLONEL MICHAEL J. SCHWEIGER, 0000  
COLONEL RICHARD J. SHERLOCK JR., 0000  
COLONEL CHARLES B. SKAGGS, 0000  
COLONEL RICHARD M. TABOR, 0000  
COLONEL PHILLIP J. THORPE, 0000  
COLONEL ENNIS C. WHITEHEAD III, 0000



# EXTENSIONS OF REMARKS

## INTRODUCTION OF THE MILITARY TRIBUNALS ACT OF 2003

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, today I am introducing, with my colleague Mr. FRANK of Massachusetts, the Military Tribunals Act of 2003 to provide congressional authorization for tribunals to try unlawful combatants against the United States in the war on terrorism.

As the war on terrorism continues and more suspected al Qaeda terrorists are arrested, Congress must ensure that justice is delivered swiftly and responsibly in order to punish the terrorists as well as to prevent future attacks.

Article 1, Section 8 of the Constitution provides that it is the Congress that has the power to establish tribunals inferior to the Supreme Court. Up until now, however, there has been no congressional authorization for military tribunals. Efforts to form such tribunals, to date, have been performed solely by executive order of the President with clarifying regulations promulgated by the Secretary of Defense.

Some would argue, not implausibly, that despite the clear language of Article 1, Section 8, congressional authorization is not necessary; that as Commander-in-Chief, the President has the authority to regulate the affairs of the military which extends to the adjudication of unlawful combatants. However, if Congress fails to act, any adjudications by military tribunal will likely be challenged in court on the basis that the tribunals were improperly constituted.

The Military Tribunals Act of 2003 establishes the jurisdiction of these new courts to quickly and efficiently prosecute suspected al Qaeda terrorists who are not U.S. citizens or lawful residents. The bill preserves the basic rights of habeas corpus, appeal, and due process. Furthermore, this legislation protects the confidentiality of sources of information, protects classified information, and also protects ordinary citizens from being exposed to the dangers of trying these suspects.

Perhaps of most importance, in the context of a war without a clear end and against an enemy without uniform or nation, this bill requires the President to report to Congress on who is detained, for how long, and on what basis.

Mr. Speaker, in sum, the Military Tribunals Act of 2003 gives the Commander-in-Chief the power to try unlawful combatants, provides the confidence that these judgments will be upheld, establishes clear rules of due process, and ensures that the hallmarks of our democracy are not compromised.

## STATE HIGH-RISK POOL DRUG ASSISTANCE PROGRAM ACT

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the State High-risk Pool Drug Assistance Program Act. The bill provides much needed relief on prescription drug costs for those individuals who get health insurance coverage through a qualified state high-risk pool insurance program.

While much of the debate on prescription drugs has focused on older Americans, there is another group of Americans who need affordable access to prescription drugs. These people are the 153,000 individuals who get health care coverage through a state high-risk pool insurance program.

Thirty states have established high-risk pools for individuals who cannot obtain or afford health insurance in the individual market. High-risk pools generally cover people who have been denied coverage because of a pre-existing condition or who have received quotes from insurers that are higher than the premiums offered by the risk pools. Their premiums range from 124 percent to 200 percent of the standard market rates in their state.

For example, a female, non-smoker who lives in Adams County in Colorado may pay \$850 a month in premiums to obtain coverage through Cover Colorado, my state's high-risk pool. If this woman takes medications to manage a chronic disease, she will have fewer dollars to spend on them. I have heard stories about people with chronic conditions cutting their pills in half, choosing between paying for drugs and paying for food, or forgoing the medications altogether. These folks shouldn't be forced to make these choices at all. I think it's time for Congress to do something to help state high-risk pools, consumers, employers and state legislatures control the cost of healthcare.

My bill would add qualified state high-risk pool programs to the list of entities that participate in the Public Health Service's 340B pricing program, which was created in 1992 to help safety net providers purchase outpatient drugs at discounted rates. The 340B program has expanded access to care to low-income and vulnerable populations without increasing the financial burden on taxpayers. The program has saved safety net providers and the taxpayers hundreds of millions of dollars in outpatient drug costs. We should extend the program to include high-risk pools.

My bill uses the National Association of Insurance Commissioners definition of qualified state high-risk pool so that all risk pools would be able to participate in the program. It gives the Secretary of Health and Human Services the power to promulgate regulations to carry out the program so that it is run similarly to the successful AIDS Drug Assistance Program; however it sets minimum regulations for

the operation of the program. People who are enrolled in a risk pool and who take maintenance drugs for chronic conditions could save 40 percent on their prescriptions.

The bill uses the federal government's purchasing power to provide discounts to drugs for high-risk pools nationwide. If individuals in high-risk pools can't get the drugs they need to manage their condition, they could end up in the emergency room and cost the taxpayers millions of dollars. If they weren't covered under the risk pool, they would most likely end up in Medicaid or uninsured, which would cost the taxpayers millions of dollars. Ironically, many consumers in risk pools have conditions that would qualify them for one of the public programs currently covered under the 340B drug discount program. But their income level is too high for public health programs and too low to afford coverage in the individual market, and that's only if they aren't denied coverage due to a pre-existing condition.

Some may ask what the federal interest is in this issue. Congress has already determined that interest by guaranteeing that people have access to high-risk pools through the Health Insurance Portability and Accessibility Act of 1996 and the Trade Act of 2002, both of which are federal laws. Since the federal government is requiring high-risk pools to cover more people, it should make high-risk pools covered entities under the 340B program to save taxpayer dollars.

The legislation is good for the insurance market, consumers, employers and states. It is good for the insurance market and for consumers because high-risk pools stabilize health insurance coverage and reduce the number of uninsured.

It is good for the risk pools because the savings that they experience from the drug discount can be used to provide more affordable coverage and better health plans.

It is good for consumers because it will give people in high-risk pools access to affordable maintenance medications for chronic conditions and keep them out of the emergency room.

It is good for employers because if we control the costs of the high-risk programs, it will keep down the assessments that insurers and employers pay to fund the program.

And it is good for states because if we control the costs of the program, cash-strapped states won't have to find additional funds to stabilize the risk pool, and the state's contribution will go a lot further.

Mr. Speaker, a small but not insignificant number of people would benefit from my legislation, and it would save millions of dollars in health care costs and uncompensated care. This is a prevention bill, a cost savings bill, a pro-business bill and a taxpayer savings bill. I look forward to working with my colleagues and all interested parties to pass meaningful drug assistance legislation for our nation's state high-risk pools.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO THE LATE JOHN FOSTER, SHERIFF OF JOHNSON COUNTY, KANSAS

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MOORE of Kansas. Mr. Speaker, I rise to pay tribute to a dedicated public servant, the late John Foster, Sheriff of Johnson County, Kansas, who passed away on March 6th after a brief but valiant battle with pancreatic cancer.

John Foster, who died at age 67, began his career in the Johnson County Sheriff's Department in 1956, then took the post of assistant police chief in Fairway, Kansas, four years later. He became chief of police in Lenexa, Kansas, in 1971 and retired briefly twenty years later. A year later, in 1992, he returned to the Sheriff's Department as undersheriff. He was elected to a four-year term as Sheriff in 2000.

Doctors diagnosed Sheriff Foster's cancer in January. On February 21st, two weeks after they told him he might live from two weeks to a year, John told county officials that his disease was terminal. Undersheriff Frank Denning assumed Foster's duties on an acting basis the following week.

I got to know John Foster well during my twelve years as Johnson County District Attorney. John was my friend. He had a wonderful sense of humor. He always stayed close to the people he served, and was a profile in humane, progressive law enforcement at the local level. He mentored scores of younger law enforcement officers during his forty-six years of public service and leaves his home county, and its residents, a much better place as a result of the time he spent serving and fostering it.

Mr. Speaker, John Foster is survived by his wife, Karen Foster, five children—Margaret, Diane, Susie, Jan and Todd—and four granddaughters. I join with them in mourning this profound loss and place into the RECORD an article from the Kansas City Star that memorializes a dedicated and valuable law enforcement and public safety official.

[From the Kansas City (KS) Star, Mar. 7, 2003]

JOHNSON COUNTY SHERIFF DIES OF PANCREATIC CANCER

(By Richard Espinoza)

Johnson County Sheriff John Foster, who spent almost half a century in law enforcement, died at home early Thursday of pancreatic cancer.

Doctors diagnosed Foster, 67, in January. On Feb. 21, two weeks after doctors told Foster he might live two weeks to a year, he told county officials that the disease was terminal. Undersheriff Frank Denning assumed Foster's duties the following week.

Voters elected Foster, a Republican, to a four-year term in 2000. Now Johnson County Republicans must nominate a successor and send the person's name to Gov. Kathleen Sebelius, a Democrat.

He began his career at the Sheriff's Department in 1956, then took the post of assistant police chief in Fairway four years later. He became chief in Lenexa in 1971 and briefly retired in 1991. The following year, he returned to the Sheriff's Department as undersheriff.

Colleagues said Foster's main goal was keeping fellow law enforcement officers

happy and well-trained so they could take good care of their community.

"He loved officers," Fairway Police Chief Kevin Cavanaugh said. "He loved what they stood for and what they represent. He did everything in his power to teach people and be an example of how to put their best foot forward in the best possible way."

Foster helped the Sheriff's Department win raises to reduce the number of deputies who left for better-paying jobs, switched to better-looking uniforms and constantly trained a new generation of law-enforcement leaders.

"He'd accomplished a lot, but I know he wasn't done," Johnson County District Attorney Paul Morrison said.

In Topeka, the Kansas House approved a resolution Thursday honoring Foster for his nearly 50 years of public service in law enforcement. A copy will be given to his family. It was sponsored by House members from Johnson County.

Sen. Karin Brownlee, an Olathe Republican, said a similar resolution would be introduced in the Senate next week.

Johnson County Commission Chairwoman Annabeth Surbaugh issued a statement praising Foster's encouragement and support.

"The county has lost a great man," Surbaugh wrote, "a man whose strong and steady step never wavered, a man whose dedication and commitment to this community was unshakable, a man whose wisdom and guidance were a source of inspiration and comfort to so many."

Many law officers visited Foster at home during his last days to tell him how he had encouraged them in their careers.

Lenexa Police Chief Ellen Hanson, whom Foster hired in 1975, recalled the way he helped people succeed.

"He was a confidence builder, but not falsely," Hanson said. "I think he had a great ability to see people's strengths and build on them."

Colleagues remembered his love for teaching, and several said he passed on some piece of wisdom in nearly every conversation.

"Every time I spoke to him," Cavanaugh said, "whether it was something to do with law enforcement or on a personal level, I always learned something. It seemed as if he always wanted to teach."

Some of it was serious, like the sharp distinction he drew between mistakes of the head—those that are rectified easily—and mistakes of the heart, which show a troubling lack of ethics.

Other times he couched a lesson in humorous "Fosterisms," like the warning he frequently issued on what he called the "three Bs of booze, broods and bills."

"The one thing that can cause you trouble if you don't handle them correctly is that," Hanson quoted Foster. "If you handle those things with honesty and integrity, you're not going to have a problem."

Foster was a life member of the International Association of Chiefs of Police and the Kansas City Metropolitan Chiefs and Sheriffs Association. He was a member of the Kansas Association of Police Chiefs, the Johnson County Chiefs and Sheriffs Association and the Kansas Sheriffs Association.

Foster taught as an adjunct instructor at Johnson County Community College, and he was a graduate of the FBI National Academy.

He lived in Johnson County all his life. He attended Hickory Grove Grade School in Shawnee and Shawnee Mission Rural High School, now Shawnee Mission North. He earned a bachelor's degree in criminal justice and a master's in administration of justice, both from Wichita State University.

He was a member and past president of the Lenexa Rotary Club.

Foster is survived by his wife, Karen M. Foster; five children, Margaret, Diane, Susie, Jan and Todd; and four granddaughters.

Instead of flowers, Foster's family suggests donations to a scholarship fund for law-enforcement families that they plan to establish soon.

The family was making funeral plans Thursday.

OUR PATRIOT SAILORS: HONORING CAPTAIN JAMES PARESE

**HON. VITO FOSSELLA**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. FOSSELLA. Mr. Speaker, we wake up every morning to our newspapers filled with stories of possible war, of tragic loss of our astronauts, of heightened warnings of terrorist attacks and of dangerous international dictators. In all, Americans are finding it a difficult time to be confronted every day with these tragedies, uncertainties and fears.

Therefore, Mr. Speaker, during times like these, it is all the more vital to our national spirit to tell Americans about uplifting and comforting stories. We need to remind ourselves of our national qualities for which we are so unique—patriotism, courage and generosity for our fellow man.

The story I tell you today, you will not have read about in your local paper, nor watched on TV, because this is the story of an unsung hero, a man who showed unwavering bravery during the terrorist attacks in New York on September 11, 2001.

I rise today to honor one of my constituents, James Parese, who is the Captain of the Staten Island Ferry, "Samuel I Newhouse". On that terrible morning on September 11, Captain Parese was one of the countless private citizens on maritime vessels around Manhattan who immediately responded to an emergency message. Cackling across marine radios in New York's harbor—the Coast Guard summoned all boats and their crews to abandon their usual duties and respond to extraordinary needs in the New York waterways.

Captain Parese explains that day himself best when he said, quote, The subways were down, and they closed the bridges. We were basically the only way out. Us and the smaller ferries, the police boats and the tugs. I couldn't believe the amount of tugs; there were a sea of tugboats coming from Staten Island heading for Manhattan.

Since September 11th, we have heard so many human stories of tragedy, heroism, loss and miracles. We've heard the brave deeds of the New York firefighters and police officers. We will forever owe them our deepest gratitude.

And today we honor one of America's maritime heroes—one of hundreds of private men and women who selflessly and quietly answered the call from the Coast Guard for "all available boats". The miraculous rescue and response effort by water has also permanently altered our nation's official approach to defending our homeland security along our coastline.

The South Street Seaport Museum in New York City put together an exhibit to bring to light the historic maritime evacuation of Manhattan on September 11. I learned of these

sailors from the book, *All Available Boats*. The book was put together and edited by Dr. Mike Magee, a doctor who happened to see the museum exhibit and felt strongly that these heroic stories deserved to be heard by the American people.

Hundreds of non-military ship captains of all kinds of vessels—from ferries like Captain Parese to tugboats and from private vessels to even historic ships—answered the Coast Guard's call and sailed directly into Ground Zero.

In the end, they evacuated over 300,000 people from Manhattan. It was the largest maritime evacuation since the battle of Dunkirk in 1940. Remarkable.

After hearing the radio call on September 11, Captain Parese unloaded his ferry's passengers back onto Staten Island, turned around and steered his ferry directly into the Staten Island Ferry Loading Dock on Manhattan. There, thousands of people were pouring onto his boat to find a way to escape the terrorism on the island. People were literally jumping off the docks to try to hit the ferry's decks. One man said he was, quote, jumping for my life.

Captain Parese's ferry, already covered in ash, began to fill with smoke. Despite his eyes and lungs burning from the smoke, Parese stayed and loaded over 6,000 scared and desperate passengers onto his ferry. Because of the thick smoke, he was forced to use radar to steer the boat southbound. On reaching Staten Island, Parese unloaded his passengers. He immediately then turned his empty ferry around and headed straight back to Manhattan.

Parese then rejoined the other ships' captains in their massive evacuation of Manhattan. Yet, during one of the most frightening days in our nation's history, we now have learned that our fellow citizens were not just rescued by these boats, they were shown kindness and comfort by these captains and their crewmates.

Every man, woman and child who Captain Parese rescued from Manhattan is grateful to him for giving them an escape route, for his kind spirit and for his dedication to duty.

On a different Staten Island Ferry than Parese's that day—was a boy, Tim Steto, a student at the Leadership High School in Manhattan. Tim and some other students caught the very last ferry from Battery City Park before it closed.

After stumbling through the streets around Ground Zero in terror and confusion, Tim said that once the ferry took off from Manhattan—quote—there was a visible difference in the air quality. We looked back at this horrible scene then looked forward to see this clear, beautiful view of Staten Island. No clouds or smoke. And this young high school student said that—quote—the thought of being taken to safety kept me calm.

After evacuating those three hundred thousand people from the Manhattan island, Parese and the other captains returned again to Ground Zero to volunteer to help with other vital tasks. They pumped water from the harbor to feed the fire hoses and brought in needed supplies.

Also, with the bridges and tunnels closed, these boats became the necessary transportation for bringing firefighters, police and other emergency workers to Ground Zero from New Jersey and beyond.

In one account after another of these stories, the captains and their shipmates worked without break, without fear and without instructions.

September 11, 2001 was a day when average American men and women became heroes for their fellow Americans and for our nation. Those enemies of freedom around the world have always underestimated the determination, bravery, love of country and freedom of the American people.

Captain Parese and the other brave patriot sailors that day are the finest example that the evil enemies of freedom can tear down our walls and tragically kill our citizens, but they will never quench the American spirit.

I admire the bravery of my constituent, James Parese, as much as I admire his humility. He takes no special credit for his brave and tireless actions that day. He very simply says that—quote “everyone pretty much did what they had to do”.

James Parese, thank you from all of us in the United States House of Representatives for your brave and heroic acts that will never be forgotten by the thousands of people you brought to safety on September 11. And thank you for continuing to go out every day to ferry the Staten Island citizens to Manhattan for work.

Finally, we recognize and applaud all the hundreds of patriot sailors that tragic day who fearlessly answered our Coast Guard's call for “all available boats”. Their actions make all of us proud to be Americans and we salute their courage.

God bless these unsung heroes and God always bless this great freedom-loving nation of the United States of America.

#### ESTABLISH FEDERAL RENEWABLE ENERGY PORTFOLIO STANDARDS FOR CERTAIN RETAIL ELECTRIC UTILITIES

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. UDALL of New Mexico. Mr. Speaker, along with my cousin and colleague, Representative MARK UDALL of Colorado, I am today introducing legislation that amends title VI of the Public Utility Regulatory Policies Act of 1978 to establish Federal renewable energy portfolio standard, RPS, for certain retail electric utilities.

I would like to thank Representatives BERMAN, CARDIN, HINCHEY, LEACH, GEORGE MILLER, OWENS, PALLONE, TIERNEY, and especially Representative HENRY WAXMAN who share the vision that we in Congress can develop a national energy policy that is founded on two key principles: renewable energy and energy efficiency. I am especially proud that this is a bipartisan effort.

Mr. Speaker there are some who say that a long-term sustainable energy plan is impossible. Or that renewable energy and energy efficiency are pipe dreams, and that the U.S. will never be able to break its reliance on traditional energy sources like oil and coal. I disagree.

Now, in the post-September 11th world, and as we are on the brink of war with Iraq, the renewed conflict in the Middle East shows us

that we cannot continue to rely on imported oil from that region. When my father, Stewart Udall, was Secretary of the Interior, the U.S. imported 20 percent of its oil. My father argued that we shouldn't import more than 20 percent of our oil on national security grounds. Today, we import 53 percent of our oil, 47 percent of which comes from OPEC countries; by 2020, the United States will import 62 percent of its oil unless we act to change the way we produce energy.

Even more frightening, world production is expected to peak some time in the next few decades; some even say as early as 2007. That means that as energy demand increases more and more rapidly, the world's oil supply will be proportionally diminished.

While energy production has brought tremendous prosperity and allowed us to grow our economy at unprecedented rates, non-renewable forms of energy are responsible for many of the greatest environmental threats to America's well-being.

Consider this, less than 2 percent of this nation's electricity is generated by non-traditional sources of power such as wind, solar, and geothermal energy. During the period from 1973–1991, smart investments were made to develop new technologies that made our energy use more efficient without affecting economic output. These investments curbed the projected growth rates of energy use in the United States by 18 percent from what they would have been without the investments.

Unfortunately, the U.S. spends only one half of 1 percent of its energy bill on research and development. 60 percent of that money is wasted on the country's failed experiment in nuclear energy. Less than 1/3 of the nation's tiny research and development budget is spent on renewable energy and energy efficiency technologies.

Mr. Speaker, I am particularly interested in Renewable Portfolio Standards, RPS, which I believe paves the road for the development and investment in clean energy technologies and local economic development. RPS, in my mind, clearly serves as model for tomorrow's small and medium businesses to draw a profit from their own environmental responsibility.

During the 107th Congress, in the Senate version of H.R. 4, there was a provision, which proposed that retail electricity suppliers—except for municipal and cooperative utilities—be required to obtain a minimum percentage of their power production from a portfolio of new renewable energy resources. The minimum energy target or “standard” would start at 1 percent in 2005, rise at a rate of about 1.2 percent every two years, and peak at 10 percent in 2019.

I applaud the Senate for including an RPS provision in the Energy bill, which the House failed to include in our energy package. However, I believe that we are capable of going further than the 10 percent peak in 2020 and believe we should set the standard higher to around 20 percent. As I mentioned earlier, less than 2 percent of this nation's electricity is generated by non-traditional sources of power such as wind, solar, geothermal, etc.

Why is this legislation so important now Mr. Speaker? It's important because the Department of Energy's total energy efficiency and renewable energy budget would remain essentially unchanged at \$1.3 billion for fiscal 2004. For example, Biomass and biorefinery systems would see the biggest cut, down 19

percent, to \$70 million. Solar is flat at \$79.6 million; wind is down 6 percent, to \$41.6 million; hydropower is unchanged at \$7.4 million; and geothermal is down 4 percent, to \$25.5 million.

It's important because yesterday Secretary Gale Norton came before the House Resources Committee, of which I am a member, to make the case for drilling in the Arctic National Wildlife Refuge. It's important because the House will pass an energy bill, thanks to the help of the Rules Committee, to open the 1.5-million-acre ANWR coastal plain to oil development.

Mr. Speaker, we are a nation of "petroholics." Instead of pushing for the exploration of oil development and contributing to this country's addiction to oil, we should be pushing for the exploration of renewable energy development. This is what this legislation does, Mr. Speaker. And I have no doubt that whatever energy bill the majority brings before the House that it will not contain language to promote and expand renewable energy development in this country.

Our legislation is the first step toward encouraging greater use of our country's clean and domestic renewable energy resources. Our legislation would:

Encourage the use of renewable energy by establishing a nationwide, market-based program that would set fair, achievable and affordable clean energy goals for each state;

Give states flexibility to achieve renewable energy goals;

Benefit farmers and save consumers money; and

Reduce air pollution and the threat of global warming.

Our legislation would require that retail electricity suppliers—except for municipal and cooperative utilities—be required to obtain 15 percent of their power production from a portfolio of new renewable energy resources by 2020 and within 5 years add an additional 5 percent, so by 2025, 20 percent of retail electricity suppliers' power production would be derived from a portfolio of new renewable energy resources.

Mr. Speaker consider the following:

Wind farms in the Pacific Northwest are producing energy at a price of 3 cents per kilowatt-hour. This is less than the current price of power from natural gas. With a little encouragement, wind energy could become economically viable around the country, and this means a tremendous level of energy self-sufficiency for the U.S. Using wind as an energy source, twelve Midwest states alone could generate three times the total U.S. electricity consumption.

Solar power, one of the most well known forms of renewable energy, also has potential for the future. The cost of solar energy has dropped by 90 percent since the early 1970s, and scientists and industry groups predict the price will drop another 66 percent by 2020. Solar energy, if properly developed, could go a long way towards freeing the U.S. from its dependence on coal. Just 10,000 square miles of solar panels would supply all of the nation's electricity needs.

And several months ago, the Public Service Company of New Mexico and FPL Energy LLC, based in Florida, signed an agreement to build one of the nation's largest wind genera-

tion fields in my congressional district near Fort Sumner in eastern New Mexico. Harnessed by 136 twirling turbines, wind will be used to create electricity in the first large-scale renewable energy operation in the state.

Wind will make up less than 4 percent of the power generated by PNM, and this project has the hope of becoming the first of many wind farms in the state and an example of using and developing new technologies for renewable energy use.

A strong RPS makes good economic sense to help states diversify their energy market, increase their work force, and help revitalize communities who have little to no economic development.

Even the New Mexico Public Regulation Commission is working on passing a Renewable Portfolio Standard for New Mexico that would require electric utilities to generate 10 percent of their electricity from renewable energy sources by 2007.

Mr. Speaker, our dependence on coal, oil and other traditional energy sources is unsustainable. To protect our environment and our economy, we must turn off the dead end street that our energy non-policy has been leading us down, and start down a path of energy productivity and sustainable, environmentally sound production.

I encourage my colleagues in the House to support this legislation and support building solid renewable energy provisions within whatever energy bill comes before the House.

#### HONORING THE ACHIEVEMENT OF WOMEN IN COMMUNITY DEVELOPMENT

#### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the achievements of women in community development. Women are key leaders in building quality, affordable housing and they are revitalizing their communities in the United States as well as internationally. The central role of women in any effective community development strategy, whether the goal is economic development, housing, education or health, has been well documented.

The National Network of Women in Community Development, in partnership with women community development leaders from across the country are working to bring a collective voice to foster new policies and improve existing ones, which are more responsive to the housing and community development needs of women and children.

On the occasion of the 20th Anniversary of the McAuley Institute, the only national nonprofit community development intermediary that focuses its resources on the housing and related needs of women and their families, I would like to recognize the vital role that women-led development organizations have played in creating housing across the country and in the restoration of communities.

#### A TRIBUTE TO ANNA GUTIERREZ, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Ms. Anna Gutierrez, an outstanding woman of California's 29th Congressional District. Over the years, Ms. Gutierrez has given selflessly of her time and energy to many different organizations in the City of Monterey Park and surrounding areas.

A forty-three year resident of Monterey Park, California, Anna was a payroll supervisor for Blue Chip Stamps for twenty-five years, and a payroll supervisor for Figgie International for nine years. Despite working full-time, she found time to volunteer at all of her children's schools: Sacred Heart of Mary School, Cantwell High School and Marian School. Besides her children, Dennis, Carolina and Jeffrey, she has four grandchildren and four great-grandchildren.

After her retirement in 1994, Anna volunteered to serve senior lunches at First Methodist Church and participated in two senior citizen clubs, the Friendship Club and the Senior Affairs Club, both in Montebello, California. Currently she is a member of the Montebello Breakfast Club and treasurer for the Los Angeles Monterey Park (LAMP) Optimist Club.

For many years, Anna has been a docent of the Monterey Park Historical Society Museum and is in charge of the school children tour program. She volunteers for the City of Monterey Park as a Commissioner on the Historical Commission and is a Precinct Poll Inspector for citywide elections. In addition, she assists the Monterey Park Police Department by participating with the Monterey Park Senior Citizen Patrol.

Of all her activities, the organization that is nearest to her heart is the Maryvale Orphanage in Rosemead, California. An active participant for over eight years, she volunteers in many ways, including fundraising, assisting in rummage sales, and packaging Christmas gifts for the economically disadvantaged.

Ms. Gutierrez's breadth of volunteer work is remarkable and all who have the opportunity to work with her are better off for the experience.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Anna Gutierrez. The entire community joins me in thanking Ms. Gutierrez for her continued efforts to make the 29th Congressional District an enhanced place in which to live.

IN RECOGNITION OF COVER THE  
UNINSURED WEEK**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MOORE of Kansas. Mr. Speaker, I rise today to recognize a very important initiative that will bring national attention to a severe and growing problem—the uninsured in America.

The sheer number and variety of organizations involved in Cover the Uninsured Week show that the consequences of this problem touch our entire society. Every community, every hospital, every caregiver, every taxpayer, and every individual in our country has a stake in addressing this issue.

New reports that suggest that 75 million Americans lacked insurance for all or part of 2001 and 2002 only give this issue increased urgency. It is easier from a public policy perspective to look at one piece of the puzzle—for example, how urban hospitals struggle to provide uncompensated care, how families struggle when they have a disabled child or how small business struggle to offer health insurance to their employees. But the problem is broader, and it is clearer than ever that allowing Americans to remain uninsured negatively affects our nation's health status, access to care and even our financial security.

Since coming to Congress, I have made addressing this issue one of my primary goals. I am working in particular with my colleagues in the Blue Dog Caucus to address the group with the highest uninsured population—employees of small businesses. I am working on legislation to provide tax credits for small employers who offer health insurance. I know this is just one piece of the puzzle of the uninsured, but I think that if we can sustain the momentum created by Cover the Uninsured Week and utilize the expertise of the broad array of organizations that have come together to bring this issue to the forefront, we can put the pieces together and make a difference for all uninsured Americans.

REMOTE SENSING APPLICATIONS  
ACT OF 2003**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Remote Sensing Applications Act of 2003. I am very pleased that my colleague Representative CHIP PICKERING of Mississippi is joining me as an original cosponsor of this bill.

I introduced this bill as H.R. 2426 in the 107th Congress, and the House—though not the Senate—passed it last year. I'm eager to work with my colleagues on both sides of the aisle in this Congress to see my legislation through to passage in both chambers.

I introduced this bill in the 107th Congress mainly to address a real problem we have in Colorado, the problem of excess growth and

sprawl. My goal was to point to a way to utilize the resources of the federal government to help foster wise community planning and management at the local level. As a member of the House Science Committee and the Space and Aeronautics Subcommittee, it made sense to me to look for ways to help communities grow in a smarter way through the use of technology.

I have reintroduced the bill in this Congress because I still believe we need to do more to promote geospatial technology. Geospatial data from satellites can produce very accurate maps that show information about vegetation, wildlife habitat, flood plains, transportation corridors, soil types, and many other things.

By giving state and local governments and communities greater access to geospatial data from commercial sources and federal agencies such as NASA, I believe that the federal government can help bring valuable—and powerful—informational planning resources to the table.

My bill would facilitate this transfer of information. The bill would establish in NASA a program of grants for competitively awarded pilot projects. The purpose would be to explore the integrated use of sources of remote sensing and other geospatial information to address state, local, regional, and tribal agency needs.

State and local governments and communities can use geospatial information in a variety of applications—in such areas as urban land-use planning, coastal zone management and erosion control, transportation corridors, environmental planning, and agricultural and forest management.

But another potential application that has garnered much recent attention is the use of geospatial technology to bolster our homeland security.

Emergency management has always been an important responsibility of state and local governments. But in the aftermath of the September 11 terrorist attacks, the scope of this responsibility has broadened. Geospatial technology can help states and localities identify the location, nature, and scope of potential vulnerabilities and the impact of potential hazards, as well as how to respond to events and recover from them.

Certainly it is important that we continue to add to our database of available geospatial information—more information is always better than less. But we also need to get maximum use of information we already have at hand. That is the need this bill would address.

State and local officials are becoming more familiar with the uses of geospatial technology for various planning purposes. However, there is a need for federal agencies such as NASA, which has been pioneering the uses of satellite remote sensing technologies, to work with state and local organizations to demonstrate how remote sensing and other geospatial data can offer a cost effective planning and assessment tool.

I'm pleased there was broad bipartisan cosponsorship of the bill in the last Congress and that it earned the endorsement of a number of important national organizations. These supporters of my bill understand the importance of targeting geospatial information at the places where it will have the greatest impact—the local and regional levels.

The Remote Sensing Applications Act can help begin to bridge the gap between established and emerging technology solutions and the problems and challenges that state and local communities face regarding growth management, homeland security, forest fire management, and other issues.

Mr. Speaker, this bill will be welcomed by states and localities nationwide. I look forward to working with Representative PICKERING and other Members of the House, including my colleagues on the Science Committee, to move forward with this important initiative.

HONORING DOMESTIC VIOLENCE  
SHELTERS IN THE 9TH DISTRICT  
OF OHIO**HON. MARCY KAPTUR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. KAPTUR. Mr. Speaker, Women's History Month is celebrated during the month of March in the United States and around the world. Last week Members of Congress participated in Domestic Violence Awareness Week on Capitol Hill in partnership with Lifetime Television to raise awareness of the issues surrounding domestic violence, and address possible solutions.

Domestic Violence is one of the most critical public health issues facing women and children today, and its impact is felt by every member of our society. Domestic Violence is not just a women's issue. Domestic Violence touches the lives of men, women and children—affecting the entire family structure in our country.

I would like to take the time this month to honor the domestic violence shelters in my district—the 9th District of Ohio for the services they provide daily to individuals coping with domestic violence. The YWCA Battered Women's Shelter in Toledo, OH, the Family House in Toledo, OH, the Safe Harbour Domestic Violence Shelter in Sandusky, OH, and Ottawa County Transitional Housing in Port Clinton, OH. All four of the mentioned organizations serve women and children on the front lines. The staff members of the shelters are the individuals that hear the stories, and provide services to people in need. The statistics are real, and the issue of domestic violence must be kept at the forefront of domestic policy debates locally and nationally.

The YWCA Battered Women's Shelter in Toledo serves the area of Lucas County and offers emergency short-term housing and counseling for battered women and their children. The Family House in Toledo serves Lucas County and is a short-term emergency shelter for homeless families, offering supportive services through a family case manager. Ottawa County Transitional Housing in Port Clinton is a long term homeless shelter for women and children. The shelter serves people in Erie and Ottawa counties offering supportive services to families.

I sincerely thank all of the individuals that work for these important organizations, serving our community, and the people of the 9th District of Ohio daily. Onward.

HONORING THE LIFE OF ERNIE  
MILLS**HON. TOM UDALL**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, New Mexico lost a legend recently. Ernie Mills, the dean of New Mexico's political reporters, died from pneumonia on Wednesday, February 26 in Santa Fe. Ernie's career and New Mexico politics were synonymous. There was probably no one else in Santa Fe who knew more about how New Mexico politics worked. Governors, senators, and representatives and a host of elected officials from across the state knew that Ernie and his "little birdies" had the scoop on what was really happening in the state's political arena.

Ernie first came to New Mexico in 1957 when he became editor of the Gallup Independent. He had started his journalism career in New York where he worked for New York Herald Tribune. In 1958, he became the Capitol Bureau Chief for the Albuquerque Journal. He later opened his own public relations consulting firm in Santa Fe and Albuquerque, and was president of the New Mexico Chapter of the Public Relations Society of America.

In 1968–69, Ernie covered the activities of New Mexico servicemen in Vietnam during two tours of duty. During his tours of Vietnam, he also handed television coverage of the fighting there, first for KOB-TV and later for KOAT-TV.

Ernie was probably best known for his participation in one of New Mexico's largest news stories: the 1980 prison riot in Santa Fe. Rioting inmates requested that Ernie—and no one else—be allowed into the prison to negotiate a settlement with them. Fifteen hostages were released after his participation, all unharmed. Thirty-three inmates died in the bloody confrontation.

Ernie's career was devoted to his syndicated newspaper columns and radio and television shows. He produced a daily radio commentary Dateline New Mexico that was carried by more than 20 radio stations statewide. He also had a weekly television show entitled Report from Santa Fe that had been produced by KENW-TV in Portales, and that had aired for more than 27 years.

He received numerous awards during his career, including Broadcaster of the Year in 1995 from the New Mexico Broadcasters Association. The same organization also honored him for Special Reporting, Best News Coverage, Best Editorial Writing and Radio Newsmen of the Year.

Ernie Mills is gone, but his impact on New Mexico will be with us forever. He will be remembered for his sense of fair play, his balanced reporting, his unwillingness to report in something without first making sure of his facts, even if it meant that he was not the first to break the news. He always said it right.

Yes, he will be remembered for his "little birdies," his "gatos flacos," his "wall-leaners," and his interviews that kept his guests struggling to keep up with him. And we won't forget the "train wrecks," even if we don't remember what they were about. We will remember the man who gave his heart to all New Mexico. There was never a time that Ernie did not put people first. It was their hearts that he was

about. When asked about running for office, Ernie was fond of saying, "I'd like to run for office, but I wouldn't want to serve." It was Ernie's way of saying how much he loved being close to the people.

A memorial service for Ernie will be held on St. Patrick's Day in the State Capitol. He would have loved this. He was proud of his Irish heritage and it is fitting that he be remembered in the center of New Mexico's political world in Santa Fe.

Mr. Speaker, no one can ever replace Ernie Mills. His brand of journalism was unique and exclusively his own. More importantly, Ernie took people under his wing, to love, guide and protect. His heart was bigger than all New Mexico. On behalf of all who knew him, I can confidently say that we will sincerely miss him. I feel as though I have lost a real friend, and I extend my deepest sympathies to his wife Lorene and his children, Joy, Ken, Eddie, and Margaret.

BEECH GROVE GIRLS  
CHAMPIONSHIP**HON. JULIA CARSON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. CARSON of Indiana. Mr. Speaker, I rise to congratulate Beech Grove High School, located in the seventh Congressional District, on winning the Indiana State Girls Basketball Final. The Beech Grove Hornets beat St. Joseph's from South Bend, IN, 63–45.

Congratulations to Coach Dawn McNew who led the Beech Grove Hornets to a 27–1 record. I also want to congratulate her players whose teamwork implemented her system so well: Katie Gearlds, Emily Ringham, Joy Cromley, Stephanie Durbin, Clara Harris, Katie Ringham, Mandy Seward, Nicole Helfrich, Patty Collins, Maria Combs, Katie Lamping, and Jenni Moore.

The Hornets' stellar performance is an example of the benefits of superb teamwork and sportsmanship.

Beech Grove defeated North Harrison, Ramsey, IN, to advance to the Girls State Finals. The State Finals were played at Conseco Fieldhouse on Saturday, March 8th.

Beech Grove won its first state title, led by Hornets player Katie Gearlds, who scored a 3A title-record of 33 points. Katie, who has a scholarship to Purdue University, finished the season with 2,521 points, placing her fourth in state career scoring in Indiana.

This exceptional win by the Hornets is a perfect example why Title IX should remain as it is. Title IX has allowed the number of females participating in interscholastic sports to increase from 300,000 in 1971 to approximately 2.4 million in present day.

Congratulations to the Beech Grove Hornets! You have made us proud!

COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF  
50,000 BULGARIAN JEWS FROM  
THE HOLOCAUST

SPEECH OF

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SMITH of New Jersey. Madam Speaker, during the Holocaust, the Jews of Europe were subjected to persecution and, ultimately, targeted for total genocide—not only by foreign occupiers, but also at the hands of erstwhile friends and even their own governments. In the face of this atrocity, Bulgaria stands out for protecting its indigenous Jewish population from the evil machinery of the Holocaust. Despite official allied status with Nazi Germany, Bulgarian leaders, religious figures, intellectuals and average citizens resisted pressure from the Nazis to deport Bulgarian Jews to certain death in the concentration camps of Eastern Europe. Thanks to the compassion and courage of broad sectors of Bulgarian society, approximately 50,000 Jews survived the Holocaust.

Once an ally of Nazi Germany in March 1941, the Bulgarian Government and Parliament came under pressure from the Nazi regime and enacted legislation severely curtailing the rights of the Jewish population. In February 1943, a secret meeting between, Hitler's envoy to Bulgaria, and Bulgaria's Commissar on Jewish Affairs, established a timetable for exporting to Germany the Jews in Aegean Thrace and Macedonia, territories then under Bulgarian administration, and deportation of Jews from Bulgarian cities. The deportations were to begin on March 9, 1943.

Trains and boats to be used in the deportations were in place, and assembly points in Poland had already been selected when word of the plans was leaked. Almost immediately, 43 members of the Bulgarian Parliament led by Deputy Speaker Dimitar Peshev signed a petition to condemn this action. This, coupled with widespread public outcry from active citizens, political and professional organizations, intellectuals, and prominent leaders of the Bulgarian Orthodox Church, led the Minister of the Interior to stay the deportation orders. Later that month, Peshev again took a bold step in drafting a letter, signed by members of the ruling coalition, which condemned the possible deportation of Jews, calling this an "inadmissible act" with "grave moral consequences."

In May 1943, the plan for deportation of the Bulgarian Jews was finally aborted. King Boris III resisted Nazi pressure to advance the plan, arguing that the Jews were an essential component of the workforce. While some 20,000 Jews from Sofia were then sent to work camps in the countryside for the remainder of the war and subjected to squalid conditions, they nevertheless survived.

Tragically, there was no such reversal of fate for the estimated 11,000 Jews from Aegean Thrace and Macedonia, who did not have the protection afforded by Bulgarian citizenship. Already driven from their homes in March 1943, these individuals were transported through Bulgarian territory to the Nazi death camps. Madam Speaker, this month marks the 60th anniversary of Bulgarian resistance to the Holocaust. The people of Bulgaria



deserve our commendation for their selfless efforts to preserve such a threatened religious community, and in fact, the number of Jews living in Bulgaria actually increased during the Holocaust.

Bulgaria's record of tolerance was distorted by 40 years of communist misrule which culminated in the 1984–89 forcible assimilation campaign against its largest minority, the Turks. One of the first initiatives of the government following the fall of communism in November 1989 was the reversal of this brutal campaign. A return to the wholesale suppression of minority groups as exemplified by the forcible assimilation campaign is inconceivable today, and Bulgaria is a democracy that promotes respect for fundamental rights.

Last year, Bulgaria's Ambassador to the United States, Elena Poptodorova, testified before the Helsinki Commission regarding the ongoing efforts of her government to promote tolerance, consistent with Bulgaria's historical traditions. I have been particularly encouraged by Bulgaria's initiatives, in cooperation with leading non-governmental organizations, to promote the integration of Roma and non-Roma in schools. This work deserves the full support of the Bulgarian Government.

I am disappointed, however, that the Bulgarian Government has not yet adopted and implemented comprehensive anti-discrimination legislation, even though it pledged to do so in early 1999 in a platform of action on Roma issues, and committed to do so in the 1999 OSCE Istanbul Summit document. Four years have come and gone since Bulgaria made those pledges, and it is past time for those pledges to be honored.

I am hopeful the Bulgarian Government will do more to combat violence motivated by racial or religious intolerance. Two cases of such violence, against Romani Pentecostals in Pazardjik, appear to have received only superficial attention from the authorities.

Madam Speaker, I also was disappointed to learn of the recent passage of a new religion law in Bulgaria. Several drafts of a religion law had laid relatively dormant until the last months of 2002, when the process was expedited. As a result, it is my understanding that minority faith communities were excluded from the drafting process and assurances to have the Council of Europe review the text again were ignored. The law is prejudiced against certain religious groups and falls well short of Bulgaria's OSCE commitments. The law also jeopardizes the legal status of the Orthodox synod not favored by the Government and its property holdings, as well as threatens fines for using the name of an existing religious organization without permission. New religious communities seeking to gain legal personality are now required to go through intrusive doctrinal reviews and cumbersome registration procedures, and co-religionists from abroad have been denied visas based on poorly written provisions.

Bulgaria's leadership on these various issues would be welcomed, especially in light of their plans to serve as Chair-in-Office of the OSCE in 2004. The United States is particularly appreciative of Bulgaria's firm stand against terrorism at this time, and we look forward to continued strong relations between our countries. The proud heritage stemming from the days of the Holocaust serves as a good reminder of the importance of taking stands which are right and true. Mr. Speaker,

I am pleased that this Congress is able to recognize that heritage and historical fact.

A TRIBUTE TO MARY BOGER, 29TH  
CONGRESSIONAL DISTRICT  
WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Mary W. Boger. Ms. Boger's passion for community volunteerism, especially on behalf of children and education, has made the City of Glendale and surrounding areas a better place in which to live.

A product of the Glendale Unified School District, she attended Pasadena City College, then had a successful career in the business world. Mary and her husband, Dr. Donald Boger have raised eight children in total: JoAnn, Terry, Debbie, Scott, Elizabeth, Melanie, David, Charles, nine grandchildren and five great-grandchildren.

A strong advocate of education, Ms. Boger has served on numerous school committees and task forces, including Citizens for Glendale Community College, and the School Facilities Bond Committee. In addition, she has volunteered with the Glendale Parent Teacher Association, Glendale Healthy Kids, Verdugo Hills Visiting Nurse Association, Safe Places and Glendale Youth Coalition. She is currently a member of the Glendale Unified School District Board of Education, serves on the Glendale YWCA Board of Directors, and is President of Las Candelas.

Mary has received many awards, including the Glendale News Press Woman of Achievement Award in 1998, the California Legislature's 43rd Assembly District Woman of the Year in 2000, and the Glendale Community College Alumni Association's Award of Merit for Career Achievement and Community Service.

The time, energy and love she gives to our community is extraordinary, and the residents of my district have benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Mary W. Boger. The entire community joins me in thanking Mary Boger for her continued efforts to make the 29th Congressional District a healthier and safer environment, especially for children, in which to live.

### FAMILY FARM AND RANCH INNOVATION ACT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. UDALL of Colorado. Mr. Speaker, today, I am again introducing legislation to help en-

sure our nation's family farms and ranches continue to produce the agricultural products that have made us the breadbasket for the world.

Small family farms and ranches helped build the foundation of America. Thomas Jefferson once wrote in a letter to George Washington, "Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness." Today many small farms and ranches have disappeared. This is in part because the smaller farms and ranches have not been able to change to more profitable means of production. To continue as a viable business in agriculture farmers and ranchers need to be able to use modern techniques that increase profitability, and do it in a manner that is environmentally sound.

The Family Farm and Ranch Innovation Act (FFRJA) would provide necessary tools for small agriculture businesses to modernize and become more competitive in today's market, access to credit and a plan to turn the credit into increased revenue.

The U.S. Department of Agriculture's National Commission on Small Farms report titled A Time to Act found, "The underlying trend toward small farm decline reflects fundamental technological and market changes. Simply put, conventional agriculture adds less and less value to food and fiber on the farm and more and more in the input and post-harvest sectors. We spend more on capital and inputs to enable fewer people to produce the Nation's food and look primarily to off farm processing to produce higher value products. Sustainable agriculture strives to change this trend by developing knowledge and strategies by which farmers can capture a large share of the agricultural dollar by using management skills to cut input costs—so a large share of the prices they receive for their products remain in their own pockets—and by producing products of higher value right from the farm." (In context of the report farms include ranches.)

The innovation plans in FFRIA, to be developed with the USDA's Natural Resources Conservation Service, would provide the blueprints to increase the value of farm and ranch outputs.

The report also found, "Agricultural operations require high levels of committed capital to achieve success. The capital-intensive nature of agricultural production makes access to financial capital, usually, in the form of credit, a critical requirement. Small farms are no different from larger farms in this regard, but testimony and USDA reports received by this Commission indicate a general under-capitalization of small farms, and increased difficulty in accessing sources of credit." If small farms and ranches are going to use improved technologies laid out in innovation plans they will need capital. The Small Business Administration's 7(a) loan program has a long history of helping small businesses and would be a great tool for small farmers and ranchers to implement their plans.

America's small farms and ranches need a hand up to remain viable in our rapidly changing marketplace. Often today's small agriculture businesses are family owned and have only a very small profit margin. The combination of low market prices for raw agricultural commodities and the rising cost of land means that many of these businesses cannot afford

to carry on. And that causes more urbanization of valuable farm and ranch land.

This legislation recognizing the importance of our small farming and ranching businesses. They provide diversity in the market place, local production of food, less pollution, and jobs, all of which strengthen our economy. And, farms and ranches that are part of our community remind us that food and other agricultural products don't just come from stores, and remind us of our connection to the land.

Mr. Speaker, small farms and ranches have provided the livelihood for many families since the beginning of our country. This bill will help ensure small farms and ranches do not become a thing of the past by providing the technical expertise and capital to allow them to meet the challenges of the 21st Century.

**FACT SHEET—FAMILY FARM AND RANCH INNOVATION ACT**

Summary: Bill would authorize the USDA to assist Small farmers and ranchers who want to improve their operations by developing Innovation Plans and would authorize the Small Business Administration to provide loan guarantees to implement these plans.

**LOAN AUTHORITY**

Bill authorizes the Administrator of the Small Business Administration to guarantee, under section 7(a) of the Small Business Act, loans to small businesses engaged in farming and ranching, for the purpose of implementing Agricultural Innovation Plans.

**AGRICULTURAL INNOVATION PLANS**

Plans are to be developed on request of a farmer or rancher whose operation has been certified as a small business concern under the definition of the Small Business Administration.

Plans are designed to increase the on-farm or on-ranch income of small farmers or ranchers and protect the environmental quality of the farm or ranch where the farming and ranching operation is located by minimizing the production of pollutants and conserving the natural resource of the farm or ranch.

The U.S. Department of Agriculture, Natural Resources Conservation Service, will develop the plans.

**A PEACEFUL DIALOGUE BETWEEN CHINA AND TAIWAN MUST RESUME**

**HON. W. TODD AKIN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. AKIN. Mr. Speaker, at present there are more than 400 Chinese missiles targeted on Taiwan. It is estimated that roughly 50 more are being added each year. Moreover, China has devised strategies to destroy Taiwan's political, financial, military, communications and production centers within days. What is even more menacing is that China has reiterated that it will use force against Taiwan if Taiwan refuses to accept China's "one country, two systems" unification formula.

China's intimidation of Taiwan is unworthy of its status as a major world power. China must not ignore Taiwan President Chen Shui-bian's repeated pleas for resumption of cross-strait dialogue. If war breaks out in the Taiwan Strait, China, Taiwan and the rest of the countries in the Asian-Pacific will all suffer irreparable economic and political damage.

Our friends and allies in Europe regard peace and stability in the Taiwan Strait as critical to everyone's interests in Asia. On September 5, 2002, the European Parliament passed a resolution calling on China to remove its missiles along Taiwan's coast. Last October, the Czech Parliament also passed a similar resolution calling on China to remove its missiles from the Taiwan Strait.

The United States believes that a military clash in the Taiwan Strait must be avoided. A peaceful dialogue between China and Taiwan must resume now. It is my hope that Beijing will begin dismantling the missiles currently targeting Taiwan and pursue a peaceful resolution of current tensions with Taiwan. I support efforts of the U.S. State Department to this important end.

In the meantime, while we advocate the peaceful resolution of the Taiwan issue, we must continue to sell arms to Taiwan to help Taiwan protect itself, under the framework of the Taiwan Relations Act. Our commitment to defend Taiwan is, and must remain, strong and unequivocal.

**INTRODUCTION OF A BILL TO PROHIBIT THE COMMERCIAL HARVESTING OF ATLANTIC STRIPED BASS**

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. PALLONE. Mr. Speaker, today I introduce legislation to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone of the United States. This legislation would grant protections to this species that would enable coastal populations to return to historical abundances.

The Atlantic striped bass is a valuable resource along the Atlantic coast and is one of the most important fisheries for recreational anglers within the sixth Congressional District of New Jersey. As ranking member of the Subcommittee on Fisheries Conservation, Wildlife, and Oceans, I have a long history of involvement in protecting, preserving, and enhancing the striped bass fishery. It is in this spirit that I would like to designate the striped bass as a federal game fish. This bill would prohibit the commercial harvesting of striped bass and reserve this resource for recreational catches only, thereby ensuring a healthy and sustainable recreational fishery.

The recovery of the striped bass fishery since the crash of the late 1970's is an example of successful state and federal cooperation and angler support over the last two decades. The population rebound is encouraging, but a recent Atlantic States Marine Fisheries Commission decision to both increase the commercial quota and open the exclusive economic zone to striped bass fishing could lead to serious consequences for striped bass. I feel that this decision is too much, too soon, and it is imprudent to subject the fishery to these intensified demands. I believe we must take precautionary measures now to avoid the potential threat of a collapse in the future.

In the interest of responsible conservation and sustainable recreational fisheries, I support the goal of making striped bass a game

fish along the entire coast. I believe that this is the only way we can truly ensure the future of this important species.

Mr. Speaker, I urge my colleagues to support this legislation to protect the Atlantic striped bass, a species that maintains an immensely popular recreational fishery. I appreciate this opportunity to convey my concerns about the management of this prized fishery, and I look forward to continuing my involvement in ensuring sound policy decisions.

**CONGRATULATIONS TO CAMP ALVERNIA ON ITS 115TH ANNIVERSARY**

**HON. STEVE ISRAEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. ISRAEL. Mr. Speaker, I rise today to acknowledge the 115th anniversary of Camp Alvernia, located in Centerport, NY.

In its first summer in 1888, Camp Alvernia's Franciscan Brothers brought deserving poor youth from Brooklyn to the country environment during the summer months. Since then, the camp has been dedicated to teaching their campers respect for themselves, each other and our environment.

Camp Alvernia also provides scholarships for families who find themselves in financial difficulty. They are committed to helping families and children from impoverished situations to develop spiritually, morally and physically while enjoying Long Island's beautiful environment.

Campers at Camp Alvernia enjoy sports, arts and crafts, nighttime campfires and many more activities.

I commend Camp Alvernia and their staff for their dedication to our nation's children, and congratulate them on their 115th anniversary.

**A TRIBUTE TO SALLY KENDALL BALDWIN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003**

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Sally Kendall Baldwin. Ms. Baldwin's passion for community service, especially on behalf of education and the arts, has made the City of San Gabriel a better place in which to live.

A native Californian, Ms. Baldwin attended UCLA, majoring in Elementary Education. In 1960, she met and married Harry Baldwin, currently a San Gabriel City Councilman, and they have two children, Kendall and Gregory. After college, the Baldwin family moved to San Gabriel, California.

As a young mother, Sally was involved in the Boy Scouts of America, San Gabriel National Little League and the San Gabriel High School Quarterback Club. After her children were grown, she became involved in the Pasadena Shakespeare League and efforts to raise funds for the renovation of the San Gabriel Mission.

Ms. Baldwin has been instrumental in the efforts toward unification of the San Gabriel School District, which was accomplished in 1992 and the school bond issue to renovate elementary schools, which passed in 2002. A teacher in the San Gabriel Unified School District for the last twenty-eight years, she will retire in June 2003. She began the Annual Community Read-in at McKinley Elementary School. Last year, she worked with the Los Angeles Master Chorale on a project for her students to learn how to write lyrics and melody, and perform their own songs with members of the Chorale.

Currently, Sally is Executive Vice President of the Asian Youth Center, a member of the San Gabriel Historical Society and the Metropolitan Associates, an outreach of the L.A. Opera Company. In addition, she is active in The Church of Our Saviour Episcopal Church, serving as a Vestry member, an usher and a Lay Eucharist Minister.

The time and effort she gives to our community is truly remarkable, and the City of San Gabriel has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring an extraordinary woman of California's 29th Congressional District, Sally Kendall Baldwin. The entire community joins me in thanking Sally Baldwin for her continued efforts to make the 29th Congressional District an enhanced environment in which to live.

#### RENEWABLE PORTFOLIO STANDARD

#### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing a bill with my cousin Rep. TOM UDALL to establish a federal renewable portfolio standard (RPS).

The electric utilities throughout the country have done a good job providing this nation with reliable energy. They have done so well, in fact, that we take our energy for granted.

But as demand continues to grow, we need to make sure that we continue to have affordable and reliable supplies. And, most importantly, as we move to more competition in the delivery of electricity, we must make sure that the environment and consumers are protected. So it makes sense to put incentives in place to ensure that less polluting and environmentally friendly sources of energy can find their way into the marketplace.

But it's not enough to take protective steps. I believe it's critical that we also take affirmative steps to promote cleaner energy production. That's why I support requiring that a certain amount of our energy supplies come from renewable energy sources in the form of a renewable portfolio standard, or RPS.

The RPS is a market-friendly approach that will provide increased reliability, energy secu-

urity, and environmental and health benefits. By reducing the cost of new clean technologies, it will also make more choices increasingly available in the competitive marketplace, and help restrain fossil fuel price increases by creating more competition for those fuels. The RPS creates intense competition among renewables, with the market picking winners and losers among renewable technologies, not the government.

An RPS will be good for consumers. According to the Department of Energy, an RPS will save consumers billions of dollars. An RPS will also spur economic development in the form of billions of dollars in new capital investment and in new property tax revenues for local communities, and millions of dollars in new lease payments to farmers and rural landowners. Importantly, an RPS will also keep our energy dollars at home and diversify our energy portfolio. Finally, the increased use of clean renewable energy through an RPS will take us toward a clean energy future by reducing air pollution from dirty fossil-fueled power plants that threaten public health and our climate.

We have worked hard to draft legislation that we believe will create public benefits for everyone. The renewable energy goals the bill sets are significant—requiring retail electricity suppliers to derive 20 percent of their power production from renewables by 2025. In addition, the bill is not overly burdensome for states as it gives them flexibility to achieve these goals. The bill sets up a credit trading system that allows states to buy and sell credits to meet their renewable energy goals, which will work to further reduce costs. A cap of 3 cents a kilowatt-hour protects consumers from excessive costs. The bill permits states to borrow credits against future renewables, bank renewable credits for future use, or sell them on the open market. The bill gives federal credits for existing renewables and for renewables required under a state RPS. The bill also returns money to the states from the sale of credits for state weatherization programs, low-income energy assistance programs, and for encouraging the installation of additional renewables.

Finally, our bill makes clear that while material removed from the national forests in connection with fuel reduction projects or for other reasons can qualify as biomass, we have been careful to make it clear that the bill does not set up a new program under which timber would be harvested specifically for that purpose.

Our RPS bill will save consumers money, benefit farmers and rural landowners, reduce air pollution, and increase reliability and energy security. My cousin and I believe this RPS bill is a win-win proposition and worthy of the support of our colleagues. We will work together and with our colleagues on both sides of the aisle to push it forward in the House.

#### ARTHUR ASHE: GENTLEMAN AND REVOLUTIONARY

#### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. RANGEL. Mr. Speaker, for the benefit of my colleagues I rise to share an important arti-

cle which appeared in the New York Times on February 9th that details the legacy of Mr. Arthur Ashe. The article entitled, "A Gentleman, A Revolutionary" was written by Mr. Donald Dell, former United States Davis Cup team captain, a leader in the sports marketing industry and a close personal friend of Mr. Ashe.

The article discusses Arthur Ashe's lifelong commitment to making a difference and his selfless work for causes of freedom and justice throughout the world. It is a poignant piece and one that I believe gives a compelling example of what a principled and moral individual can accomplish for his community and his nation.

[From the New York Times, Feb. 9, 2003]

A GENTLEMAN, A REVOLUTIONARY

(By Donald L. Dell)

The Arthur Ashe I knew was not only a tennis player, an activist, a thinker, a writer; he was also a man of uncommon grace and power. On this, the 10th anniversary of his death—Arthur died on Feb. 6, 1993—I want to express my sentiments about my good friend of 23 years.

When I first met him, he was a skinny young man with a whippy tennis game. He had great wrist action in his strokes, on both his forehand and his backhand. He had a tremendous arsenal of shots; he could hit his backhand about seven different ways. He was shy, introverted, but he was a risk taker. He was never afraid to take a chance to win a point. Even then, there was a touch of the quiet revolutionary in him.

As he matured, he developed into a genuinely intellectual man: inquisitive, studious, a man who loved learning. This side of his nature is what led him to champion so many causes, rationally and reasonably. To say that Arthur Ashe transcended tennis is an understatement.

Yet it was tennis that remained a passion. Arthur was focused on being the best player he could be. He achieved that zenith in 1975 with his victory over Jimmy Connors to win Wimbledon—in my opinion, his greatest triumph on the court. That match remains a classic example of brains over brawn. Connors's combination of power and consistency was considered invincible, and yet Arthur diffused that force, thinking and calculating his way to the signature championship of his exceptional 15-year career.

Of course, Arthur always knew that he carried more obligations than merely winning tennis matches. He knew that he was representing his race at all times. The demands of such a burden are difficult to fathom, certainly for those of us who have never experienced it. Through it all, Arthur remained patient, always willing to give of his time to meet with people, to sign autographs or to conduct a clinic for underprivileged kids.

I was surprised when I read Arthur's quote that the toughest obstacle he had faced was not his two open heart surgeries, or even AIDS, but rather, as he put it, "being born black in America." We had a long discussion about it. He told me that regardless of how prominent you were, each day every black person in this country was made aware that he or she was black. Arthur had faced racism as a young man growing up in Richmond, VA, and regardless of his success, he continued to have to deal with it his whole life.

His commitment to making a difference, along with his sense of justice, led him to become a leader in the anti-apartheid movement. He assumed the role in his usual intellectual way. He first visited South Africa in 1973, largely as a learning experience. At the time, he was denounced by the black community, much of which felt that he was being

used as a pawn by the South African government. But Arthur believed that you could not speak out against apartheid unless you knew something about it. He also thought it was important for young blacks there to see a free black man, one of accomplishment and stature in his chosen field.

Arthur's sense of responsibility to his race, again coupled with his intellectual curiosity, led to one of his proudest achievements. While attempting to research the heritage of black athletes, he found no definitive work on the subject. In typical Ashe fashion, he set out to produce one. He invested three years of his time and money and employed three research assistants to write "A Hard Road to Glory," a three-volume history of the black athlete in America. That work, published in 1993, is a milestone in the field of historical sports writing; the script for the television version, which Arthur also wrote, won three Emmys.

For all his public achievements, I was always struck, in my personal relationship with him, by his overriding sense of trust. That trust pervaded my professional dealings with him as his lawyer for 23 years. We never had a formal contract. After an initial letter of agreement in 1970, he and I renewed each year with a handshake. Trust came naturally to him. He strongly believed—and we would debate this long and often—that there was a lot more good in people than bad.

But that trusting nature belied his toughness. Clearly, Arthur was tough on the tennis court, but off the court, he was just as strong-willed. One need look no further than the strong, unpopular stands he took on issues like more stringent academic standards for college athletes. Often swimming against the tide, Arthur always chose what he believed to be the moral and principled course.

And, obviously, Arthur had to be a man of great courage to deal with his medical traumas. Not once, when he learned that he had AIDS, did he say, "Why me?" He felt that same question could be asked of all the wonderful things he enjoyed in life. Why did he win Wimbledon? Why did he marry a beautiful, talented woman, Jeanne, who was such a major force in his life, and become father to a loving, precious child, Camera? No. When it came to adversity, Arthur preferred to pose the question differently. "Why not me?" he would ask.

When our group was leaving South Africa in 1973, someone handed my wife, Carole, a newspaper. Rolled inside it was a poem from Don Matra, a South African poet and freedom fighter who had recently been banned and was therefore prohibited from meeting with Arthur in public. I think that poem really captures the essence of Arthur Ashe.

I listened deeply when you spoke  
About the step-by-step revolution  
Of a gradual harvest,  
Tendered by the rains of tolerance. . . .  
and I loved you brother—  
Not for your quiet philosophy  
But for the rage in your soul,  
Trained to be rebuked or  
summoned. . . .

These lines reveal the true Arthur Ashe: a man of quiet philosophy, with a raging, noble soul—a man I loved so much. We may never see his like again.

## INTRODUCTION OF THE ANIMAL DRUG USER FEE ACT OF 2003

**HON. FRED UPTON**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UPTON. Mr. Speaker, I rise in support of the bipartisan Animal Drug User Fee Act of 2003, legislation that I am introducing today with Reps. DEGETTE, GREENWOOD, TOWNS, BILIRAKIS, and JOHN.

Closely modeled after the Prescription Drug User Fee Act, the Animal Drug User Fee Act is designed to give the FDA the resources and incentives necessary to significantly improve the animal drug review process. This legislation is sorely needed. Despite a statutory review time of 180 days and the enhanced flexibility granted the agency in the Animal Drug Availability Act of 1996, the average review currently takes about 1.5 years and may drag on for several years. This slowdown in review times is jeopardizing the supply of the new, safe and effective animal drugs needed to keep our pets, flocks, and herds healthy.

The Animal Drug User Fee Act of 2003 is endorsed by a coalition of organizations, including the American Veterinary Medical Association, the American Farm Bureau, the National Cattlemen's Beef Association, the National Milk Producers Federation, the American Association of Equine Practitioners, the American Sheep Industry Association, the National Pork Producers Council, and the National Turkey Federation. My cosponsors and I anticipate that additional organizations will join in this endorsement as we move forward with the legislation.

I urge my colleagues to join with me and the original bipartisan cosponsors of this legislation in supporting and cosponsoring the Animal Drug User Fee Act of 2003.

## A TRIBUTE TO JOAN VIZCARRA, 29TH CONGRESSIONAL DISTRICT WOMAN OF YEAR—2003

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Joan Vizcarra, an outstanding woman of California's 29th Congressional District. Ms. Vizcarra's passion for community service, especially on behalf of education has made the City of Temple City a better place in which to live.

Ms. Vizcarra graduated from California State University at Los Angeles, majoring in psychology. Currently a realtor, she is attending the Phillips Graduate Institute taking a graduate program in psychology to obtain her marriage and family therapy license. Joan and her husband, Fernando Vizcarra, a Temple City Councilmember, have been married thirty-four years and have two children, Lara and Erin, and one grandchild.

Joan has been a member of the Temple City Unified School District Board of Education for twelve years, including serving on the budget and multicultural subcommittees. She is a board member of the Temple City Educational Foundation and a member of the site committee for Cleveland Elementary School's LEARNS program. In addition, Joan is a member of the California Association of Realtors and is the legislative liaison for the California School Boards Association. Ms. Vizcarra's past volunteer participation includes the Temple City Parent Teacher Association, Campfire Girls, the Arcadia Board of Realtors, the Temple City Kiwanis Club, and various political organizations.

The effort and time Joan gives to our community is truly remarkable, and the City of Temple City has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring an extraordinary woman of California's 29th Congressional District, Joan Vizcarra. The entire community joins me in thanking Joan Vizcarra for her efforts.

## RECOGNITION OF THE OCEANSIDE CHAMBER OF COMMERCE

**HON. DARRELL E. ISSA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. ISSA. Mr. Speaker, today the Oceanside Chamber of Commerce will proudly host the official grand opening of their new offices. There will be a ribbon cutting and reception to commence this special occasion. I want to ask special recognition for the efforts of Mr. David Nydegger the Chief Executive Officer of the chamber for his hard work in making the new offices a reality.

The Oceanside Chamber Mission Statement reads "To promote a strong business climate throughout the City of Oceanside, serve as leader and advocate for the business community, enhance the economic stability of the city and act as a collective voice for business concerns."

I believe that the Oceanside Chamber of Commerce has been successful in achieving the goals stated in its mission statement. Since its doors opened in 1896, the chamber has effectively promoted local business and been a valuable resource to the Oceanside business community.

Mr. Speaker, on the occasion of the chamber's grand opening, I would like to personally recognize the work of the Oceanside Chamber of Commerce on behalf of the businesses and citizens of Oceanside.

## RECOGNIZING STEVE COX

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Steve Cox, an exceptional gentleman who has exemplified the finest qualities of citizenship and leadership in his work as the sheriff of Livingston County, Missouri, and with the Elks Lodge 656 of Chillicothe.

This year, Steve is being honored with the Outstanding Achievements Award as the Elk's citizen of the year. Steve is truly an asset to crime fighting in Northwest Missouri. Under his leadership, his department has received the Missouri State Deputy Sheriff of the Year Award two years in a row.

When Steve is not working relentlessly as the sheriff, he spends his spare time in internet chat rooms searching for sexual predators. To date, he has brought over a dozen to justice.

Mr. Speaker, I proudly ask you to join me in commending Steve Cox for his many important contributions to Northwest Missouri Officers, the Elks Lodge 656 of Chillicothe, his community and the 6th District of Missouri.

#### WHAT THE AMERICAN FLAG MEANS TO ME

#### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. LATHAM. Mr. Speaker, I wish to share with my colleagues an essay written by Jefferson Brown, a constituent of mine from Mason City, IA. Jefferson is a 12-year-old 6th grader at Roosevelt Middle School in Mason City. He recently won an award from the Elks Lodge in Mason City and will soon be traveling to the State Capital in Des Moines to compete in a state-wide competition. I submit his award-winning essay for the RECORD.

The American flag means many things to me. It symbolizes pride, joy, strength, and ability. These all come from the flag of the great country we live in.

The flag symbolizes pride, the pride of our country, ourselves, and pride for our flag of America. It gives hope, it gives us pride, the flag is a symbol of our pride in our country.

The flag represents joy for the heroes who stood tall defending our country. Joy when the warriors came home to us all. The joy of one, the joy of all is in the flag that flies high above us, the flag stands for joy in America.

Strength is in the flag, and the strength is in the hearts of all the American people. The strength is in our army, strength in those who lost a loved one on those days when we stood tall. The strength is in one; the strength is in all, it is in America; that stands tall.

Last but not least, ability. The flag stands for ability. Ability is in all of us, it is what we do. We are better at some things than others. Some of us can run or jump better than others, or we can draw or write better; but the point is that we all must bring our abilities together just as if we were colors on the American flag, the colors come together to make the flag. Just as we must, all united as one.

#### A TRIBUTE TO JACQUELINE "JACQUIE" FENNESSY, 29TH CON- GRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we

pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today to recognize an outstanding woman of California's 29th Congressional District, Ms. Jacqueline "Jacquie" Fennessy. Over the years, Ms. Fennessy has given selflessly of her time and energy to many different organizations in Altadena, California.

A 45-year resident of Altadena, Jacquie and her husband, Dr. William J. Fennessy have five children, William, Brian, Michael, David, Daniel, and twelve grandchildren. As a young mother, she was involved in the Boy Scouts of America, the local Parent Teacher Association and Little League. In 1986, she became the Executive Director for Patron Saints Foundation, a position she currently holds. The foundation is an association that awards charitable grants to non-profit health care organizations in the west San Gabriel Valley.

Jacquie has served on the Altadena Town Council since 1992, serving as Chair for three terms. The consummate volunteer, Ms. Fennessy is also a member of the Altadena Chamber of Commerce, Christmas Tree Lane Association, Altadena Heritage and the Altadena Conservancy. Her board memberships include the Sheriff's Support Group of Altadena, Scripps Home, and the Altadena Historical Society. Active in Altadena's libraries, she has been an Altadena Library Board of Trustee member since 1994, serving two terms as President, and a member of Friends of the Altadena Library for nearly forty years.

Jacquie has received many awards, including the California Legislature's 44th Assembly District Woman of the Year in 1999, Pasadena Mental Health Association's Community Volunteer of the Year in 1998, and Citizen of the Year in 1998 by the Altadena Chamber of Commerce.

The time and energy she gives to our community is truly remarkable, and the greater Altadena area has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Jacqueline "Jacquie" Fennessy. The entire community joins me in thanking Ms. Fennessy for her continued efforts to make the 29th Congressional District a better place in which to live.

#### ALBERT AND MARY CLARK CELE- BRATE 60TH WEDDING ANNIVER- SARY

#### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. KANJORSKI. Mr. Speaker, I rise day to call the attention of the House of Representatives to the 60th wedding anniversary of my good friends Albert and Mary Clark of Pittston, PA. The Clarks will be honored March 15 with a Mass of Thanksgiving at St. Mary's Church in Pittston and an anniversary dinner at St. Mary's Center in Scranton.

Albert and Mary, the former Mary Jordan, were married March 6, 1943, in their neighborhood church in Pittston, in the middle of World

War II. He wore his Navy ensign's uniform for the ceremony. At the time he was an administrative officer with the Navy at the Philadelphia Ship Yard, which was then a major deployment facility for troops and shipping traffic.

They are the proud parents of seven children: Michael, of Washington, DC; Patrick, of Columbia, SC; Kevin, of San Francisco; John, of Poway, CA; Brian, of Dunmore; Albert, Jr., of Scranton; and Mary Kenney, of Clarks Summit. They are also the proud grandparents of 22 grandchildren.

In addition to raising a large family, Mary has been continuously active in various organizations of her parish church, including her role as Eucharistic minister. Last year, Albert was presented with the Man of the Year award by the Greater Pittston Friendly Sons of St. Patrick.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the 60th wedding anniversary of Albert and Mary Clark, and I wish them and their family all the best.

#### SHLOMO ARGOV—A VICTIM OF MINDLESS VIOLENCE

#### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. OBEY. Mr. Speaker, a good man has died after spending 20 years completely paralyzed because of mindless violence perpetrated by the Abu Nidal Middle East terrorist faction. Shlomo Argov, the former Israeli Ambassador to Britain, who died on February 23 in a Jerusalem hospital, was shot as he emerged from a meeting in a London hotel in 1982. For more than 20 years he was a living example of the tragedy that has befallen so many decent people because of mindless hatred that is used to justify terrorist acts.

I first met him when he showed me around Jerusalem on my first visit to the Middle East after the 1973 Israeli-Arab war. He was a political moderate who in his conversations with me spoke articulately of the need for Israelis and Palestinians to come to an understanding about their differences, and, yet, he was gunned down by forces of hatred who have always been anxious to make a political point regardless of the injury done to other human beings or to their own cause.

Before he was so viciously assaulted, he had a distinguished career in Israeli's Minister of Foreign Affairs and served as Ambassador to Mexico, the Netherlands, and finally, Ambassador to Britain. His death is another demonstration of how close the Middle East is to running out of men of good will before it runs out of hatred.

Mr. Argov paid a terrible price for trying to bring his talents to bear to advance the well being of the part of the world from which he came. His death should not go unnoticed. Neither should the distinguished service that he provided to Israel and the world before his life was so cruelly changed by mindless Palestinian militants.

Thoughtful people in both Israeli and Palestinian circles should view his death as another reminder of the need to end the terror, cut through the hatred, and give innocent civilians in that region an opportunity for the kind of

happy and decent life which was denied to Shlomo Argov.

I'm sure the sympathies of all of us who knew him go out to his family. I am inserting a copy of Mr. Argov's obituary that appeared in the Washington Post.

[From the Washington Post, Feb. 24, 2003]

#### ISRAELI DIPLOMAT SHLOMO ARGOV DIES

JERUSALEM.—Shlomo Argov, 73, the former Israeli ambassador to Britain who was paralyzed during an assassination attempt by Palestinian militants that triggered Israel's invasion of Lebanon in 1982, died Feb. 23.

He has been in Jerusalem's Hadassah hospital since the shooting. Hospital officials said he died from complication from wounds that left him completely paralyzed and on life-support machines.

Israeli Prime Minister Ariel Sharon announced at the start of Sunday's weekly Cabinet meeting that "this morning, before dawn, Ambassador Shlomo Argov died."

Gunmen from the Abu Nidal guerrilla faction, which has ties to Libya, Syria and Iraq, shot Mr. Argov after a diplomatic meeting outside London's Dorchester Hotel. Three Abu Nidal members were convicted in the shooting.

The shooting was Israel's stated pretext for invading Lebanon four days later and laying siege to Beirut for three months until Palestinian leader Yasser Arafat and his fighter were forced out of the country. The invasion also marked the start of an 18-year Israeli military presence in south Lebanon, which ended with Israel's withdrawal in May 2000.

Reuven Merhaz, a former colleague of Mr. Argov, said Sharon, who was defined minister at the time, had planned the Lebanon invasion, well before Argov was shot.

"The war plan was ready," Merhav told Israel Radio on Sunday. "He [Sharon] made no secret of it. He had presented the plan to the Americans some months earlier."

Mr. Argov, who was born in Jerusalem, studied in Washington and London and joined Israel's Ministry of Foreign Affairs in 1959. He served as ambassador to Mexico and the Netherlands before assuming his position as ambassador to Britain in 1979.

The Jerusalem Post described Mr. Argov as "brilliant and suave" and ranked him with orator and historian Abba Eban, Israel's first ambassador to the United Nations, who died in November.

Victor Harel, a deputy director general at the Israeli Foreign Minister, said that at the time of the shooting, Mr. Argov was in his physical and intellectual prime, jogging every day and conversing in fluent English and Spanish in addition to his native Hebrew.

While he remained lucid after the shooting, he was emotionally devastated by the awareness of his disability, Harel told the radio.

"He was fully conscious for the first two or three years," he said "But he couldn't do anything on his own. The paralysis was total. He also got more and more medication, so visiting him became harder and harder."

Mr. Argov's survivors include three children.

Community Health Centers. At a time when the number of uninsured Americans continues to increase and federal and state governments are facing budget shortfalls, community health centers continue to provide vital services at reasonable cost to millions of Americans. This bipartisan initiative calls for doubling the current level of funding for the consolidated health centers program by 2006. The additional funds would double access to comprehensive health care for the millions of Americans who currently are without health insurance.

Community health centers are local, non-profit, community-owned health care providers serving low-income and medically underserved urban and rural communities. Health centers have a proven 30-year track record of providing cost-effective, comprehensive, quality care. Past investment in community health centers has resulted in improved health and quality of life for many Americans, as well as a reduction in over all national health care spending.

Community health centers provide health care services to uninsured and low-income individuals in medically underserved areas. They are vital to the fabric of health care in our country. This year, more than 1,000 health centers will serve nearly 14 million children and adults in 3,400 communities across the country. Of these, 5 million are uninsured; 750,000 are homeless; 850,000 are migrant and seasonal farmworkers; 5.4 million are residents of rural areas; and nearly 9 million are people of color.

Community health centers are vital in my congressional district. Health Centers have significantly increased the use of preventive health services such as Pap smears, mammograms, and glaucoma screening services among the populations they serve. Health Centers have increased substantially the number and proportion of immunized children, and have made significant strides in preventing anemia and lead poisoning. Furthermore, Health Centers contribute to the health and well-being of their communities by reducing the risk of adverse pregnancy outcomes, keeping children healthy and in school, and helping adults remain productive and on the job.

Expanding community health centers is a proven, viable, and cost-effective way to bring health services to uninsured populations and underserved communities. The bipartisan REACH Resolution would enable health centers to serve 20 million Americans, including 9 million individuals without health insurance. As Cover the Uninsured Week comes to a close and with 41 million Americans living with no insurance we need to find ways to address this crisis. The REACH Resolution is a step in the right direction. The resolution would send a clear message that Congress supports efforts to provide critical health care to low- and moderate-income urban and rural communities. I urge my colleagues to support this important legislation.

A TRIBUTE TO DOROTHY M. COHEN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Ms. Dorothy Cohen, an outstanding woman of California's 29th Congressional District. Over the years, Dorothy has been an outspoken advocate for the residents of the city of South Pasadena, California.

Ms. Cohen has been a member of the South Pasadena City Council since 1994, serving as Mayor for two terms. Some of her greatest accomplishments on the Council include the re-opening of City Hall five days a week, repainting the city's historic water tower, advocating for a quarterly city newsletter and serving as its editorial advisor for seven years, adoption of the tiger lily as the city flower, and her efforts to preserve the quality of life for the citizens of South Pasadena.

Dorothy is a fourth generation Californian and a forty-one year resident of South Pasadena. Prior to her marriage in 1950 to Jerry Cohen, a reporter and features writer for the Los Angeles Times, she was a reporter and television columnist for the San Diego Union Tribune. While raising her children, she worked part-time for fourteen years for the South Pasadena Unified School District. During that time, she actively participated in the South Pasadena Parent Teacher Association and the Girl Scouts of America.

A long-time supporter of public libraries, Ms. Cohen was a cofounder of the Friends of the South Pasadena Public Library Bookstore in 1984. She currently serves as the chair of its Steering Committee and volunteers weekly in the bookstore. She is past president of the Friends of the Library, Library Board of Trustees and the League of Women Voters.

Dorothy has participated in numerous city task forces over the years, such as the Downtown Revitalization Task Force, the General Plan Advisory Committee, and the Mission Street Specific Plan Committee. Most recently, she co-chaired the Gold Line Railway Station Art and Design Advisory Committee.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Dorothy M. Cohen. The entire community joins me in thanking Ms. Cohen for her continued efforts to make the 29th Congressional District an enhanced place in which to live.

THE ENGLISH LANGUAGE UNITY  
ACT OF 2003—H.R. 997

#### HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. KING of Iowa. Mr. Speaker, I have introduced legislation to make English the official

#### RESOLUTION TO EXPAND ACCESS TO COMMUNITY HEALTH CENTERS

#### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to introduce the Resolution to Expand Access to



language of the United States Government. The English language is the carrier of liberty and freedom throughout history and the world. For centuries, our common tongue, English, has been the uniting force in this great nation, knocking down ethnic and religious barriers to make us truly one nation. Today, as we rally for unity and patriotism a common means of communication propels us toward our goal.

The English Language Unity Act declares English the language of the United States. Like its predecessors, it does not affect the teaching and study of other languages. It does not deter the use of other languages in the home, community, church, or elsewhere. The Act includes commonsense exceptions to the policy, for international relations, national security, teaching of languages, and preservation of Native Alaskan or Native American languages.

A common language has enabled generations of Americans to realize the dream of American opportunity and freedom. Studies continue to prove those who know English get better jobs, earn more money and receive better health care than those who cannot speak the language. As a result, an emphasis on English decreases reliance on the federal government.

The need for official English appears in our newspapers every day—injuries in the workplace, mistranslations at hospitals, people who are unable to support themselves and their families—all because they could not speak English.

Recognizing a common language is neither racist nor exclusionary. It is a principle enacted by 177 countries worldwide to allow for the transmission of ideas and customs and to allow people of multiple cultures to come together. This bill does not inhibit people from speaking other languages, nor does it attempt to place any limits on culture, religion or customs.

The Unity Act gives newcomers an opportunity to succeed in the United States. It bonds the newcomer with his fellow Americans, allowing both to reach for the highest rung on the economic ladder and provide for a family.

According to the U.S. Department of Education, those with limited English proficiency are less likely to be employed, less likely to be employed continuously, tend to work in the least desirable sectors and earn less than those who speak English. Annual earnings by limited English proficient adults were approximately half of the earnings of the total population surveyed.

Few doubt this reality. In a 1995 poll by the Luntz Research firm, more than 80 percent of immigrants supported making English the official language of the United States. They are joined by 86 percent of all Americans who agree with English as the official language of the United States.

Similar English legislation in the 104th Congress, H.R. 123, drew 197 bipartisan House cosponsors and won a bipartisan vote on August 1, 1996. That spirited effort, led by our late colleague Bill Emerson, is unfinished business that we must attend to for the benefit of all Americans.

Mr. Speaker, I would respectfully request that the following document, prepared by the national group U.S. ENGLISH, Inc. be inserted into the RECORD. This document is a compilation of news stories from major newspapers across the United States which highlights numerous incidents where the inability to speak

English has resulted in very serious consequences.

I urge my colleagues to cosponsor The English Language Unity Act of 2003 in the 108th Congress so that we can ensure that all Americans have the opportunity to attain the American dream.

#### LANGUAGE BARRIER DANGEROUS, OFTEN DEADLY, FOR IMMIGRANTS

The high rate of immigration to the United States is rapidly changing the face of America, primarily due to the massive numbers of limited-English speakers arriving daily to our shores. There are 21.3 million people living here today who do not speak English "very well."

Following are but a few recent snapshots of appalling episodes that occur regularly in communities around the U.S. Tragic situations like these can be averted if immigrants are given every opportunity to learn English:

#### PHILADELPHIA STRUGGLES UNDER LANGUAGE BARRIERS

Language has become a big problem in Philadelphia, with about 65,810 Philadelphians, or 4.6 percent of the city's population, being isolated by language barriers. Two recent examples of linguistic troubles:

Elderly Russian-speaking residents were "clueless" after being thrown out of their adult day care center because they didn't understand recent eligibility changes that had been sent to them in the mail and were written in English.

Dominican Republic shopkeepers couldn't meet requirements of food inspectors because they didn't speak English.

(Philadelphia Daily News, Sept. 25, 2002, originally reported by Scott Flander)

#### CRASH CAUSED BY LANGUAGE GAP

An accident on a state highway in New Hampshire was caused when an English speaking passenger said, "You're going to take a left at exit 5," while trying to teach a Spanish speaking driver how to operate a motor vehicle. The driver proceeded to make a sharp left and collide with a tree. The car was totaled, but both occupants escaped unharmed.

(The (Manchester, NH) Union Leader, July 23, 2002, originally reported by Sherry Butt Dunham)

#### MEDICAL MISHAPS

Immigrants, both because of language problems and cultural differences, are at risk for communicating with their doctors.

There's the story of the Hispanic mother who gave her child 11 teaspoons of cough medication because she read the English word "once" as the identically spelled Spanish word for eleven. The child lived, but the mistake could have been fatal.

(Passaic (NJ) Herald News, July 2, 2002, originally reported by Sarah Brown)

#### MAN ACCUSED OF KILLING BROTHER-IN-LAW, USES LANGUAGE BARRIER TO SHOW INNOCENCE

Language skills played a central role in a Rhode Island courtroom when the defense claimed the accused had not been read his rights in his native language of Gujarati. The 25-year old, who had been in the United States for 12 years, is accused of murdering his brother-in-law in a Portsmouth hotel.

Though the accused gave a statement admitting to the crime, the defense claims that the charges of murder, conspiracy to commit murder, committing assault with the intent to rob, conspiring to commit robbery and discharging a firearm while committing a crime of violence resulting in a death should be dismissed because the Miranda warning was meaningless to a man whose 1991 report card gave him an "LB" [language barrier] grade in reading and writing.

(The Providence (RI) Journal-Bulletin, Apr. 5, 2002, originally reported by Alisha A. Pina)

#### LINGUISTIC GHETTO HITS PROFESSIONALS

Even though many immigrants to the U.S. bring impressive resumes and skills, the language barrier sidelines thousands. The stories are endless and familiar:

The Iraqi political refugee who was a college professor in Iraq, with a doctorate in international development from Oklahoma State University. A specialist in agriculture, he now directs terminal traffic at Atlanta's Hartsfield International Airport.

The West African surgeon who once trained other doctors as a member of the World Health Organization, and once served as the only doctor in a refugee camp in Ghana that housed thousands of people. He worked nonstop, rarely getting a full night's sleep. Today, he works in a warehouse in Lithonia, Ga. He can't be certified as a doctor in America until he masters English well enough to pass the medical exams.

(Cox News Service, Jan. 15, 2002, originally reported by John Blake)

#### JAPANESE WOMAN DIES IN FREEZING TEMPERATURES, LANGUAGE BARRIER CONTRIBUTING FACTOR

A woman holding a crude map of a tree next to a highway and wandering around a landfill aroused the suspicions of Minnesota police, who later determined she was looking for the treasure featured in the fictional movie "Fargo." Though officials attempted to explain to the woman, who spoke only Japanese, that neither the movie nor the treasure was real, attempts to overcome the language barrier were nearly insurmountable. Six days after being placed on her way home, her body was found by a bow hunter 60 miles east of Fargo.

(The Bismarck Tribune, Jan. 8, 2002, originally reported by Deena Winter)

#### TEENAGE MOMS GET UNEXPECTED 'SURPRISE'

Each year the California Department of Social Services prints calendars to help teenage mothers cope with a daunting world. They include nutritional tips for babies and mothers, immunization charts, job and domestic violence hotlines, tips for living a responsible life.

This year an unexpected surprise: A toll-free number for a phone sex line. The number was printed by mistake on 32,000 Spanish-language calendars sent to 169 county CalWORKS offices, community organizations and job centers across the state.

Normally, someone at the department, who would call the phone numbers to make sure they were correct, would proofread the English- and Spanish-language calendars. But this year, after the English-language version was translated into Spanish at Chico State, no one at the department proofread it.

(Sacramento Bee, Jan. 1, 2002, originally reported by John Hill)

#### IMMIGRANTS FACE DEADLY MIX DUE TO LANGUAGE GAP

Orange County, Calif., is dealing with a startling increase in the number of Hispanics and immigrants killed on the job, part of a 33 percent rise nationwide, even as the overall number of fatalities has declined. An investigation into the records found that nearly half of the persons killed while working over the last three years were immigrants.

Experts say that language barriers and lack of training play a major role in the trend. OSHA investigations have found a lack of understanding of instructions and a lack of use of safety gear in many inquiries following workplace incidents. Worse, OSHA

found that many immigrant worker casualties go unreported.

One Orange County worker died from a fall into a 175-degree vat of chemicals at an Anaheim metal-plating shop. Though the company's instruction manual clearly forbid walking on the 5-inch rail between tanks, it was printed in English, not a language that the worker understood. A subsequent inquiry into the accident found that many of the recent hires were neither trained to handle hazardous materials nor proficient in English.

(The Orange County (CA) Register, Oct. 21, 2001, originally reported by Natalya Shulyakovskaya and Alejandro Maciel)

#### LANGUAGE BARRIER IMPEDE POLICE INVESTIGATIONS

After failing to solve only two of 11 homicides in the prior 12 months, Lexington, Ky., police had failed to make arrests in six of 13 homicides in an eight month span in 2001. Officials attribute the lack of closure to the difficulty with the language barrier, encountering more witnesses and relatives who spoke English poorly or not at all. "Any time you have a language barrier, it's going to slow you down," said Lt. P. Richardson of the Lexington Police.

(Lexington (KY) Herald-Leader, Aug. 28, 2001, originally reported by Jefferson George)

#### LANGUAGE BARRIER OFTEN TURNS ROBBERY INTO MURDER

Police in New Jersey stepped up patrols after a series of attacks on gas station attendants in the early morning hours. Gas station employees in New Jersey are especially vulnerable, as the Garden State is one of only two states to prohibit self-serve gasoline.

Police surveillance and drive-bys were increased to allay fears among workers, though officials cautioned late-night gas attendants, 95 percent of whom are estimated not to speak English, to not resist when confronted with a robbery situation. "The language barrier could play a big part," said Sgt. Steve Choromansky, "Sometimes a robber might think someone is stalling, when they're just unsure of the situation."

(The Bergen County (NJ) Record, Aug. 28, 2001, originally reported by Leslie Koren and Peter Pochna)

#### SPANISH-LABELING MISTAKE IN BABY FORMULA

Hundreds of batches of infant formula were recalled when it was found that the preparation instructions in Spanish were incorrect. As written, the Spanish instructions created a product that could lead to seizures, irregular heartbeat, renal failure or death in infants.

(The Arkansas Democrat-Gazette, Jul. 11, 2001)

#### BILLIONS SPENT ON MEDICAL MISHAPS

An immigrant woman gave her 85-year-old mother a dangerously high dose of blood pressure medicine because she couldn't understand the label's English-language instructions. The Food and Drug Administration estimates that \$20 billion a year is spent hospitalizing people who, because of the language barrier, take the wrong dose of medication, take the wrong medication entirely or mix drugs in dangerous combinations. Health experts say millions of immigrants risk injury or death because warnings on medicine bottles only come in English.

(Associated Press, Oct. 12, 1997, originally reported by Lauran Neergaard)

### ON EVE OF WAR D.C. VETERANS STAND WITH NORTON ON INTRODUCTION OF D.C. VOTING RIGHTS BILL

#### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA  
IN THE HOUSE OF REPRESENTATIVES  
*Thursday, March 13, 2003*

Ms. NORTON. Mr. Speaker, today, I introduce the "No Taxation Without Representation Act" in the House, and simultaneously our good friend, Senator JOE LIEBERMAN, will introduce the same bill in the Senate. The bill would afford the residents of the District of Columbia the same congressional voting rights enjoyed by all Americans. The introduction of this legislation follows a well-attended Town Meeting on voting rights last week of determined D.C. residents intent on obtaining Congressional voting rights, especially today as the nation prepares for war.

Our bill is particularly inspired by the District of Columbia's 46,000 veterans, who are represented by three distinguished veterans who appeared with me at a press conference this morning. I especially thank my friend, former Secretary of the Army Clifford Alexander, who also served in the United States Army. Secretary Alexander has long worked for equal rights for the American people, and especially for D.C. residents, and was the lead plaintiff in one of the D.C. voting rights cases before the U.S. Supreme Court, *Alexander v. Daley*. I am also personally indebted to Secretary Alexander, who preceded me as an especially distinguished chair of the Equal Employment Opportunity Commission. I am also grateful to the other veterans who are here today. Both are D.C. residents and graduates of the service academies—Wesley Brown, the first black graduate of the U.S. Naval Academy and a former chair of my Service Academy Selection Board and George Keys, a graduate of the U.S. Air Force Academy and current Selection Board Member as well as a former chair. The Service Academy Selection Board performs an indispensable service for D.C. residents and for our country. Board members spend countless hours screening, interviewing and selecting candidates for me to nominate to the nation's service academies.

I also invited the current chair of my Service Academy Board, Mr. Kerwin Miller, to participate in the press conference today, and he originally agreed to speak. However, Mr. Miller not only serves on my Service Academy Board, he also is the Executive Director of the D.C. Office of Veterans Affairs. Mr. Miller was forced to decline for reasons that sharply underscore the very reason why we are here today. Mr. Miller is unable to appear at this press conference because of a rider attached to the District's annual appropriations legislation that prohibits city officials, except for elected officials, from lobbying on behalf of their own voting rights. Not only is the District of Columbia denied voting rights, but the Congress adds insult to injury by attaching this outrageous provision to our own budget to deliberately hamstringing the city in its quest for voting rights. This provision is hideously un-American, and I again will seek to have it repealed, especially this year.

In seeking full congressional representation, we often have stressed the District's taxpaying status because most of us pay federal taxes and because uniquely among American citizens, D.C. gets no vote in Congress in return. However, today we emphasize a duty of citizenship far more important, requiring far greater sacrifice. Ever since America's first war, the Revolutionary War, that was waged to eliminate taxation without representation, D.C. residents have fought and died for their country. They have done so often disproportionately. In World War I, the District suffered more casualties than three states; in World War II, more casualties than four states; in the Korean War, more casualties than eight states; and in Vietnam, more casualties than ten states.

Since I have been in Congress, I have participated in ceremonies that have sent D.C. residents to the Persian Gulf War, to Afghanistan, and now to the Iraqi border. I have never been able to vote in their name, and our residents are without any representation in the Senate. Yet, in today's military, each is a volunteer who has willingly taken on the most weighty of all the obligations of citizenship. Thus, I introduce our voting rights bill today for D.C. residents but particularly for our residents serving in the military today and the nearly 50,000 veterans who live in our city.

Encouraged by the 9-0 Senate Committee vote that took the city's voting rights bill to the Senate floor last year, we are now in the throes of preparations to take our case to the country. Let us begin by telling America what too many do not know about service and sacrifice without representation.

I urge my colleagues to support this vital legislation.

#### TRIBUTE TO BOB HITZHUSEN

#### HON. IKE SKELTON

OF MISSOURI  
IN THE HOUSE OF REPRESENTATIVES  
*Thursday, March 13, 2003*

Mr. SKELTON. Mr. Speaker, it has come to my attention that a long and exceptionally distinguished career at the Missouri Farm Bureau will soon come to an end. Mr. Bob Hitzhusen has announced his retirement after 25 years of service to the farmers of Missouri.

Bob launched his professional agriculture career after graduating with a degree in Agriculture Economics from Iowa State University. After serving as an admissions counselor at Iowa State for two years, he joined the legislative staff of Congressman Wiley Mayne in 1975, serving in Congressman Mayne's Washington, DC office.

Bob joined the staff of the American Farm Bureau in 1975 as a full-time lobbyist, starting his career with the Farm Bureau. In his position as lobbyist, he worked with several congressional delegations and followed key agricultural issues.

Bob joined the Missouri Farm Bureau staff as Director of National Legislative Programs in 1978. In this position, he was responsible for Farm Bureau's policy development program and was actively involved in lobbying for Farm Bureau members on state and national levels. He has played an active role in every major farm program re-write since the 1973 Farm Bill. In addition, he has been actively involved in international trade legislation, including organizing agricultural support for the North

American Trade Agreement and the GATT implementing legislation. He also worked to implement meaningful Missouri River policy that would benefit Missouri's agriculture producers, including work to provide a better levee system and work to ensure the Missouri River Master Manual fully represents the interest of the Show Me State.

In 1996, Bob was appointed Chief Administrative Officer and Corporate Secretary for the Missouri Farm Bureau Federation and Affiliated Companies. In addition to his administrative duties, he has continued to serve as an active lobbyist for the farm organization on state and national issues.

Due to his exceptional service to the Missouri Farm Bureau and agricultural programs, Bob has been singled out as a leader in agriculture. He was chosen to participate in the European Community's visitors program, where he spent three weeks studying agricultural policy in Europe. He was also awarded a partnership award by the USDA soil and water conservation programs in Missouri.

As Bob Hitzhusen prepares to spend more time with his family, his wife Verlee and his sons Paul and Mark, I know the members of the House will join me in expressing appreciation for his dedication to Missouri's agriculture community and to the Missouri Farm Bureau.

A TRIBUTE TO ROBERTA H. MARTINEZ, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our Nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Roberta H. Martinez. Ms. Martinez's passion for community volunteerism, especially on behalf of Latino-American history and culture, has made the City of Pasadena a better place to live.

Ms. Martinez earned her BA in music, her MA in music history and is a practicing musician. Currently she is narrator and vocalist for the Aztec Stories Project, scheduled to play at the Ford Theater in Los Angeles in the fall of this year. Besides owning her own production company, she is a guest lecturer, historian, and an elementary and middle school substitute teacher. She and her husband, James Grimes, reside in Pasadena, and have two children, Kate and Matthew.

Roberta is host/producer of an award-winning cable access television show—Casa Martinez—musica y mas in Pasadena. As a producer, she has worked on many annual projects including the Adelante Mujer Latina conference, Latino Fest, and the Cinco de Mayo celebration. In addition, she is the founder and current Chair of the Latino History Parade and Jamaica. One of the projects Roberta is most proud of is the history project "The Past Lives Vividly in the Present: a his-

tory of the Latino Community in Pasadena" that she researched and produced.

Roberta serves on numerous boards and committees, including the Pasadena Historical Museum, the San Gabriel Valley Hispanic Chamber of Commerce, Pasadena Latino Forum, Latino Heritage Association, Leadership Pasadena and the Zonta Club. In addition, she assists the City of Pasadena by participating on the Arts Commission, the Pasadena Community Access Corporation, and the Northwest School Site Steering Committee. In 2002, Roberta received the Pasadena YWCA's Woman of Excellence in the Arts Award.

The time and energy she gives to our community is truly remarkable, and the City of Pasadena has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Roberta H. Martinez. The entire community joins me in thanking Roberta Martinez for her continued efforts to making the 29th Congressional District a better place in which to live.

### ORGAN DONATION IMPROVEMENT ACT OF 2003

SPEECH OF

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 12, 2003

Mr. CAMP. Mr. Speaker, I rise today in strong support of H.R. 399, the Organ Donation Improvement Act of 2003. Simply stated, this bill will promote organ donation by removing existing barriers to living organ donation and educating the public.

Right now there is simply not enough organs to meet the needs of patients waiting for them on the transplant lists. The challenge before us is to maximize the number of available organs and to maximize the recovery of organs available for donation. When an organ becomes available for transplant, we must spare no resource to ensure that it is delivered to a patient in need and this bill is a work towards reaching that goal.

Behind every number is a person. Some are waiting for a life-saving or life-enhancing transplant. Others celebrate the gift of life they have received.

The mission of this bill is to change the numbers, by increasing the number of organ and tissue donors, ultimately saving more lives. It is my hope that this outreach will educate the public about organ and tissue donation, correct misconceptions about donation, and create a greater willingness to donate.

Mr. Speaker, this is a good bill and a step in the right direction. As a long time advocate for organ donation, I urge support for this bill. I yield back the balance of my time.

### ELIZABETH SMART FOUND ALIVE

### HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. DOOLITTLE. Mr. Speaker, when it was reported yesterday afternoon that Elizabeth

Smart was found alive and well, we all breathed a collective sigh of relief, thankful to God that, in this all too rare instance, there was a happy ending.

For months, we prayed in earnest for Elizabeth's safety and for the Smart family, who courageously have crusaded for their daughter despite long odds, refusing to give up their search. Driven by faith, hope and love, their tenacity never wavered. Keeping the case alive, they created invaluable public awareness that eventually resulted in her safe retrieval. In particular, I would like to send my fondest wishes to my friend, Joy Bradford, Elizabeth's aunt who along with the Smarts refused to give up looking for her niece.

I would also like to recognize the Salt Lake City community, who became an extended family for the Smarts, never faltering in support, and never relenting in a search for one of their own. Gratitude must also be extended to the four Sandy police officers that confronted Elizabeth's abductors and the people who alerted them. They are true heroes.

It is difficult to express in words how relieved and overjoyed we all are that Elizabeth is alive and back in the arms of her loving family. Our prayers have been answered. Miracles do indeed happen.

### CRISIS IN HEALTHCARE

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. PAUL. Mr. Speaker, America faces a crisis in health care. Health care costs continue to rise while physicians and patients struggle under the control of managed-care "gatekeepers." Obviously, fundamental health care reform should be one of Congress' top priorities.

Unfortunately, most health care "reform" proposals either make marginal changes or exacerbate the problem. This is because they fail to address the root of the problem with health care, which is that government policies encourage excessive reliance on third-party payers. The excessive reliance on third-party payers removes all incentive from individual patients to concern themselves with health care costs. Laws and policies promoting Health Maintenance Organizations (HMOs) resulted from a desperate attempt to control spiraling costs. However, instead of promoting an efficient health care system, HMOs further took control over health care away from the individual patient and physician.

Returning control over health care to the individual is the key to true health care reform. This is why today I am introducing the Comprehensive Health Care Reform Act. This legislation puts control of health care back into the hands of the individual through tax credits, tax deductions, Medical Savings Accounts, and Flexible Savings Accounts. Specifically, the Comprehensive Health Care Reform Act:

A. Provides all Americans with a tax credit for 100% of health care expenses. The tax credit is fully refundable against both income and payroll taxes.

B. Allows individuals to roll over unused amounts in cafeteria plans and Flexible Savings Accounts (FSA).

C. Makes every American eligible for an Archer Medical Savings Account (MSA) and

changes the tax laws to increase the benefits of MSAs.

D. Repeals the 7.5 percent threshold for the deduction of medical expenses, thus making all medical expenses tax deductible.

By providing a wide range of options, this bill allows individual Americans to choose the method of financing health care that best suits their individual needs. Increasing frustration with the current health care system is leading more and more Americans to embrace this approach to health care reform. For example, a recent poll by the respected Zogby firm showed that over 80 percent of Americans support providing all Americans with access to a Medical Savings Account. I hope all my colleagues will join this effort to put individuals back in control of health care by cosponsoring the Comprehensive Health Care Reform Act.

**A TRIBUTE TO SONIA BEDROSSIAN PELTEKIAN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003**

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Sonia Bedrossian Peltekian. Over the years, Sonia has been an outspoken advocate for the Armenian-American community.

Born in Jerusalem, Ms. Peltekian attended St. Joseph High School, graduating as valedictorian, and Terra Santa Girls' College where she majored in business administration and minored in music teaching and conducting. Sonia worked in Jerusalem as a music teacher at Terra Santa Boys College, a secretary at the United Nations Relief and Work Agency, and organist/choir director for Terra Santa Church.

In the 1970s, Sonia immigrated to the United States, became a United States citizen, and married Barkev Peltekian. She and her husband have two children, Lara and Paul. Her work experience includes a fourteen-year term as an administrative assistant for Blue Cross of California, piano teaching, and assisting in the family business, Barkev's Photography.

Ms. Peltekian volunteers for the United Armenia Fund, the American Red Cross and the Armenian Cultural Association. For nearly thirty years, she has been extremely active in the Armenian Relief Society, Western Region "Mayr" Chapter in Los Angeles, serving as President and Vice President. In 1998, Sonia won the County of Los Angeles' Outstanding Volunteer Award for her service to refugees living in Los Angeles County. In addition, she volunteers at various schools and community functions to speak about issues related to Armenian culture, women and religious holidays. Her command of four languages: English, Armenian, Arabic and French help to make her a much sought-after public speaker and volunteer.

Throughout the years, Sonia has focused on using her knowledge to enhance opportunities for the Armenian-American community, which has greatly benefited from her devoted service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Sonia Bedrossian Peltekian. The entire community joins me in thanking Ms. Peltekian for her efforts.

**A SPECIAL TRIBUTE TO DR. RALPH QUELLHORST, OHIO CONFERENCE MINISTER FOR HIS DEDICATED SERVICE TO THE STATE OF OHIO**

**HON. PAUL E. GILLMOR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding gentleman, and good friend, from Ohio. Dr. Ralph Quellhorst became an Ordained Minister of the United Church of Christ in 1962. Shortly thereafter he became an Adjunct Professor at Ohio Northern University in Ada, Ohio. Dr. Quellhorst served on its faculty from 1963–1965. Also during that time, Dr. Quellhorst led the congregation of the Emmanuel United Church of Christ in Bluffton, Ohio.

Mr. Speaker, in 1967, Dr. Quellhorst became the Associate for Leadership Development for the Ohio Conference, United Church of Christ. He served in that capacity until 1975, during which time he also served the Eden Theological Seminary as an Adjunct Professor. In 1975, Dr. Quellhorst left Ohio for New York City to serve as an Associate in the Office for Church Life and Leadership, UCC. During his service in New York City, Dr. Quellhorst served as an Adjunct Professor in the New York Theological Seminary.

From 1982 through 1992, Dr. Quellhorst served under the Indiana Kentucky Conference, United Church of Christ, in Indianapolis, Indiana. Finally, in 1993, Dr. Quellhorst returned to the great state of Ohio to serve as Conference Minister and Executive for the Ohio Conference, United Church of Christ, from which he is retiring this month.

Mr. Speaker, Dr. Quellhorst boasts quite a long list of educational and professional achievements. His first degree was obtained in my congressional district at Heidelberg College, located in Tiffin, Ohio. There he received his B.A. in Speech. In 1962, he received his B. Div. from the Eden Theological Seminary, where he later obtained his M. Div. in 1974. Dr. Quellhorst completed his education in 1976, when he received his D. Min. from the Eden Theological Seminary. Dr. Quellhorst serves on the Heidelberg College Board of Trustees, where he has chaired the Academic Affairs, Faculty and Curriculum, Institutional Advancement, and Executive committees. He recently served on the Heidelberg Presidential Search Committee. In addition to his contributions in the academic realm, Dr. Quellhorst has been recognized for his humanitarian efforts. In 2000, he was awarded the John Calvin Award for Humanitarian Work, which was presented at the 4th World Congress of the

Hungarian Reformed Churches held in Budapest, Hungary.

Dr. Ralph Quellhorst has had a significant impact on the lives of so many people. He has helped so many in the congregations he has served to live a life of goodwill and sacrifice. These chances to give back to the public have brought him a lifetime of both personal and professional achievement. Ohio is certainly blessed to have had Dr. Quellhorst's voice touch the lives of so many in our state.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Dr. Ralph Quellhorst. Our communities are served well by having such honorable and giving citizens, like Dr. Quellhorst, who care about their well being and stability. We wish him, his wife, Sue, and their family all the best as we pay tribute to one of our state's finest citizens.

Mr. Speaker, it is doubtful that H.R. 663, the Patient Safety and Quality Improvement Act, will in fact improve the quality of medical care. What is not doubtful is that HR 663 will increase the federal government's control over medicine, which I believe is the most dangerous trend facing medicine today. Under H.R. 663, federally-empowered boards and commissions will be empowered to establish new medical databases on patient errors, develop standards for health care information technology systems, and issue new federal standards regarding the packaging of drugs and biological products. Supporters of this bill will claim that compliance with the standards promulgated is voluntary; however, medical administrators will feel pressure to adhere to the federal guidelines for no other reason than to avoid jeopardizing their federal funding. Furthermore, it is questionable how long Congress will allow the standards to remain voluntary. After all, if the federal government is using taxpayer dollars to determine the best means of protecting patients, than we "owe" it to the taxpayer to make sure all practitioners are following federal standards!

Supporters of having the federal government determine the standards for patient safety believe that the federal government is capable of determining the best ways to enhance patient safety. However, Mr. Speaker, it is unlikely that the federal government can effectively identify and popularize a definitive list of best practices for a field as diverse and rapidly changing as medicine. In fact, by the time such standards make their way through what is certain to be a lengthy bureaucratic approval process, the standards are likely to be out of date! Furthermore, the standards will inevitably reflect the bias of those chosen to be on the patient safety boards. However, many practitioners will no doubt feel discouraged from adopting medical error reduction techniques not on the "approved government list." Thus, the main effect of federalizing the process of developing standards of patient quality will be to retard the development of those standards.

I am also concerned about the possible violations of privacy that inevitably accompany the government collection of medical data. Of course, the supporters of this bill claim that the reporting will not disclose any personal information. However, even medical systems which claim not to collect personal identifiable information can threaten privacy. This is because those with access to the information can oftentimes identify the subject of the "anonymous" report. I am aware of at least

one incident where a man had his identity revealed when his medical records were used without his consent. As a result, many people in his community discovered details of his medical history that he wished to keep private! Just this morning, CNN's web site reported on the poor job federal agencies and government contractors are doing in protecting the confidentiality of social security numbers; yet we are supposed to trust the government with access to even more personal information!

In conclusion Mr. Speaker, H.R. 663 could actually retard the development of innovations in patient safety while promoting yet more federal control of health care. In addition, it poses a potential threat to medical privacy. Therefore, I urge my colleagues to oppose this bill.

#### PERSONAL EXPLANATION

#### HON. MIKE MCINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MCINTYRE. Mr. Speaker, on Thursday, March 13, 2003, I was unavoidably absent for rollcall vote 62, on agreeing to House Joint Resolution 139. Had I been present I would have voted "no" on rollcall vote 62.

#### ORGAN DONATION IMPROVEMENT ACT OF 2003

#### HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. STRICKLAND. Mr. Speaker, I am proud to support H.R. 399, the Organ Donation Improvement Act of 2003. This important measure takes steps to increase donation activity to meet the demand for life-saving human organs. Human anatomical donation is truly the greatest gift one can offer to another. This humanitarian act looks beyond one's self and to those in need—to children, young adults, parents, and family members—whose lives we value and whose future we safeguard.

H.R. 399 makes note of the importance of family discussions and encourages families to express their desires and openly pledge to help others through the act of donation. Americans have the ability to choose to give gifts that restore sight, save lives, and improve the health of others through organ, eye and tissue donation. While the need for organs is a well-documented fact, the need for donated tissues and eyes should also be stressed. Many Americans do not realize that those who cannot become donors of organs for various medical reasons can still save sight and improve the health of others through eye and tissue donation. It is therefore of critical importance that when families do discuss their wishes to give anatomical gifts, they are knowledgeable about all of their opportunities: to save lives; restore sight; and improve the health of others through the donation of their organs, eyes, and tissues. These precious gifts give life, improve health and advance medical science for those who often have no alternative hope for treatment and cure.

In 2001, there were 24,076 organ transplants giving life; 33,000 cornea transplants

restoring sight; and 900,000 tissue transplants improving physical function and health. These impressive statistics demonstrate the generosity of the American people. Yet, more donors are needed to meet the need for life-saving transplants, sight restoration procedures, repair of wounds and severe burns. Education and awareness is the first step toward bridging the gap to meet the need for more anatomical donors. In closing, I encourage all Americans to take the time to discuss with family members the most precious gift a person can give—one's organs, eyes and tissues—to better mankind.

#### A TRIBUTE TO ANNIE CHIN SIU, D.D.S., 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishment made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today to pay special recognition to Annie Chin Siu, D.D.S., an outstanding woman of California's 29th Congressional District. Over the years, Dr. Siu has given selflessly of her time and energy to many different organizations in the greater San Gabriel Valley.

A San Francisco native, Dr. Siu attended the University of California at Berkeley. She graduated from the University of California at San Francisco School of Dentistry, specializing in Orthodontics and was the only woman in her dental school class. After her marriage to Dr. Tim Siu, the Sius moved to Alhambra, where Dr. Siu opened her orthodontic practice. Now retired from private practice, Dr. Siu continues to teach at the University of Southern California School of Dentistry. The Sius have been married for nearly fifty years and have four children: Tina, Susan, Jennifer, and Valerie.

Dr. Siu has been the recipient of numerous awards, including the California Legislature's 49th Assembly District Woman of the Year, the 2003 Medal of Honor from the University of California San Francisco Dental Alumni Association, the Alhambra Rotary Club's Paul Harris Award, Bank of America's Achievement Award, the Los Angeles Chinese Chamber of Commerce's Service Award, Los Angeles Chinatown Public Safety Award, and the Edward Angle Orthodontic Excellence Award.

Dr. Siu is a past President and longtime member of the Alhambra Chamber of Commerce. The consummate volunteer, Dr. Siu has been active in the Alhambra Public Library Association, the Los Angeles Chinatown Library, the Soroptimist Club of Alhambra-San Gabriel-San Marino, University Women Association, United Way, the Chinese American Museum, Chinese Historical Society of Los Angeles, Los Angeles Chinatown Public Safety Association, and the West San Gabriel Valley YMCA. In addition, Dr. Siu is a member of numerous professional organizations, including

the USC School of Dentistry Board of Councilors, American Dental Association, and the California Dental Association.

The time and energy Dr. Siu gives to our community is truly remarkable, and the greater Los Angeles area has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Annie Chin Siu, D.D.S. The entire community joins me in thanking Dr. Siu for her continued efforts to make the 29th Congressional District a better place in which to live.

#### TRIBUTE TO MR. DAVID GUZMAN, FORMER PRESIDENT OF THE NA- TIONAL ASSOCIATION OF VET- ERANS' PROGRAM ADMINISTRA- TORS

#### HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to Mr. David Guzman, who recently concluded his tenure as President of the National Association of Veterans' Program Administrators (NAVPA) after holding this position from October of 1998 to October of 2002.

Mr. Guzman also recently retired as the University Registrar at Washington State University and now moves to the position of NAVPA Legislative Director. I am grateful that we will retain his leadership abilities in this small way.

Long before Mr. Guzman served this nation's veterans, he had a distinguished career in the United States Air Force. He served at assignments throughout the world for 30 years before retiring in 1987, with his last assignment at Hickam Air Force Base in Hawaii where he was Senior Enlisted Advisor to the Commanding General of the Pacific Air Forces. He served two tours in the Republic of Vietnam.

Mr. Guzman has testified before the Veterans' Affairs Committee frequently on Montgomery GI Bill enhancements. He brought first-hand knowledge on veterans' education policy to his testimony from working with veterans at Washington State University.

Thank you, Mr. Guzman, for your dedication to America's servicemembers and veterans. You are leaving a lasting legacy of dedicated service to America and those who protect our freedoms.

#### IN MEMORY OF AHMAD R. OLOMI

#### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to his country and community was extraordinary. Orange County, California, was indeed fortunate to have such a dynamic and dedicated community leader who willingly and unselfishly gave his time and talents to make his community a better place in which to live

and work. The individual of whom I am speaking is Ahmad Rateb Olomi. He was unexpectedly and tragically taken in an airplane accident over the Arabian Sea on Monday, February 24, 2003, at the age of 45.

Mr. Olomi was born in Afghanistan, and earned a bachelor's degree in Civil Engineering from the University of Engineering and Technology in Lahore, Pakistan. He moved to the United States in 1980. He was hired by Orange County in 1984 and shortly thereafter became a naturalized United States citizen. He worked his way up from Engineering Technician to the position of Senior Civil Engineer. Some of the more notable projects he worked on were Seven Oaks Dam, the Santa Ana River Mainstem Project, and the Laguna Canyon Road State Route 133 realignment. Over his 19 years of service to Orange County, Mr. Olomi developed himself into one of the County's most talented and valued professionals.

In addition to his love for the United States and his community, he never forgot his original homeland. On the day of the tragedy, Mr. Olomi was on a 6-month leave of absence from the County of Orange traveling with the Afghan Minister of Mines and Industries to help with the rebuilding of Afghanistan, and the construction of a transnational pipeline project that would pump natural gas and oil from Turkmenistan across Afghanistan and into Pakistan.

Mr. Olomi was also a dedicated family man. He is survived by his wife Roya and children, Yusef and Sahar. He is remembered by his family and friends as a man admired for his integrity, honesty, intelligence and selfless commitment to others. My thoughts and prayers go out to them for their loss.

Mr. Speaker, looking back at Mr. Olomi's life, we see a man dedicated to his family, community, adopted country and original homeland—an American and Afghani whose service led to the betterment of those who had the privilege to come in contact or work with him. Honoring Mr. Olomi's memory is the least we can do today for all that he gave over his lifetime.

#### INTRODUCTION OF EFFICIENT ENERGY THROUGH CERTIFIED TECHNOLOGIES (EFFECT) ACT OF 2003

#### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MARKEY. Mr. Speaker, today I am pleased to join Reps. CUNNINGHAM, CRANE and MATSUI in introducing the Efficient Energy through Certified Technologies (EFFECT) Act of 2003. This bill provides tax incentives to make both new and existing buildings more energy efficient. These incentives are workable, verifiable and will promote market transformation, stimulating the market for energy efficient technology and services.

Building construction and operation represents 15 percent of Gross National Product and buildings consume 35 percent of the Nation's primary energy budget—almost twice as much as cars. This bill would stimulate the economy while decreasing energy consumption. It would improve our national energy security by reducing vulnerability to transmission

disruptions and cutting our oil and gas import dependence.

The tax incentives are based totally on energy performance, achieving two critical goals: It assures that projected energy savings will be achieved; and it encourages vigorous competition and innovation in the marketplace, reducing the cost of energy efficiency.

Within 10 years, the EFFECT Act could produce power savings of 110 gigawatts—the equivalent of 275 400 megawatt power plants. The cost savings could be over \$30 billion annually. Right now the effect would stimulate the use of existing, off-the-shelf technology that can cost-effectively reduce energy use by 50 percent for existing buildings. This would result in nearly a 6 percent reduction in air pollution emissions over the next 10 years—equivalent to taking 40 percent of our automobiles off the road—and save American homeowners billions of dollars each year in energy costs.

This bill is supported by a coalition of environmentalists and industries, and as shown by the latest Gallup Poll, the American people. In that poll, 60 percent agreed that the United States should emphasize greater conservation by consumers of existing energy supplies, while 29 percent supported production of more oil, gas and coal supplies as the solution.

This bill demonstrates the extraordinary power of energy conservation to reduce the need for wasteful, inefficient, and capital intensive energy projects. There is no other Federal policy proposal that has the potential to save this much energy and peak power or to help the economy so much for so little cost. I urge my colleagues to join the original co-sponsors in passing this bill.

#### PERSONAL EXPLANATION

#### HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SWEENEY. Mr. Speaker, on March 4, 2003, I missed rollcall vote No. 42. If I had been present I would have voted "yes."

#### CYPRUS

#### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mrs. MALONEY. Mr. Speaker, I am deeply disappointed by the failure of the recent talks between the President of the Republic of Cyprus, Tassos Papadopolous and Turkish Cypriot leader, Rauf Denktaş, which ended yesterday without an agreement due to the intransigence of Mr. Denktaş.

We have observed years of intense negotiations between the Greek and Turkish Cypriot communities and were hopeful that this round would end in success. As you know, in 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops in Cyprus. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country.

Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. The latest success is the European Council's invitation to Cyprus to become one of the ten new Member States of the European Union. Sadly, the people living in the occupied area continue to be mired in poverty. We had hoped that a united Cyprus would join EU.

Instead, we are faced with failure. Failure because Mr. Rauf Denktaş has denied Turkish Cypriots the opportunity to determine their own future and to vote in a referendum which would have likely lead to a solution of the Cyprus problem.

Despite my concerns and disappointment, I appreciate the comments of President Papadopolous who has stated that the Greek Cypriot side will "continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU."

I urge the government of Turkey to take constructive steps for resolving the Cyprus problem. And I urge the Administration to continue with its efforts to persuade Turkey and the Turkish-Cypriot leader to work within the UN process to end the division of Cyprus.

At a time when tensions are rising around the world, we must seize every opportunity to achieve peace and stability.

#### A TRIBUTE TO PASTOR JEAN BURCH, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District. Pastor Jean Burch of Pasadena, California, has been pivotal in the social and religious vitality of our community and I wish to salute her efforts today.

Raised in Pasadena, she attended Pasadena City College, continuing her journey into higher education at Biola University where she earned her Bachelor of Arts Degree in Organizational Leadership with an emphasis in Biblical Studies.

Pastor Burch had a successful twenty-year career within the legal profession. In March 2000, she left the legal profession to become the Senior Pastor of Community Baptist Church in Pasadena. Her religious career began in the early 1970s under the leadership of Dr. Reverend Coy Turrentine, the late Bishop James E. Henry and as Assistant Pastor for her father, Pastor Emeritus John W. Burch at Community Baptist Church. In addition, she served as an instructor at the Southern California School of Ministry, teaching a course entitled "Women in Ministry."

A natural leader, she has been extensively involved in many community, civic, and religious organizations. Some of the boards she



has served on include the National Association for Law Placement, the Los Angeles Association of Legal Recruitment Directors and the Pasadena Public Library Association. Currently she is a board member of the Ecumenical Council of Pasadena Area Churches and Northwest Pasadena Development Corporation. Along with other faith leaders and the Coalition for Zero Violence, Pastor Burch participates in a united effort to end violence in the Pasadena Unified School District. Her church, Community Baptist, is the faith-based partner for Community Arms and Kings Villages affordable housing properties.

Pastor Jean, as she is affectionately called, is beloved and respected by the entire community. She is the proud mother of Leya Douglas, a member of her ministry team, and a grandmother to Kyle Douglas, born in January 2003.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Pastor Jean Burch. The entire community joins me in thanking Pastor Burch for her continued efforts to make the 29th Congressional District a more vibrant and enjoyable place in which to live.

**RECOGNIZING THE LEADERS OF  
CHURCH OF GOD IN CHRIST FOR  
THEIR LETTER TO PRESIDENT  
BUSH EXPRESSING GRAVE  
CONCERN ABOUT A POSSIBLE  
PRE-EMPTIVE ATTACK ON IRAQ**

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. LEE. Mr. Speaker, I rise today to recognize and commend the predominantly Black clergy, intellectual and informed laypersons of the community-serving Church of God in Christ for their letter to President Bush regarding a possible preemptive attack on Iraq. I sincerely hope that every Member of the House and every American will give serious thought to the points raised in this moving and thoughtful letter.

Mr. Speaker, at this point I wish to insert the letter into the RECORD.

CHURCH OF GOD IN CHRIST, INC.,  
Memphis, TN, January 23, 2003.

Hon. GEORGE W. BUSH,  
President, The White House,  
Washington, DC.

DEAR PRESIDENT BUSH: We write to you as predominantly Black clergy, intellectuals and informed laypersons of community-serving churches of the Church Of God In Christ, to address matters of the deepest gravity, namely, that of war and peace, as presented by your statements and those of Vice President Richard B. Cheney and Secretary of Defense Donald H. Rumsfeld concerning a preemptive attack upon Iraq.

We are mindful that war, should it come to pass, will directly affect the safety and well-being of tens of thousands of our fellow citizens in the Armed Forces, of whom significant numbers are ethnic minorities in the enlisted as well as officers and non-commissioned ranks.

Our thoughts also extend to the safety and well-being of Iraqi civilians who have not lifted a hand against the United States. We are deeply concerned that critical moral reflection on the prospects of war has been

overlooked by some in your Administration. We do not advocate a weak America; unable to defend the innocent from rapacious tyranny of attack, but a strong America must examine itself before setting off to war.

Moreover, Mr. President, we must confess that we fail to see the rush to war as a rational expression of the compassionate conservatism that you promised the country at the beginning of your Administration.

Sovereigns in antiquity and national leaders today, especially those who identify with the Christian heritage, are expected to examine their war aims, strategy and tactics in light of these moral principles to determine if war should be pursued, and if so, to determine how these can be pursued in as humane a manner as possible towards all parties to a conflict. Failure to satisfy these criteria renders the war aims, strategies and tactics, at a minimum, morally suspect and perhaps morally unacceptable in the eyes of the Church universal and under the gaze of a just and Holy God.

We note the rising voices from all parts of America pleading for restraint, reflection and prudence in considering war against Iraq. Notable conservatives from your own party with significant prior foreign policy experiences, such as Brent Scowcroft and Lawrence S. Eagleburger, have counseled against this war. This is especially true in the absence of an actual attack, or evidence of preparation for it against the United States that could be put forth for public review.

We also note the similar wise counsel against the rush to war from your own Secretary of State, General Colin L. Powell, a soldier's soldier himself. Noteworthy also is the recent letter from CIA Director George Tenet to the House and Senate Intelligence Committees warning of the grave dangers to the United States of domestic terrorism if war is waged against Iraq.

We would agree that Iraq's President, Saddam Hussein, has demonstrated aggression against his neighbors in the past, some of which was unopposed by the United States government. We would also agree that if Iraq possessed weapons of mass destruction this would be a matter of grave concern. In this regard, we believe that the United States' interests are best served by using the existing mechanisms of international law, collaboration and consultation with our allies and the use of existing United Nations resolutions to support the work of weapons inspectors so they may detect and destroy any weapons of mass destruction found in Iraq.

However, we do not find any moral justification for a pre-emptive strike in the absence of an attack, or real threat of an attack, upon the United States. A military strike of this nature puts the United States in the posture of aggressive warfare, not defense, which is precisely the behavior that we, and your Administration, deplore in the Iraqi regime.

We recall the moral witness of the Reverend Dr. Martin Luther King, Jr., forty years ago when the United States launched its military excursion into Southeast Asia without significant prior public debate. In retrospect, had the American people been able to engage in a free public debate on the military aims and process, tens of thousands of lives on all sides of the conflict might have been spared.

As Church leaders, we painfully remember that while Blacks were struggling to secure full civil rights in the American South, our youth were sent off to fight and die in an undeclared war whose military and political objectives were unclear. We do not wish to see more young Americans die in a new war whose goals are ill-defined.

Money spent on war to destroy lives could instead be used to save lives by financing the

alleviation of the impending famines in southern Africa, or to provide clean drinking water to enhance the health of hundreds of thousands of poor, defenseless men, women and children throughout that continent.

These resources could also be productively directed toward providing treatment and prevention services for those afflicted by the HIV/AIDS holocaust in Africa, the United States and other countries around the world. Not to forget the blight and ravages of economic depression in Appalachia and the inner cities of America.

As those who are representative of the many churches that serve the spiritual and social needs of millions of Blacks and other ethnicities in America, we humbly ask your Administration to stay the hands of war and vengeance and instead yield to the rule of law and the inherent disposition toward peace that is central to America's Christian heritage. We call upon your decision makers to reflect upon the inspired Biblical witness of the Apostle James:

"What causes fights and quarrels among you? Don't they come from your desires that battle within you? You want something but you don't get it. You kill and covet, but you cannot have what you want. You quarrel and fight. You do not have because you do not ask God. When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your pleasures." (Saint James 4:1-3)

Surely our nation and its leaders can examine their own intentions in light of Holy Scripture before setting their feet upon the blood-soaked path of war, whose ultimate outcome is known with certainty only by the Maker of us all.

We pledge to pray for you and your Administration, that you might encounter the Divine Wisdom in this matter.

In Christ,

G.E. PATTERSON,  
Presiding Bishop.

**IN HONOR OF MAYOR "W" PETE  
WISNIESKI**

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mayor "W" Pete Wisnieski—Dedicated family man, accomplished community leader, and admired friend and mentor to countless. Mayor Wisnieski's foresight, integrity and leadership led the City of Independence through an amazing evolution—from a sleepy rural village to a thriving, viable and family-friendly City—all without compromising the city's small-town charm.

Mayor Wisnieski was born and raised in Independence, and continues his life-long commitment to the City. Soon after graduating with honors from Independence High School, Mayor Wisnieski became operator of the Independence Ford Garage, and began raising his family. Together, Mayor Wisnieski and his wife of 64 years, Marge, raised five children, and are blessed with many grandchildren.

Mayor Wisnieski has demonstrated a life-long commitment to serving the residents of his hometown, following the path of his father, Frank Wisnieski. Frank was elected to serve as the first Mayor of the Township of Independence, and served in that capacity for sixteen years. Instilled with the ideals of public service from his parents, Mayor Wisnieski

began his journey of public service in 1956, when he won his first bid as Mayor of the Village of Independence.

Mayor Wisnieski served Independence as mayor for twenty-two years, bringing a sense of fairness, integrity and kindness to the office. During his leadership, the City flourished. He led the effort in commercial growth along Rockside and Pleasant Valley Roads. This vital development provided a sound tax base, which translated into superior city services and low property taxes for all residents.

And years before public officials became environmentally enlightened, Mayor Wisnieski understood the significant and delicate balance between progress and preservation. It was Mayor Wisnieski who led the effort to preserve nearly fifteen acres of green space in the heart of Independence, known for decades as Elmwood Park. Because of his leadership and vision, this beautiful tree-lined park continues to provide recreational enjoyment to thousands of residents, young and old, every year, in the form of swimming, baseball, soccer, fishing, and tennis, strolling, and biking.

Additionally, Mayor Wisnieski's concern for the safety of all residents led to the construction of new fire and police complexes with additional staff to accommodate any medical or safety emergency—twenty-four hours a day, seven days a week.

Mayor Wisnieski has always been a champion of community volunteerism and helping others. He is a founding charter member of the Kiwanis Club of Independence, and founding member of the Independence Historical Society.

Remarkably, throughout all of his exceptional accomplishments, Mayor Wisnieski remains today as he always has been—humble, gentle, and kind—always willing to offer a smile, friendly word, or helping hand. Mayor Wisnieski continues to exude a genuine love and concern for all people, and he extends to everyone the same warmth and respect, regardless of their title or social status.

Mr. Speaker and Colleagues, please join me in honor, gratitude and recognition of "W" Pete Wisnieski, former Mayor of Independence. Mayor Wisnieski's hard work, insight, and dedication to his community have served to uplift and improve every facet of the City of Independence, and set a strong foundation for future ideas, projects and growth. Mayor Wisnieski combined heart with grit while in office, and continues to be the finest example of a citizen, leader, husband, father, grandfather, neighbor and friend. Mayor Wisnieski has earned the admiration and respect of the entire Independence community, as well as the entire Greater Cleveland community and beyond. "Where after all, do universal human rights begin? In small places, close to home."—Eleanor Roosevelt.

THE CUNNINGHAM/MARKEY EFFICIENT ENERGY THROUGH CERTIFIED TECHNOLOGIES ACT OF 2003

**HON. RANDY "DUKE" CUNNINGHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Efficient Energy

Through Certified Technologies, EFFECT, Act of 2003. I am joined in this effort by a substantial and diverse coalition of my colleagues including Mr. MARKEY of Massachusetts, Mr. CRANE of Illinois, Mr. MATSUI of California, as well as Senator SNOWE of Maine and Senator FEINSTEIN of California. This bill is supported by a strong coalition of industries and organizations.

In the 1990s, San Diego alone experienced a 10.2 percent increase in population. This number is expected to rise even further in the next ten years. With such a significant rise in population, comes the need for additional housing. Congressman MARKEY and I have created legislation that would give builders and consumers a reason to construct housing and purchase equipment that not only saves the consumer money in the long run, but also helps save energy. This legislation offers tax incentives to encourage the production and sale of technologically advanced, energy-efficient buildings and equipment.

My constituents in San Diego suffered through the Energy Crisis during the summer of 2001. The aftershocks of the rolling blackouts and outrageously high energy prices are still being felt. While my colleagues from San Diego and I are still seeking ways to prevent this terrible crisis from happening again, I am introducing this bill in an effort to formulate a long-term energy plan.

Buildings account for over \$250 billion of energy use annually, more than half of peak electric demand, and 35 percent of air pollution emissions. Tax incentives for buildings and their major equipment can reduce energy use anywhere from 30 percent to 50 percent, and help to improve air quality. The incentives will reduce peak power demand, which can diffuse the risk of blackouts and high electricity prices. Peak power shortages cost California \$15 billion in 2000 alone.

This legislation is performance based, not cost based. One dollar of federal tax incentives for energy efficiency offered today will not be paid until January-April 2004, but manufacturers will respond to the incentives by investing in production facilities for more efficient products immediately.

The legislation is structured to promote the creation of competitive markets for new technologies and designs that are not widely available today, but have the possibility of being cost effective to the consumer in the future.

Please join me in supporting the EFFECT Act which will provide for a cleaner environment and help reduce energy needs, thus postponing the need for building new power plants as well as helping to save our environment.

THE JAVITS-WAGNER O'DAY PROGRAM WORKS FOR AMERICA

**HON. RICHARD BURR**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BURR. Mr. Speaker, for the past 64 years the Javits-Wagner-O'Day Program has empowered Americans who are blind or severely disabled by providing them with a diverse set of employment opportunities. Today, 38,000 disabled Americans are realizing their potential by working in their local communities

under this program. These Americans are proud to provide the Federal Government and the U.S. Military with a wide array of SKILCRAFT® brand and other program products and services. The Program prides itself on delivering high-quality products and services at competitive prices in the most convenient way possible.

The Javits-Wagner-O'Day Program includes, among other things, the following product categories: office supply, military-specific, safety, maintenance, repair, medical-surgical, janitorial-sanitation, and customization. The services that are provided to federal and military customers include, but are not limited to, call center and switchboard operation, military base and federal office building supply centers, CD-ROM duplication-replication, data entry, document imaging and grounds care.

I rise today in support of the Javits-Wagner-O'Day Program and the opportunities it provides for an underemployed population of hard-working Americans. Sales of these products and services are enabling more disabled Americans to have the opportunity to become full members of society, including paying into the tax base rather than taking from it. Today in Winston-Salem, North Carolina, 127 blind Americans are employed under the Program, and are producing quality items and services for federal customers.

The Javits-Wagner-O'Day Program is administered by the Committee for Purchase from People Who Are Blind or Severely Disabled (appointed by the President), with much assistance from National Industries for the Blind, NIB, and NISH, which serves people with a wide range of disabilities. More than 650 local nonprofit agencies associated with NIB and NISH employ people who are blind or disabled to produce the products and offer the services authorized for sale to the federal government under the Program.

The Javits-Wagner-O'Day Program is a great illustration of a successful partnership, a partnership that has the ability to grow with the changing procurement environment within the federal government.

EDITORIAL BY LT. COL. CRAIG  
MAYER

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SHUSTER. Mr. Speaker, I rise today to bring to my colleagues' attention an editorial written by Lieutenant Colonel Craig Mayer (ret.) of Bedford, Pennsylvania. Lt. Col. Mayer is a former U.S. Department of Defense attaché and served as a member of the United States Marines during the Vietnam War. On March 7, 2003 Colonel Mayer wrote an eloquent editorial that describes not only his reflections of war, but also made a compelling case in support of military action against Saddam Hussein. I urge my colleagues to keep the following article in mind as the debate concerning Iraq continues;

When I think of America going to war with Iraq, what comes to mind first is the distinct, sickeningly sweet smell and the fell of dark, sticky blood as I helped drag a horribly wounded young Marine to a medevac helicopter. And the memory of picking up the

young Marine's boot—most of his lower leg still in it—and tossing it into the helicopter. It's the odor of gunpowder and sweat, screams of agony, a green jungle haze, the confusing noise of whirling helicopter blades, Viet Cong machine gun fire, and gasping, wide-eyed men.

I suffer no illusions about the real costs of war and have no impulse to go fight again or send others into the hellish experience I survived in Vietnam.

Why then should we indulge this obscenity again with Iraq? What is at stake? And is it worth the sacrifice?

The debate on the impending war is more, much more, about power and competing worldviews—within America and within the community of nations—than it is or ever was about Saddam's threats and misadventures. The issue is not really about inspections, adequate justification, sham cooperation, or any sincere belief that Saddam Hussein will ever willingly disarm, the debate is about the constraint of American power.

Iraq is the stage for a test of those worldviews.

One view seeks to avoid the use of military power to bring about the rule of law and instead relies on persuasion, negotiation, cooperation, and international institutions. It rationalizes and tolerates threats because its proponents really can't do anything about them. This view is borne of decades of global security and prosperity provided by the United States. It is a view grounded in strategic weakness.

The competing view, the American power view, looks to military power along with the means and willingness to use it as essential for a state of security to create peaceful solutions and the rule of law to govern and grow. It sees international forums and processes as less than reliable. It perceives risks differently and is less willing to tolerate threats because it can do something about them. It is a position grounded in strategic strength.

These opposing views are now colliding. Both views desire the rule of law and peaceful solutions to international problems, but their means are at odds.

Those nations and people of the power adverse view will encounter and confront us simply because we are the only power on the world stage with the means to shape and effect global security. Only by constraining American power can they gain a relative advantage and advance or validate their view. Since the end of World War II, Europe and much of the rest of the world has depended on and has been responsive to American power and our ability to globally project that power—be it in economic or military terms. Our power is now enormous and unprecedented in world history.

Adherents of the power adverse view, most notably France, Germany, and less so Russia, have chosen the Iraq crisis and the forums of the U.N. Security Council and NATO to confront us. We should not be misled by their public assertions or how they or their supporters would like to frame the international debate in the important days ahead. Behind all their coming challenges to intelligence information, appeals for peace, attempts at redefining compliance, pleas for delays, excuses for Iraqi resistance, and bleats about smoking guns is the objective of constraining American power—irrespective of any concerns about Iraq. This is the central and fundamental objective.

There is overwhelming justification for the coerced disarmament of Iraq—the justification threshold was passed years ago.

No greater damage could be done to the maintenance of a stable world order and global security than to succumb to the instincts and wants of those confronting us.

The stakes in this encounter are quite high—perhaps more so than at anytime in the past half century. If the power adverse proponents prevail, it will weaken their security and severely undermine the effectiveness of the U.N. Security Council and NATO—paradoxically, the very institutions they hope to rely on. If they prevail, global security decisions will be thrown into forums and processes that promise little more than delay, equivocation, indecision, and paralysis. Something the world cannot afford in the face of immediate threats and mounting dangers. At the same time, France, Germany, and Russia are not our enemies—they are simply wrong. It is not time for their view to prevail and if history is a teacher that time will probably never come.

The young Marine that I helped drag to a helicopter 34 years ago died a few hours after he was wounded. Our company commander wrote a letter to his parents. The family was presented a purple heart and their son's name was chiseled into the marble monument in Washington.

In the impending war dying is at stake, suffering is at stake, and misery for loved ones left behind is at stake. It is obscene. But the harsh reality is that we live in an anarchic world of walls and the security and defense of a progressive, stable world order depends on military might and this is one of the roles we play. I know that these words provide little solace for the parents of a young Marine we lost years ago. I know that they will not fill the voids in our lives we now feel and that might be created in the days and weeks ahead. I only hope that they might help.

If I thought the impending War with Iraq was a contemporary Vietnam, an ill-conceived and misunderstood venture, I would be one of the first to object. It isn't, and I do not object.

#### IN REMEMBRANCE OF ZORAN DJINDJIC

#### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. WELDON of Pennsylvania. Mr. Speaker, I wish to express my sincere condolences both to the family of Prime Minister Zoran Djindjic and to the nation of Serbia-Montenegro. His assassination cannot be allowed to stop the process of democracy and reform that Mr. Djindjic promised.

The world mourns the loss of a true democrat and lover of freedom; having dedicated his life to these ideals, Mr. Djindjic was willing to risk everything to bring freedom to his homeland. Both during their time in opposition and after the Democratic Party came to power, a rise in which he played a major role, Mr. Djindjic stood not only for democracy in Serbia-Montenegro, but also for justice, as demonstrated by his critical role in bringing Slobodan Milosevic to justice.

Prime Minister Djindjic worked tirelessly to bring Serbia-Montenegro out of the international isolation forced upon it by the regime of Milosevic. Toward this goal, I met with the Prime Minister in January of this year, and I was quite impressed by both his commitment to democracy in Serbia-Montenegro and to making it an integral part of Europe and the world.

In order to ensure democracy and justice, Mr. Djindjic also was a committed opponent of

organized crime, the scourge of so many democratizing states. Without political leaders committed not only to the ideals of democracy, but also to a basic foundation of justice, a free society cannot flourish. Prime Minister Djindjic was a prime example of just such a political leader—one that Serbia-Montenegro, and the world, needs more of.

Yesterday was truly a sad day for democracy, one of its champions fell; but we cannot let the crimes of a few undue the good of lifetime devoted to freedom. Although the world has lost Zoran Djindjic, we must all make sure that his dream lives on.

#### RECOGNIZING THE LEADERS OF CHURCH OF GOD IN CHRIST FOR THEIR LETTER TO PRESIDENT BUSH REGARDING AFFIRMATIVE ACTION

#### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Ms. LEE. Mr. Speaker, I rise today to acknowledge and commend the leaders of the community-serving Church of God in Christ on their poignant and powerful letter to President Bush regarding Affirmative Action. I encourage my colleagues here in the House and all Americans to read this important letter.

Mr. Speaker, at this point I wish to insert the letter into the RECORD.

CHURCH OF GOD IN CHRIST, INC.,

Memphis, TN, January 23, 2003.

Hon. GEORGE W. BUSH, President,

The White House,

Washington, DC.

DEAR PRESIDENT BUSH: We write to you as the leaders of the community-serving Church Of God In Christ on the matter of Affirmative Action and the recent actions of your Administration toward millions of Blacks in America seeking equal opportunity and participation in the economic, cultural and political life of the nation.

We are deeply disappointed in the actions of your Administration regarding the legal briefs that your Justice Department submitted to the Supreme Court opposing equal opportunity for Blacks in the form of Affirmative Action as practiced by the University of Michigan.

We note that the Republican Party has in recent years failed to speak with a unified voice in favor of redressing the grave effects of the historic wrongs committed against African-Americans in this country, which continue to reduce and constrain the life opportunities of their descendants. Despite the past strong leadership of Republicans such as President Richard M. Nixon, who implemented robust and vigorous measures in employment, minority contracting and university admissions to wipe away the effects of past anti-Black discrimination, we now observe that since the 1980's, your party has rapidly retreated from the historic Republican ideals of equal opportunity and racial justice.

We see that your Secretary of State, General Colin Powell, made a strong statement supporting intensive ongoing implementation of Affirmative Action. This seems to put him at odds with others in your Administration and party, as well as many of your proposed judicial nominees, on the best way to redress the continuing exclusion of Blacks from the economic benefits of American Society. We support Secretary Powell's position and think that other Republicans would

do well to follow his lead in standing for strong support of Affirmative Action.

The reason Affirmative Action is needed is due to the historic experience of Blacks in America. The experience of Blacks in this country is without analogue and is unique due to the nature of American enslavement of millions of Blacks during the founding of the republic and thereafter. The political, social, cultural and economic effect of racial exclusion because of slavery, which continued in the form of Jim Crow laws and currently operate through more subtle forms of racial prejudice, result in Black Americans having a special and unique set of claims for redress by the body politic.

This month you celebrated the legacy of the Reverend Dr. Martin Luther King, Jr., and pledged yourself to renewed efforts toward equal opportunity. The way to turn your words into something beyond empty rhetoric is to support concrete action towards equal opportunity in the form of Affirmative Action. Even Dr. King called for "compensatory measures" to help Blacks approach parity in employment opportunities, income wealth, entrepreneurship and other indicators of well being in this country. While we believe that race should not be the only factor in Affirmative Action efforts, we do believe that it is valid to take account of race as a factor when opportunities are distributed among people in society today.

With greater effort expended by your Administration and others yet to come, we look forward to the day when Affirmative Action will no longer be necessary. That will be when America has finally attained the level of equal opportunity, inclusion and sense of beloved community for all citizens.

The Black community seeks the opportunity to be strengthened so that eventually it can stand upon its own feet, having the effects of past racial exclusion and discrimination erased and able to enter into the fullness of the blessings of America. Your Administration's active support of the Black community in this matter could be among the greatest legacies of the party of Lincoln.

We pledge to pray for you and your administration that you might encounter the Divine Wisdom in this matter.

In Christ,

G. E. PATTERSON,  
*Presiding Bishop.*

The General Board: C. E. Blake; C. D. Owens; L. E. Willis; J. N. Haynes; P. A. Brooks; G. D. McKinney; W. W. Hamilton; L. R. Anderson; N. W. Wells; R. L. H. Winbush; S. L. Green, Jr.

#### IN HONOR AND REMEMBRANCE OF MARY SLAMA

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mary Slama—Beloved wife, cherished mother and grandmother, and friend and mentor to many.

Mary leaves behind a legacy of professionalism, volunteerism, journalistic talent, and sincere concern for her community. Driven by a passion for learning and personal growth, Mary attained a Bachelor's degree and later a Master's degree in English. She led the West Life newspaper as reporter, then editor, with fairness, accuracy, wit and heart. Mary kept west side readers well informed and updated on news stories ranging from local community and political news to human interest stories.

Mary's high level of energy and great enthusiasm for life radiated throughout her every endeavor. Her vital work on behalf of my Congressional campaign raised the spirits of those around her, and inspired others to do their best. Moreover, Mary's wonderful sense of humor and kind nature consistently served to soften even the harshest of personalities.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Mary Slama—Community advocate, and friend and mentor to countless, including me. I offer my deepest condolences to her beloved husband, Bill; beloved son and daughter-in-law, Tim and Marilyn; cherished grandchildren Natalie and Patrick, and to her many colleagues and friends. Her kind nature, journalistic talent and ability to connect with others have made our corner of the world a better place. Mary Slama's friendship, significant work, and concern for our community will be remembered always.

#### SPARE THE LIFE OF DEVINDER PAL SINGH BHULLAR

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BURTON of Indiana. Mr. Speaker, Devinder Singh Pal Bhullar faces the death penalty. He should be spared. His pending execution shows that the Indian constitution only protects the Hindu majority.

Bhullar was accused of being involved in a 1993 bombing near the offices of the Youth Congress in Delhi. 20 people were killed in that blast and Congress leader M.S. Bitta lost a leg.

This might be a justifiable sentence for such a crime except for a few small details. Mr. Bhullar was found "not guilty" by the presiding judge of a three-judge panel from India's Supreme Court. The judge directed that he be released. Apparently, that was not acceptable to the fundamentalist Hindu nationalist regime. So they tortured him to coerce him into signing a false confession which was subsequently retracted. Yet they are executing him on the basis of this forced confession.

This is offensive to anyone with a sense of justice. Mr. Speaker. This is not the way a democratic country does things. It is how criminal cases are handled in such models of democracy as Red China and Iraq. Meanwhile, Sajjan Kumar and H.K.L. Bhagat, the officials responsible for inciting the murders of thousands of Sikhs in Delhi, have never been brought to justice.

Unfortunately, this is typical of how India treats its minorities. Last year in Gujarat 2,000 to 5,000 Muslims were murdered by militant Hindu nationalists while police, under orders, stood by and did nothing. No one has been punished for this atrocity. Now police in Gujarat are demanding very intrusive information about Christians there. Meanwhile, two states have enacted laws prohibiting religious conversions—except to Hinduism, of course.

Police have murdered over a quarter of a million Sikhs, over 200,000 Christians in Nagaland, over 85,000 Muslims in Kashmir, and tens of thousands of Assamese, Bodos, Dalit "untouchables," Manipuris, Tamils, and other minorities. Indian forces were caught

red-handed in a village in Kashmir trying to set fire to the Sikh Gurdwara and some homes there. Two studies have shown that Indian forces carried out the massacre of 35 Sikhs in Chithisinghpura three years ago this month.

Missionary Graham Staines and his two sons were murdered by being burned to death in their jeep while the killers surrounded the jeep and chanted "Victory to Hannuman." Missionary Joseph Cooper was severely beaten and had to spend a week in the hospital. Then he was expelled from the country for preaching. The widow of Mr. Staines was also expelled from India. Christian churches have been burned and schools and prayer halls have been violently attacked with impunity. There have been priests murdered and nuns raped.

In 1995, Indian police picked up human-rights activist Jaswant Singh Khalsa did a study of cremation grounds in Punjab which showed that thousands of Sikhs have been picked up, tortured, murdered, then declared "unidentified" and secretly cremated. For his efforts, Khalsa was picked up by the police and murdered while in police custody. More than 52,000 Sikhs sit in jail as political prisoners without charge or trial.

The time has come to stop our aid to India. We should also support the self-determination to which all peoples and nations are entitled. This is the only way to end atrocities such as these and to ensure peace, freedom, stability, and prosperity in South Asia.

Mr. Speaker, I would like to place the Council of Khalistan's outstanding press release on the Bhullar case into the RECORD.

DEVINDER PAL SINGH BHULLAR'S LIFE MUST  
BE SPARED

MINORITIES ELIMINATED, DIRECTLY OR BY  
COURTS

WASHINGTON, DC, Feb. 25, 2003.—The impending execution of Devinder Pal Singh Bhullar shows that the Constitution of India only protects the majority Hindu population, according to Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh struggle for independence from India. Dr. Aulakh called on the President of India to stop the execution. Bhullar was accused of a 1993 bomb blast near the Youth Congress office in Delhi in which 20 people were killed. Congress leader M.S. Bitta lost a leg in that attack.

The presiding Judge of a three-Judge bench in the Supreme Court of India found Professor Bhullar, a political activist, "Not Guilty" and directed that he be released. However, Professor Bhullar was convicted based on a forced confession obtained through torture, which was retracted. On that basis India wants to impose capital punishment on Professor Bhullar. Sajjan Kumar and H.K.L. Bhagat, who personally incited the murder of thousands of Sikhs in Delhi, go off scot-free without any punishment. Even by Indian standards, this is an outrageous miscarriage of justice.

"The Bhullar case is merely the latest example of how India eliminates minorities," said Dr. Aulakh. Indian police arrested human-rights activist Jaswant Singh Khalsa after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been picked up, tortured, and killed, then their bodies are declared unidentified and secretly cremated. Then Mr. Khalsa was murdered in police custody. His body was not given to his family. Similarly, the police murdered former Jathedar of the Akal Takht Gurdev Singh Kaunke. His body was not handed over to his family.

Last spring the Indian police stood aside under orders while militant Hindus murdered 2,000 to 5,000 Muslims in Gujarat. Australian missionary Graham Staines was murdered a few years ago by VHP activists. Staines and his two young sons were burned to death while they slept in their jeep. Their killers surrounded the jeep and chanted "Victory to Hannuman," a Hindu god. After the murder, Staines' widow, who was working with lepers, was expelled from India. No one was ever punished for these atrocities. Nuns have been raped, priests have been murdered, and Christian churches have been burned by the fanatic, fundamentalist Hindu nationalist militants.

"It is clear from these actions that India is not the democracy it claims to be," said Dr. Aulakh. "Instead it is a tyrannical Hindu theocracy where minorities die or disappear," he said. "There is a consistent pattern of Indian government efforts to protect its tyrannical rule over the minorities of South Asia."

The Indian government has murdered over 250,000 Sikhs since 1984, more than 200,000 Christians since 1948, over 85,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. More than 52,000 Sikhs are being held as political prisoners. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. No Sikh representative has ever signed the Indian constitution. The Council of Khalistan is the government pro tempore of Khalistan, the Sikh homeland. The Sikh Nation demands freedom for its homeland, Khalistan.

"Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sine qua non and India should allow a plebiscite for the freedom of the Sikh Nation and all the nations of South Asia," Dr. Aulakh said.

#### RECOGNIZING THE CONTRIBUTIONS OF THE HONORABLE MILTON B. ALLEN

**HON. ELIJAH E. CUMMINGS**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. CUMMINGS. Mr. Speaker, today I rise to pay respect to the life of a great man who passed away—my friend and mentor, the Honorable Milton B. Allen. Mr. Speaker, I rise today to ask my colleagues to join me in remembering the life of a brilliant man, the Honorable Milton B. Allen—a brilliant lawyer, judge, father, husband, mentor, community activist and leader. A life that ended last week when the Judge Allen, at 85, died of cardiac arrest at his home in Windsor Hills.

Milton Allen was a man of humble beginnings, who rose to great heights as a polished lawyer and fair jurist. He attended Douglass High School in Baltimore, Maryland where he played third-string fullback on the football team and haunted the library. He read everything he could find. He later went on to Coppin State College to become a teacher.

"Simple reason," he said one day. "Teaching was about the only thing open to blacks then."

Mr. Speaker, Milton Allen was a teacher in the freedom schools of our time. As a young

man in the Navy, Milton Allen taught other young men of color the skills that would allow them to advance in their military careers—this during a time when no men of color could advance past that of seaman. As a lawyer, he taught thousands of his neighbors how to find a path to justice within the arcane corridors of the law.

As Baltimore City's first African American State's Attorney—the first Black prosecutor in any major American city—Milton Allen taught our community that the pursuit of justice could, indeed, be "color-blind." He sued the city to desegregate "public" tennis courts and defended people who lost their jobs for attending public meetings where speakers included communist sympathizers, as he believed that free speech should be protected in America. He also sued the state to open "public" colleges to blacks.

Later in life as a judge on what would later become Baltimore's Circuit Court, Milton Allen helped many of the City's troubled youth by giving through his seasoned advice as a family court judge.

Mr. Speaker, I had the opportunity to work for Milton Allen after he had lost his re-election bid for State's Attorney. He had joined the law firm of Mitchell, Allen and Lee, and I served as the firm's law clerk. Mr. Speaker, Milton Allen, although always busy and always blazing a trail for righteousness, always found time to stop to engage even strangers in meaningful conversation. He was always giving helpful advice.

In fact, the advice and counsel that I received from Milton Allen went far beyond his contribution to the skills that made me a more capable attorney. Judge Allen taught young lawyers like me that our calling demanded constant devotion to integrity.

And Mr. Speaker, Judge Allen exemplified integrity. As Dr. Stephen Carter once observed:

Persons of integrity know the difference between what is right and what is wrong. They stand up for what is right—even when that stand may place them in jeopardy. Persons of integrity persevere and lead—until the rest of the world catches on and catches up. And they are not afraid to proclaim their vision of what is right—so others can follow in their steps.

Dr. Carter could have been writing about my friend—and teacher—Judge Milton B. Allen. Judge Allen devoted his life to planting the seeds of justice within the human spirit. He taught us that, in a free society, the seeds of justice can take hold and grow.

Mr. Speaker—most important of all—Milton Allen taught my community that justice grows best in the shared soil of universal respect. The source of justice is the integrity that comes from our respect for each other as human beings. Milton Allen was a teacher and a friend. Our lives will be less for his passing—but we have been truly enriched by his living. Milton Allen paved the way for so many lawyers who never even had the privilege of knowing him.

In the words of the theologian, Max Lucado, "The great revivals and reformations that dot the history of humanity were never the work of just one person. Every movement is the sum of visionaries who have gone before, generations of uncompromised lives and non-negotiated truths. Faithful men and women who have led forceful lives." Mr. Allen was this kind of human being. And I will miss him.

#### WORKFORCE REINVESTMENT AND ADULT EDUCATION ACT OF 2003

**HON. HOWARD P. "BUCK" McKEON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. McKEON. Mr. Speaker, today, I am introducing the Workforce Reinvestment and Adult Education Act of 2003 to reauthorize the nation's job training system, as well as adult education and vocational rehabilitation programs. This legislation builds upon and improves the systems created in the Workforce Investment Act of 1998. We have worked closely with the Administration to craft legislation to continue to empower individuals in improving their careers.

In 1998, under the Education and the Workforce Committee's leadership, Congress passed the Workforce Investment Act to reform the nation's job training system that formerly was fragmented, contained overlapping programs, and did not serve either job seekers or employers well. WIA consolidated and integrated employment and training services at the local level in a more unified workforce development system. Local, business-led workforce investment boards direct the activities of the system.

One of the hallmarks of the new system is that, in order to encourage the development of comprehensive systems that improve services to both employers and job seekers, local services are provided through a one-stop delivery system. At the one-stop centers, assistance ranges from core services such as job search and placement assistance, access to job listings, and an initial assessment of skills and needs; intensive services such as comprehensive assessments and case management; and, if needed, occupational skills training.

The WIA system contains the federal government's primary programs for investment in our nation's workforce preparation. Even though the system is still maturing since its full implementation in July 2000, States and local areas have created comprehensive services and effective one-stop delivery systems. The system is serving the needs of unemployed workers seeking new jobs in this time of economic recovery. In addition, the training services provided through WIA are invaluable in helping employers find the workers they need in areas of the country facing skill shortages.

Nonetheless, there have been challenges with the system. There is a need to increase the financial contribution of the mandatory partners in the One-Stop Career Centers while at the same time increasing the service integration among the partner programs. This includes serving through the one-stop system special populations that have unique needs. We are concerned that administrative duplication remains in the system, resulting in unnecessary bureaucracy that dilutes the ability of states and local areas to address their communities' needs. There is also a need to simplify the local and state governance processes and to strengthen the private sector's role. Additionally, we need to increase training opportunities and improve performance accountability.

This bill also aims to streamline current WIA funding in order to provide more efficient and results-oriented services and programs,

strengthen infrastructure of the one-stop delivery system, eliminate duplication, improve accountability, enhance the role of employers, and increase states' and local areas' flexibility.

This reauthorization provides an opportunity to build on and improve the current WIA system so that it can respond quickly and effectively to the changing needs of both workers and employers and further address the needs of special populations. It is designed to promote productive workforce development programs connected to the private sector, post-secondary education and training, and economic development systems in order to enhance the career opportunities and skills of the 21st century workforce. Our goal is to improve the locally driven system to ensure we provide the tools to meet local workforce development needs.

Title II of this Act is the Adult Basic Skills Act, to reauthorize state programs for adult education. The adult education program currently serves 2.7 million adults, almost half who are immigrants whose first language is not English. The program also serves those who are working to get a GED or its recognized equivalent, or are preparing for higher education. Adult basic education programs across the country are offered through schools, community centers, libraries, public housing, community colleges, and volunteer organizations, both public and private, profit and non-profit.

This bill makes changes to current law, and places more of a focus on the delivery of the basic skills of reading, writing, speaking, and math. Additionally, we have sought to ensure that instructional practices are based on scientific research. Provisions have been included to increase accountability for States and local providers to have measurable results in improving basic skills, GED graduates, and those entering higher education. It is important that there be increased coordination with the business community, and Labor Department programs.

The bill also makes improvements to the Rehabilitation Act of 1973, which provides services to help persons with physical and mental disabilities become employable and achieve full integration into society. The Vocational Rehabilitation (VR) title of this bill enhances and improves transition services, which promote the movement of a student served under the Individuals with Disabilities Education Act (IDEA) from school to post-school activities. This legislation also requires States to include in their State plans an assessment of the transition services provided through the VR system and of how those services are coordinated with such services under IDEA. Also included in the State plan are strategies the State will use to address the needs identified in the assessment of transition services described above.

I look forward to working with the members of the Committee, other member of Congress, the Administration, and all stakeholders as we work to a craft legislation that will build upon and improve the systems we created in 1998 and continue to empower individuals in enhancing their career opportunities and skills in our 21st century workforce. I urge my colleagues to join me and the other original co-sponsors in support of the Workforce Reinvestment and Adult Education Act of 2003.

## HONORING THE LIFE OF SAM KARAS

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. FARR. Mr. Speaker, I rise today to honor the life of Sam Karas. He passed away on February 26, in Monterey, California. He was an actor, an activist, a salesman, a storyteller, a singer, a dancer, a father, a husband and most notably, a friend. He is survived by his wife, Edie, his three daughters Penelope Lockhart, Judith Karas, and Rachel Holz, and four grandchildren.

Sam was born and raised in Chicago, Illinois, by a poor family of Greek immigrants. Growing up he loved three things: "The Shadow" pulp novels, apple pie and basketball. Upon graduating from high school, he moved to Monterey to serve as a 2nd lieutenant in the United States Army during World War II. Despite lacking a college education, Sam was able to quickly rise to the rank of 1st lieutenant, and his enrollment in the armed services was the beginning of what would be a lifelong dedication to public service.

Among others, Sam served on the board of trustees of the Monterey Peninsula Unified School District and was one of the original organizers and board members of the Human Rights Commission. Sam also served with the California Coastal Commission, the Natividad Medical Center Foundation, the Monterey Jazz and Pop Festivals, the Wharf Theater, the Monterey Film Commission, the California Film Commission, and the Monterey Peninsula College board of trustees. In addition, the ACLU, the NAACP, Monterey County, the Sierra Club, and the Carmel Meat Company, which he founded, have honored him.

Sam started this small meat company shortly after marrying his wife Edie in Monterey in 1944, and he sometimes cooked large pots of stew for the homeless along the railroad tracks. Owning this company gave him many other opportunities to reach out to the homeless, a cause that remained close to him over the next half a century and spurred him to become entrenched in the Monterey community.

It was frequently said that Sam represented the wrong communities of Monterey County, as he was mostly concerned with issues such as poverty and health care—issues pertinent to the Salinas Valley, not the Monterey Peninsula. Sometimes the trivial complaints of his constituents bothered him, but that was Sam's character: he wanted to help the people that truly needed helping. A smooth-talking, glad-handing politician he was not. Sam often came at his opponent with disheveled hair, fraying suits and sweaters, and a penchant to comment bluntly, but he never shied away from confrontation. He had an innate sense of right and wrong, and he pursued justice doggedly. He wanted the best for everybody.

The Central Coast of California has mountains and beaches, but on behalf of this House, I wish to celebrate the life of Sam Karas: a man whose spirit made Monterey County a scenic paradise and a more just society.

## BRONZE STAR MEDAL TO MR. OTHO STONE

### HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. HOOLEY of Oregon. Mr. Speaker, on March 22, 2002 I had the distinct pleasure of presenting the Bronze Star Medal to one of my veteran constituents. Today, it is with deep sadness I would like to inform you and my colleagues that Mr. Otho Stone passed away last Friday. Mr. Stone was a WW II veteran who loved his country and served with honor and dignity. He received the honor of the Bronze Star while seeing action against our enemies during WW II.

Mr. Speaker, Mr. Stone asked for no special recognition for serving his country but he did ask that our country keep the promises made to all veterans who have served this great nation.

For their service and sacrifices our nation's soldiers and veterans deserve our eternal gratitude.

I know that Mr. Stone would be proud when I say that the men and women who have served our country so honorably know best that freedom is never free, that it is only won and defended with great sacrifices.

And we should honor all our veterans by keeping our promises to them.

## TRIBUTE TO MR. WENDELL TAYLOR BUTLER

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BASS. Mr. Speaker, I rise to recognize my constituent, Mr. Wendell Taylor Butler and the contribution he made to our country during World War II as a contributor to the Manhattan District Project.

On January 19, 1942, President Franklin D. Roosevelt, approved a top-secret effort to produce an atomic weapon. An unprecedented alliance of industry, academia and government was formed, and in just twenty-seven months, the atomic bomb was produced. Over 140,000 men and women, both civilian and military, worked together in secret communities throughout the United States. Relatives could not even be trusted with the knowledge of their whereabouts or the type of work they were doing. These individuals represent the ingenuity, determination, and patriotic commitment that led our Nation to victory in World War II.

Mr. Butler was employed at Linde Air Products in Tonawanda, New York. This particular facility was used by the government for laboratory and pilot plant studies for uranium separation. The work accomplished at his location was vital for the successful completion of the project.

I ask my colleagues to join me in honoring Mr. Wendell Taylor Butler and the other men and women who remained at home to design, develop, and implement the discoveries of the Manhattan Project. Their dedication and devotion to our national security allowed them to carry out one of the most epic engineering



and industrial ventures in our Nation's illustrious history.

COMMEMORATING THE 50TH ANNIVERSARY OF CUB SCOUT PACK 596 FROM ST. ALPHONSUS PARISH

**HON. PAUL RYAN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, today I rise in recognition of the 50th anniversary of Cub Scout Pack 596 from St. Alphonsus Parish in Greendale, Wisconsin. For the past five decades, the leaders, and members of Cub Scout Pack 596 have made invaluable contributions to their community, to Wisconsin, and to our country.

Since 1930, the Cub Scout have helped young boys learn new skills and civic responsibility. Character development, good citizenship, and personal achievement are among the ten purposes of cub scouting. Other goals include spiritual growth, family understanding, respectful relationships, sportsmanship and fitness, friendly service, and fun and adventure. Cub scouts earn merit badges in recognition for physical fitness and talent-building activities. As a former cub scout, I believe that the values I was taught as a member—respect for nature, for other people, and for ourselves—have helped to shape who I am today.

Pack 596 makes a difference in their community every year through programs such as Scouting for Food. In this program, scouts leave empty bags at homes in their neighborhood for the families to fill. The scouts then return the following weekend to take the food-filled bags to the local food pantry. Pack 596 also participates in a toy drive for needy children every Christmas. These boys have consistently worked to make the world a better place and steadfastly honored their motto to do their best.

Mr. Speaker, Cub Scout Pack 596 has served as a model for all cub scout packs for 50 years. They have set a high standard for cub scouts everywhere through their commitment to God and country and their dedication to helping develop the future leaders of our Nation.

COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL WILDLIFE REFUGE SYSTEM

**HON. RON KIND**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KIND. Mr. Speaker, one hundred years ago, President Theodore Roosevelt displayed historic vision and took a bold step forward in his quest to protect our Nation's natural wonders. He decided that the plight of one group of birds on a scant five acres in Florida was important enough to warrant the protection of the Federal government. Roosevelt made this decision on March 14, 1903, continuing his commitment to protect American public lands. In creating a National Wildlife Refuge, however, Roosevelt brought the American public

on a great ideological departure from the principles underlying our National Park System: While those lands are set aside for the enjoyment and appreciation of people, wildlife refuges are for the sole benefit of wildlife. This ideological leap was truly historic, and I commend President Roosevelt and celebrate his enduring legacy.

Since the first refuge was established in our State in 1912, the Wisconsin refuge system has become an integral part of life for our citizens. Our five wildlife refuges and two wetlands management districts attract nearly two million visitors each year. They provide critical habitat for our State's world-renowned wildlife resources, as well as opportunities for recreation and groundbreaking research.

Horicon Marsh, covering 32,000 acres, is the largest fresh water cattail marsh in the United States and is designated as a "wetland of national importance." Tremplealeau, The Upper Mississippi River, and Horicon National Wildlife Refuges are designated as "globally important bird areas." And Necedah National Wildlife Refuge serves as the summer home for research experiments with the migration of highly endangered whooping cranes.

I wonder whether the President knew what he was setting in motion when he set aside those five seemingly inconsequential acres. Could he possibly have dreamed that such humble beginnings would flourish into the grand national wildlife refuge system that we boast today? That system now consists of more than 575 individual units and encompasses over 95 million acres. Refuges can be found in every State in the Union, protecting more than 250 threatened or endangered plants and animals, including such beloved and symbolic species as the manatee, bald eagle, and California jewelflower. These figures far exceed any expectations that President Roosevelt may have had. Our refuge system is truly a triumph of American vision and commitment to responsible stewardship of our unparalleled natural heritage.

I am proud to support the National Fish and Wildlife Service in its vital mission and grateful to be able to pass this legacy on to future generations of Americans.

PAYING TRIBUTE TO: MR. BRIAN BRADY

**HON. SCOTT McINNIS**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise today in order to recognize Brian Brady of Grand Junction, Colorado. Brian is a gifted young man whose dedication and entrepreneurship are a credit to his community. Today, I would like to pay tribute to his efforts before this body of Congress and this nation.

As an active member of the Grand Junction community, Brian serves on a variety of local boards and works with many organizations including three of the largest and most active organizations in Mesa County: the Rotary, United Way and the Mesa County Crime Stoppers. Brian's company, Brady MicroTech, creates and maintains websites and is currently the Webmaster of the Gene Taylor's Sporting Goods website, in charge of everything from

the creation of their online catalogue, to taking the photos of the store and maintaining customer relations. Brian has a lot on his plate, especially for a young man who is currently a senior at Central High School in Grand Junction.

A few years ago, Brian and few other young men, Ryan and Rob Cook, and Daniel Davis, approached a local radio station about a teen issues program. The radio station gave the boys an opportunity to broadcast their show, which became an amazing success. Currently, the show airs every Tuesday night from nine until ten o'clock and gives local teens a platform to discuss everything from local issues to the concerns on the mind of today's teenagers.

Brian is a true asset to the people of the Grand Valley, not only for his work with teens, but also for his contribution to local organizations and businesses. Mr. Speaker, it is with great pride that I recognize this capable and gifted young man before this body of Congress and this nation. His dedication to community service is a credit to Mesa County and the entire State of Colorado.

COMMENDING THE 101ST AIRBORNE DIVISION OF THE UNITED STATES ARMY

**HON. JOHN S. TANNER**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. TANNER. Mr. Speaker, I wish to recognize the honorable service of the men and women of the 101st Airborne Division of the United States Army, who are again answering this nation's call to duty. They have already been deployed to the Persian Gulf in preparation for whatever conflict may lie ahead.

While international debate continues over the appropriate course of action, Mr. Speaker, it is easy for us to forget about the men and women who are already on the front line, preparing for the unknown, ready to accept the orders that are handed down.

There are almost 20,000 men and women stationed at Fort Campbell, which sits on the border between Tennessee and Kentucky. Fort Campbell is home to the 101st Airborne Division "Screaming Eagles," under the command of Maj. Gen. David Petraeus. The 101st Airborne Division has a long history of outstanding military service, playing key roles in World War I, World War II, Korea, Vietnam and Desert Storm.

From an Apache fighter-helicopter, the "Screaming Eagles" fired the very first shots in the Gulf War, taking out Iraqi communications and paving the way for the ground attack. In the ground war, the 101st made the longest and largest air assault in world history into enemy territory. About 4,500 "Rakkasans" from the division's 3rd Brigade also spent six months in Afghanistan, fighting in Operation Anaconda, one of the toughest fronts in this nation's war on terrorism.

Now, the men and women of the 101st are again answering the call to duty. The "Screaming Eagles" have left behind their families and their homes to set up camp in the desert. These brave soldiers know that their country may need them, and they are ready to serve.

Mr. Speaker, I hope you will join me in applauding the dedication and duty demonstrated by the courageous men and women of the 101st Airborne Division of the United States Army. Their love for our country, the safety of its people and the protection of its liberties, is what makes this nation free and great.

TRIBUTE TO JOY BRYSON

**HON. JAMES L. OBERSTAR**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to a wonderful person and former member of the Transportation and Infrastructure Committee staff who passed away a few weeks ago, Mrs. Joy Bryson. Just one year ago, I rose to congratulate Joy on her retirement. Her retirement was all too short. As Joy's family returns from taking her home to North Carolina, I rise to honor Joy once again.

Joy was a much-loved member of the T&I Committee Staff, and we all miss her very deeply. All of us, Member and staff alike, suffered with her through her long ordeal with breast cancer and its permutations, a struggle that I know all too well from my own experience, losing my late wife, Jo, after an eight-and-a-half year battle with the same disease.

When in remission, Joy worked as an active advocate for breast cancer research and for cancer research and treatment. Joy was a very strong advocate for the work of the Breast Cancer Research, Treatment, and Education Center at George Washington University Hospital. She actively supported efforts in the private sector community to raise funds for the "mammavan" project of G.W. Hospital that helps provide mammograms for women in underserved areas of Washington, D.C., and the international community of the city.

Joy dealt with her long struggle with cancer privately. She did not want attention brought to her, which, in a way, was unfortunate, because many of us wanted to comfort, support, and console her. But, she carried on, with her loving family by her side, a very private campaign that she ultimately lost.

I ask all of you to keep her and her family—her husband, Lit, and her two children, Chris

and Jeni—in your prayers. Keep those who are left behind in your prayers. They are the ones who need it most. Joy will be where her name suggests, in the joy of eternity, in the hands of our loving Father.

COMMEMORATION OF TIBETAN  
UPRISING DAY

**HON. TOM LANTOS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. LANTOS. Mr. Speaker, I rise today to invite all my Colleagues to commemorate during this week the 44th anniversary of one of the most tragic events in Tibetan history. During the bloody "Lhasa Uprising" in 1959, courageous people were killed while standing up for the religious, political and cultural rights of all Tibetans. Throughout this uprising, many large Tibetan cities were destroyed by Chinese artillery, His Holiness the Dalai Lama was forced into exile for fear of his life and, according to Chinese statistics, nearly 87,000 Tibetans were killed, arrested or deported to labor camps.

The brutal crushing of the Lhasa Uprising tragically only further highlights the brutal suppression of the Tibetan people, which began with the Chinese invasion in 1948 and continues to this very day. Facing brave resistance after the invasion of Tibet, the People's Republic of China forced the Tibetan Government to accept a 17 point agreement in 1951 by threatening Tibet with further military force. The agreement made Tibet a part of China, but assured the people of Tibet that all political, cultural and religious institutions, including that of the Dalai Lama would be preserved. China has yet to stand by these promises. After systematic and ongoing violations of the agreement, a growing Tibetan rebellion began to reach a national scale.

The Chinese blamed His Holiness the Dalai Lama for the resistance and rumors began to stir of plans to kill or kidnap him in reaction to this rebellion. On March 10th, 1959 the people of Lhasa surrounded the Dalai Lama's Norbulingka compound in hopes to protect their leader from an almost certain death, and the also demanded that the Chinese leave

Tibet. This day is remembered by the Tibetan Community around the world as "Tibetan Uprising Day." One week later, on March 17th, 1959, as feared by many, the People's Liberation Army began shelling the Dalai Lama's complex. Unbeknownst to the PLA the Dalai Lama had fled to India only a short 48 hours before the attack.

Mr. Speaker, the people of Tibet have faced persistent brutal oppression for nothing more than the crime of having different beliefs than those of the Chinese government. Since China's occupation of Tibet, the PRC has enforced its despotic rule with violence such as military occupation, population transfers and the destruction of Tibetan cultural and religious institutions. The people of Tibet have had almost every human right possible violated over the past 50 years. To this day, the PRC continues to violate the 17 point agreement and commit horrifying human rights abuses in Tibet. The citizens of this country suffer through arbitrary arrests, detention without trial, torture and persecution for speaking out peacefully on political and religious views.

As an American, I am proud to defend the Tibetan right to self-determination and recognize today as "Tibetan Uprising Day." In 2002, under the Tibetan Policy act, which I authorized, the US Congress articulated our support for the Dalai Lama's attempt to attain a negotiated settlement through means of dialogue and not violence. The fact that this atrocity has gone on for so long is completely outrageous and unacceptable. The people of Tibet had their lives stripped from them; everything they knew and loved was taken in a appalling manner. These people not only fought and died for their own freedom, but for the freedom of their children and all future Tibetans. In 1989, the international community recognized the tremendous contributions his Holiness has made to a negotiated settlement through non-violent means by awarding him the Nobel Peace Prize. I commend the Dalai Lama and his people for their determination and strength throughout this ordeal. On this day of remembrance I hope everyone will take a moment to reflect on the situation to Tibet, and also consider what we have done and what we can still do in the future to further assist this country in their struggle for a peaceful resolution.

# Daily Digest

## HIGHLIGHTS

Senate agreed to S. Res. 83, commending Dr. Lloyd J. Ogilvie, Chaplain of the United States Senate.

Senate passed S. 3, Partial-Birth Abortion Ban Act.

The House passed H.R. 5, Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act.

## Senate

### Chamber Action

*Routine Proceedings, pages S3649–S3764*

**Measures Introduced:** Nineteen bills and eleven resolutions were introduced, as follows: S. 610–628, S.J. Res. 9, S. Res. 83–89, and S. Con. Res. 20–22.

Pages S3729–31

#### Measures Reported:

Special Report entitled “Legislative Activities Report, 107th Congress”. (S. Rept. No. 108–19)

Page S3731

#### Measures Passed:

**Commending Senate Chaplain:** Senate agreed to S. Res. 83, commending the service of Dr. Lloyd J. Ogilvie, the Chaplain of the United States Senate.

Pages S3650–52

**Partial-Birth Abortion Ban Act:** By 64 yeas to 33 nays (Vote No. 51), Senate passed S. 3, to prohibit the procedure commonly known as partial-birth abortion, as amended.

Pages S3653–62

**Gila River Indian Community Judgment Fund Distribution Act:** Senate passed S. 162, to provide for the use of distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community.

Pages S3753–54

**Zuni Indian Tribe Water Rights Settlement Act:** Senate passed S. 222, to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

Pages S3755–59

**Designating Additional Joint Committee on Printing Member:** Senate agreed to S. Con. Res. 20, permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the

Joint Committee on Printing in place of the Chairman.

Page S3759

**Printing and Library Joint Committee Membership:** Senate agreed to S. Res. 84, providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

Pages S3759–60

**Fire Safety:** Senate agreed to H. Con. Res. 85, expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

Pages S3760–61

**Senate Legal Representation:** Senate agreed to S. Res. 86, to authorize testimony and legal representation in *W. Curtis Shain v. Hunter Bates, et al.*

Page S3761

**Commemorating National Wildlife Refuge System Anniversary:** Senate agreed to S. Res. 87, commemorating the Centennial Anniversary of the National Wildlife Refuge System.

Pages S3761–62

**Honoring Former Senator James L. Buckley:** Senate agreed to S. Res. 88, honoring the 80th birthday of James L. Buckley, former United States Senator for the State of New York.

Page S3762

**Honoring Orville L. Freeman:** Senate agreed to S. Res. 89, honoring the life of former Governor of Minnesota Orville L. Freeman, and expressing the deepest condolences of the Senate to his family on his death.

Pages S3762–63

**Tributes to Dr. Lloyd Ogilvie—Agreement:** A unanimous-consent agreement was reached providing that tributes to Dr. Lloyd Ogilvie, the retiring Senate Chaplain, be printed as a Senate Document, and

that Members have until 12 noon, Friday, March 21 to submit tributes. **Page S3763**

**Nomination Considered:** Senate resumed consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia.

**Pages S3668–78, S3693–94, S3698–99**

During consideration of this measure today, Senate also took the following action:

By 55 yeas to 42 nays (Vote No. 53), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the nomination.

**Page S3693**

A third motion was entered to close further debate on the nomination and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Tuesday, March 18, 2003. **Pages S3693, S3698–99**

**Budget Resolution—Agreement:** A unanimous-consent agreement was reached providing that at 2 p.m., on Monday, March 17, 2003, Senate proceed to the consideration of the first concurrent budget resolution, if it has been properly reported by that time.

**Page S3699**

A unanimous-consent agreement was reached providing that notwithstanding the adjournment of the Senate, the Committee on the Budget have from 11 a.m. until 12 noon on Friday, March 14, 2003, to report legislative matters.

**Page S3763**

**Executive Reports of Committees:** Senate received the following executive reports of a committee:

Report to accompany Convention With Great Britain And Northern Ireland Regarding Double Taxation And Prevention Of Fiscal Evasion (Treaty Doc. 107–19) (Ex. Rept. 108–2)

**Page S3729**

Report to accompany Protocol Amending Convention With Australia Regarding Double Taxation And Prevention Of Fiscal Evasion (Treaty Doc. 107–20) (Ex. Rept. 108–3)

**Page S3729**

Report to accompany Second Additional Protocol Modifying Convention With Mexico Regarding Double Taxation And Prevention Of Fiscal Evasion (Treaty Doc. 108–3) (Ex. Rept. 108–4)

**Page S3729**

**Treaties Approved:** The following treaties having passed through their various parliamentary stages, up to and including the presentation of the resolution of ratification, upon division, two-thirds of the Senators present and having voted in the affirmative, the resolutions of ratification were agreed to:

Convention with Great Britain and Northern Ireland regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107–19).

**Page S3763**

Protocol Amending Convention with Australia Regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107–20).

**Page S3763**

Second Additional Protocol Modifying Convention with Mexico Regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 108–3)

**Page S3763**

**Messages From the President:** Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, the 6-month periodic report relative to the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Affairs. (PM–23)

**Pages S3726–27**

Transmitting, pursuant to law, a notice stating that the emergency declared with respect to the Government of Iran is to continue beyond March 15, 2003; to the Committee on Banking, Housing, and Urban Affairs. (PM–24)

**Page S3727**

**Nominations Confirmed:** Senate confirmed the following nominations:

By unanimous vote of 97 yeas (Vote No. Ex. 52), Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

**Page S3662**

By 74 yeas 19 nays (Vote No. EX. 54), Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

**Page S3695**

By unanimous vote of 92 yeas (Vote No. Ex. 55), J. Daniel Breen, of Tennessee, to be United States District Judge for the Western District of Tennessee.

**Page S3698**

William H. Steele, of Alabama, to be United States District Judge for the Southern District of Alabama.

**Page S3695**

**Nominations Received:** Senate received the following nominations:

R. Hewitt Pate, of Virginia, to be an Assistant Attorney General.

David G. Campbell, of Arizona, to be United States District Judge for the District of Arizona.

Helen R. Meagher La Lime, of Florida, to be Ambassador to the Republic of Mozambique.

36 Army nominations in the rank of general.

**Pages S3763–64**

**Messages From the House:**

**Page S3727**

**Measures Referred:**

**Page S3727**

**Measures Placed on Calendar:**

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**Measures Held at Desk:**

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**Record Vote:** Five record votes were taken today. (Total—55) **Pages S3658, S3662, S3693–94, S3695, S3698**

**Adjournment:** Senate met at 9:30 a.m., and adjourned at 7:20 p.m., until 1 p.m., on Monday, March 17, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3763.)

## Committee Meetings

(Committees not listed did not meet)

### MEDICAL LIABILITY CRISIS

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, and Education, and Related Agencies hearings to examine causes of the medical liability insurance crisis, focusing on proposals to reform the medical litigation system, after receiving testimony from Claude A. Allen, Deputy Secretary of Health and Human Services; Peter R. McCombs, Pennsylvania Hospital, Philadelphia; Donald M. Berwick, Institute for Healthcare Improvement, Boston, Massachusetts; Jay Angoff, Rogert C. Brown and Associates, Jefferson City, Missouri; James D. Hurley, Atlanta, Georgia, on behalf of the American Academy of Actuaries; Brian Holmes, Hagerstown, Maryland; Linda McDougal, Woodville, Wisconsin; and Leanne Dyess, Vicksburg, Mississippi.

### APPROPRIATIONS: VA

*Committee on Appropriations:* Subcommittee on Veterans' Affairs, Housing and Urban Development, and Independent Agencies concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Veterans Affairs, after receiving testimony from Anthony J. Principi, Secretary of Veterans Affairs.

### DEFENSE AUTHORIZATION: UNIFIED COMMANDS

*Committee on Armed Services:* Committee concluded hearings in open and closed session to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on military strategy and operational requirements in of the unified and

regional commands, after receiving testimony from Adm. Thomas B. Fargo, USN, Commander, United States Pacific Command; Gen. Leon J. LaPorte, USA, Commander, United Nations Command, United Nations Command, Republic of Korea-United States Combined Forces Command, and United States Forces in Korea; and Gen. James T. Hill, USA, Commander, United States Southern Command.

### DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Readiness and Management Support concluded hearings on proposed legislation authorizing funds for the Department of Defense for fiscal year 2004, focusing on the impacts of environmental laws on readiness and the related Administration legislative proposal, after receiving testimony from General John M. Keane, USA, Vice Chief of the Army; Admiral William J. Fallon, USN, Vice Chief of Naval Operations; General William L. Nyland, USMC, Assistant Commandant of the Marine Corps; General Robert H. Foglesong, USAF, Vice Chief of the Air Force; and Benedict S. Cohen, Deputy General Counsel for Installation and Environment, Department of Defense.

### 2004 BUDGET: FEDERAL TRANSIT ADMINISTRATION

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded hearings to examine the President's proposed budget request for fiscal year 2004 for the Federal Transit Administration, after receiving testimony from Jennifer L. Dorn, Administrator Federal Transit Administration, Department of Transportation.

### 2004 BUDGET

*Committee on the Budget:* Committee ordered favorably reported an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### BUSINESS MEETING

*Committee on Commerce, Science, and Transportation:* Committee ordered favorably reported the following business items:

S. 579, to reauthorize the National Transportation Safety Board;

S. 275, to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration, with an amendment in the nature of a substitute;

S. 196, to establish a digital and wireless network technology program, with amendments;

S. 165, to improve air cargo security, with amendments; and

The nominations of Ellen G. Engleman, of Indiana, to be a Member and Chairman, and Richard F. Healing, of Virginia, and Mark V. Rosenker, of Maryland, both to be Members, all of the National Transportation Safety Board, Charles E. McQueary, of North Carolina, to be Under Secretary of Homeland Security for Science and Technology, and Jeffrey Shane, of the District of Columbia, to be Under Secretary for Policy, Robert A. Sturgell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration, and Emil H. Frankel, of Connecticut, to be an Assistant Secretary, all of the Department of Transportation; and United States Coast Guard promotion lists received by the Senate on January 28, February 6, February 25, and March 11, 2003.

Also, Committee adopted its rules of procedure for the 108th Congress, and announced the following subcommittee assignments:

*Subcommittee on Aviation:* Senators Lott (Chairman), Stevens, Burns, Hutchison, Snowe, Brownback, Smith, Fitzgerald, Ensign, Allen, Sununu, Rockefeller, Hollings, Inouye, Breaux, Dorgan, Wyden, Nelson (FL), Boxer, Cantwell, and Lautenberg.

*Subcommittee on Communications:* Senators Burns (Chairman), Stevens, Lott, Hutchison, Snowe, Brownback, Smith, Fitzgerald, Ensign, Allen, Sununu, Hollings, Inouye, Rockefeller, Kerry, Breaux, Dorgan, Wyden, Boxer, Nelson (FL), and Cantwell.

*Subcommittee on Competition, Foreign Commerce, and Infrastructure:* Senators Smith (Chairman), Burns, Brownback, Fitzgerald, Ensign, Sununu, Dorgan, Boxer, Nelson (FL), Cantwell, and Lautenberg.

*Subcommittee on Consumer Affairs and Product Safety:* Senators Fitzgerald (Chairman), Burns, Smith, Wyden, and Dorgan.

*Subcommittee on Oceans, Fisheries, and Coast Guard:* Senators Snowe (Chairwoman), Stevens, Lott, Hutchison, Smith, Sununu, Kerry, Hollings, Inouye, Breaux, and Cantwell.

*Subcommittee on Science, Technology, and Space:* Senators Brownback (Chairman), Stevens, Burns, Lott, Hutchison, Ensign, Allen, Sununu, Breaux, Rockefeller, Kerry, Dorgan, Wyden, Nelson (FL), and Lautenberg.

*Subcommittee on Surface Transportation and Merchant Marine:* Senators Hutchison (Chairwoman), Stevens, Burns, Lott, Snowe, Brownback, Smith, Allen, Inouye, Rockefeller, Kerry, Breaux, Wyden, Boxer, and Lautenberg.

Senators McCain and Hollings are Ex-Officio Members of all the Subcommittees.

## WILDFIRE PREPAREDNESS

*Committee on Energy and Natural Resources:* Committee concluded hearings to examine the impact of fires on America in 2002 and the potential 2003 fire season, focusing on the management and implementation of the National Fire Plan, the effects on tourism, and the President's Healthy Forest Initiative, after receiving testimony from David Tenny, Deputy Under Secretary of Agriculture for Natural Resources and the Environment; Lynn Scarlett, Assistant Secretary of the Interior for Policy, Management, and Budget; and Linda M. Conlin, Assistant Secretary, U.S. Trade and Development Agency.

## NATIONAL HERITAGE AREAS

*Committee on Energy and Natural Resources:* Committee concluded oversight hearings to examine the designation and management of National Heritage Areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, federal and non-federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas, after receiving testimony from Paul Hoffman, Deputy Assistant Secretary of the Interior for Fish and Wildlife and Parks; Kathryn Higgins, National Trust for Historic Preservation, Washington, DC; C. Allen Sachse, Delaware and Lehigh National Heritage Corridor Commission, Easton, Pennsylvania; and Peyton Knight, American Policy Center, Warrenton, Virginia.

## CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM

*Committee on Environment and Public Works:* Subcommittee on Clean Air, Climate Change, and Nuclear Safety concluded oversight hearings to examine the implementation of the Congestion Mitigation and Air Quality Improvement Program, and transportation conformity, focusing on the collaboration of transportation and air quality planners, direct public and private investment projects, systems and technologies that will reduce air pollution coming from the mobile source sector, after receiving testimony from Emil H. Frankel, Assistant Secretary of Transportation for Transportation Policy; Jeffrey R. Homstead, Assistant Administrator for Air and Radiation, Environmental Protection Agency; Howard R. Maier, Northeast Ohio Areawide Coordinating Agency, Cleveland, Ohio; W. Gerald Teague, Emory University School of Medicine, Atlanta, Georgia;



Jerry Lasker, Indian Nations Council of Governments, Tulsa, Oklahoma; Annette Liebe, Oregon Department of Environmental Quality, Portland, on behalf of the State and Territorial Air Pollution Program Administrators, and the Association of Local Air Pollution Control Officials; Diane Steed, American Highway Users Alliance, Washington, D.C.; Marsha Kaiser, Maryland Department of Transportation, Annapolis, on behalf of the American Association of State Highway and Transportation Officials; and Michael Repogle, Environmental Defense, New York, New York.

### MILITARY OPERATIONS/IRAQ

*Committee on Foreign Relations:* Committee met in closed session to receive a briefing to examine Iraq's

political future from William Burns, Assistant Secretary of State for Middle East.

### NOMINATIONS

*Committee on the Judiciary:* Committee held hearings to examine the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, who was introduced by Senators Hutchison and Cornyn, where the nominee testified and answered questions in her own behalf.

### INTELLIGENCE

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Tuesday, March 18.

## House of Representatives

### Chamber Action

**Measures Introduced:** 42 public bills, H.R. 1256–1297; and 7 resolutions, H.J. Res. 39;

H. Con. Res. 92–94, and H. Res. 142–144 were introduced.

Pages H1900–02

**Additional Cosponsors:**

Pages H1902–03

**Reports Filed:** Reports were filed today as follows:

H.R. 444, to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work, amended (H. Rept. 108–35); and

H.R. 875, to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations (H. Rept. 108–36).

Page H1900

**Speaker Pro Tempore:** Read a letter from the Speaker wherein he appointed Representative Thornberry to act as Speaker Pro Tempore for today.

Page H1815

**Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act:** The House passed H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system by recorded vote of 229 ayes to 196 noes with 1 voting "present", Roll No. 64.

Pages H1817–71, H1879–80

Pursuant to the rule, the amendment in the nature of a substitute printed in H. Rept. 108–34 was considered as adopted.

Page H1832

Rejected the Conyers motion to recommit the bill to the Committee on the Judiciary and the Committee on energy and commerce with instructions to report it back to the House forthwith with amendments in the nature of a substitute that establishes the Medical Malpractice and Insurance Reform Act of 2003 by yea-and-nay vote of 191 yeas to 234 nays, Roll No. 63.

Page H1870

The House agreed to H. Res. 139, the rule that provided for consideration of the bill by a recorded vote of 225 yeas to 201 noes, Roll No. 62. Earlier agreed to order the previous question by a yea-and-nay vote of 225 yeas to 201 nays, Roll No. 61. And, pursuant to the provisions of H. Res. 139, H. Res. 126 was laid on the table.

Pages H1828–29

**Legislative Program:** The Majority Leader announced the Legislative Program for the week of March 17.

Page H1872

**Meeting Hour—Monday, March 17 and Tuesday, March 18:** Agreed that when the House adjourns today, it adjourn to meet at noon on Monday, March 17 and agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, March 18, for morning hour today.

Page H1874

**Calendar Wednesday:** Agreed to dispense with the Calendar Wednesday business of Wednesday, March 19.

Page H1874

**Mexico-United States Interparliamentary Group:** The Chair announced the Speaker's appointment of Representative Kolbe as Chairman, Mexico-United States Interparliamentary Group.

Page H1875

**Canada-United States Interparliamentary Group:** The Chair announced the Speaker's appointment of Representative Houghton as Chairman, Canada-United States Interparliamentary Group. **Page H1875**

**British-American Interparliamentary Group:** The Chair announced the Speaker's appointment of Representative Petri as Chairman, British-American Interparliamentary Group. **Page H1875**

**Speaker Pro Tempore List:** The chair announced that on February 10, the Speaker delivered to the Clerk a letter listing members in the order in which each shall act as Speaker pro tempore under clause 8(b)(3) of rule 1. **Page H1875**

**Presidential Messages:** Read the following messages from the President:

***Continuation of the National Emergency re Iran:*** Message wherein he transmitted his notice announcing the continuation of the national emergency with respect to Iran—referred to the Committee on International Relations and ordered printed (H. Doc. 108-46); and **Page H1875**

***Six Month Periodic Report on the National Emergency re Iran:*** Message wherein he transmitted a six month periodic report on the national emergency with respect to Iran—referred to the Committee on International Relations and ordered printed (H. Doc. 108-47). **Page H1875**

**Designation by the Speaker re Assembly of the Congress:** Read a letter from the Speaker wherein he stated that pursuant to H. Con. Res. 1, regarding consent to assemble outside the seat of Government, and also for the purposes of concurrent resolutions of the current Congresses as may contemplate his designation of members to act in similar circumstances, he designates Representative Tom DeLay of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of his death or inability, to notify the Members of the House and Senate, respectively, of any reassembly under any such concurrent resolution. He further stated that in the event of the death or inability of that designee, the alternate Members of the House listed in the letter dated March 13, 2003 that has placed with the Clerk are designated, in turn, for the same purposes.

**Page H1880**

**Senate Message:** Message received from the Senate today appears on pages H1871.

**Referral:** S. 3 was held at the desk.

**Quorum Calls—Votes:** Two yea-and-nay votes and two recorded votes developed during the proceedings of the House today and appear on pages H1828-29, H1870, and H1871. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 7 p.m.

## *Committee Meetings*

### **AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS**

***Committee on Appropriations:*** Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies held a hearing on National Resources Conservation Service. Testimony was heard from the following officials of the USDA: Mark Rey, Under Secretary, Natural Resources and Environment; Bruce Knight, Chief, Natural Resources Conservation Service; and Gerald Patterson, Acting Budget Officer.

The Subcommittee also held a hearing on Research, Education and Economics. Testimony was heard from the following officials of the USDA: Joseph J. Jen, Under Secretary, Research, Education and Economics; Edward B. Knipling, Acting Administrator, Agricultural Research Service; Collen Hefferan, Administrator, Cooperative State Research, Education and Extension Service; Susan E. Offutt, Administrator, Economic Research Service; and R. Ronald Bosecker, Administrator, National Agricultural Statistics Service.

### **COMMERCE, JUSTICE, AND STATE AND THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS**

***Committee on Appropriations:*** Subcommittee on Commerce, Justice, and State and The Judiciary, and Related Agencies held a hearing on SEC. Testimony was heard from William H. Donaldson, Chairman, SEC.

### **DEFENSE APPROPRIATIONS**

***Committee on Appropriations:*** Subcommittee on Defense met in executive session to hold a hearing on U.S. Northern Command. Testimony was heard from Gen. Ralph Eberhart, USAF, Commander and Chief, U.S. Northern Command.

### **ENERGY AND WATER DEVELOPMENT APPROPRIATIONS**

***Committee on Appropriations:*** Subcommittee on Energy and Water Development held a hearing on Department of Energy-Science, Nuclear Energy, and Renewable Energy. Testimony was heard from Robert Card, Under Secretary, Energy, Science and Environment, Department of Energy.

**FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS**

*Committee on Appropriations:* Subcommittee on Foreign Operations, Export Financing, and Related Programs held a hearing on Secretary of State. Testimony was heard from Colin L. Powell, Secretary of State.

**INTERIOR AND RELATED AGENCIES APPROPRIATIONS**

*Committee on Appropriations:* Subcommittee on Interior and Related Agencies held a hearing on National Endowment for the Arts, and National Endowment for the Humanities. Testimony was heard from Bruce Cole, Chairman, National Endowment for the Humanities; and Dana Gioia, Chairman, National Endowment for the Arts.

**LABOR, HHS, EDUCATION AND RELATED AGENCIES APPROPRIATIONS**

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on Department of Education-Panel: "Special Education and Vocational Education" program. Testimony was heard from the following officials of the Department of Education: Robert Pasternack, Assistant Secretary, Office of Special Education and Rehabilitation Services; and Grover Whitehurst, Assistant Secretary, Institute of Education Sciences; Office of Education Research and Improvement.

**TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS**

*Committee on Appropriations:* Subcommittee on Transportation and Treasury, and Independent Agencies held a hearing on Inspector General, Department of Transportation. Testimony was heard from Kenneth M. Mead, Inspector General, Department of Transportation.

**VA AND HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS**

*Committee on Appropriations:* Subcommittee on VA and HUD, and Independent Agencies held a hearing on Council on Environmental Quality. Testimony was heard from James Connaughton, Chairman, Council on Environmental Quality.

The Subcommittee also held a hearing on Chemical Safety and Hazard Investigation Board. Testimony was heard from Carolyn Merritt, Chairman, Chemical Safety and Hazard Investigation Board.

**NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST**

*Committee on Armed Services:* Continued hearings on the fiscal year 2004 national defense authorization budget request. Testimony was heard from the following officials of the Department of Defense: Gen. Ralph E. Eberhart, USAF, Commander, U.S. Northern Command; and Adm. James O. Ellis, Jr., USN, Commander, U.S. Strategic Command.

Hearings continue March 20.

**ENVIRONMENTAL LEGISLATIVE PROPOSALS**

*Committee on Armed Services:* Subcommittee on Readiness held a hearing on environmental legislative proposals. Testimony was heard from the following officials of the Department of Defense: Raymond F. DuBois, Jr., Deputy Under Secretary, Installations and Environment; Nelson Gibbs, Assistant Secretary, Air Force, Installations, Environment and Logistics, Department of the Air Force; Raymond J. Fatz, Deputy Assistant Secretary, (Environment, Safety and Occupational Health), Department of the Army; and Wayne Army, Deputy Assistant Secretary, (Installations and Facilities), Department of the Navy; John Peter Suarez, Assistant Administrator, Office of Enforcement and Compliance Assurance, EPA; Julie MacDonald, Special Assistant to Assistant Administrator, Fish, Wildlife and Parks, Department of the Interior; William Hogarth, Assistant Administrator, Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce; and public witnesses.

**FORCE PROTECTION POLICY—HOMELAND SECURITY—ROLE OF DOD AND NATIONAL GUARD**

*Committee on Armed Services:* Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on force protection policy, with emphasis on the role of the Department of Defense and the National Guard in homeland security. Testimony was heard from the following officials of the Department of Defense: Paul McHale, Assistant Secretary, Homeland Defense; Maj. Gen. Raymond F. Rees, USA, Acting Chief, National Guard Bureau; and Maj. Gen. Timothy J. Lowenberg, USAF, The Adjutant General, Director, Military Department, State of Washington.

**TOTAL FORCE TRANSFORMATION—OVERVIEW MILITARY PERSONNEL BUDGET REQUEST**

*Committee on Armed Services:* Subcommittee on Total Force held a hearing on the Department of Defense total force transformation and overview of the fiscal year 2004 military personnel budget request. Testimony was heard from the following officials of the

Department of Defense: David S. C. Chu, Under Secretary, Personnel and Readiness; Lt. Gen. John Le Moyne, USA, Deputy Chief of Staff, G-1, U.S. Army; Vice Adm. Gerald Hoewing, USN, Chief of Naval Personnel; Lt. Gen. Garry L. Parks, USMC, Deputy Commandant, Manpower and Reserve Affairs, U.S. Marine Corps; and Lt. Gen. Richard E. Brown, USAF, Deputy Chief of Staff, Personnel, U.S. Air Force.

### CONCURRENT BUDGET RESOLUTION

*Committee on the Budget:* Ordered reported the Concurrent Resolution on the Budget for Fiscal Year 2004.

### IDEA—IMPROVING RESULTS FOR CHILDREN AND DISABILITIES

*Committee on Education and the Workforce:* Subcommittee on Education Reform held a hearing on “IDEA, Focusing on Improving Results for Children and Disabilities.” Testimony was heard from Dianne Talarico, Superintendent, City School District, Canton, Ohio; Larry Lorton, Superintendent, Caroline County School District, Denton, Maryland; and public witnesses.

### SMALL BUSINESS HEALTH FAIRNESS ACT

*Committee on Education and the Workforce:* Subcommittee on Employer-Employee Relations held a hearing on H.R. 660, Small Business Health Fairness Act of 2003. Testimony was heard from Ann L. Combs, Assistant Secretary, Employee Benefits Security Administration, Department of Labor; and public witnesses.

### COMPREHENSIVE NATIONAL ENERGY POLICY

*Committee on Energy and Commerce:* Subcommittee on Energy and Air Quality concluded hearings on “Comprehensive National Energy Policy.” Testimony was heard from Sam J. Ervin, Commissioner, Public Utility Commission, State of North Carolina; and public witnesses.

### MISCELLANEOUS MEASURES

*Committee on Financial Services:* Ordered reported the following bills: H.R. 21, Unlawful Internet Gambling Funding Prohibition Act; H. R 522, amended, Federal Deposit Insurance Act of 2003; and H.R. 758, amended, Business Checking Freedom Act of 2003.

### PORNOGRAPHY ACCESS ON NETWORKS

*Committee on Government Reform:* Held a hearing entitled “Stumbling onto Smut: The Alarming Ease of Access to Pornography on Peer-to-Peer Networks.” Testimony was heard from Linda Koontz, Director,

Information Management Issues, GAO; John M. Netherland, Acting Director, CyberSmuggling Center, Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and public witnesses.

### FEDERAL E-GOVERNMENT INITIATIVES

*Committee on Government Reform:* Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census held an oversight hearing entitled “Federal E-Government Initiatives: Are We Headed In the Right Direction?” Testimony was heard from Mark A. Forman, Associate Director, Information Technology and Electronic Government, OMB; Joel C. Willemssen, Managing Director, Information Technology, GAO; and public witnesses.

### COMMITTEE FUNDING

*Committee on House Administration:* Met to consider Committee funding requests for the following Committees: Agriculture, Science, Rules, Armed Services, Energy and Commerce, Budget, International Relations, Homeland Security and Veterans.

### EUROPE—U.S. PRIORITIES

*Committee on International Relations:* Subcommittee on Europe held a hearing on United States Priorities in Europe. Testimony was heard from A. Elizabeth Jones, Assistant Secretary, Bureau of European and Eurasian Affairs, Department of State; and J. D. Crouch, II, Assistant Secretary, Bureau of International Security Policy, Department of Defense.

### OVERSIGHT-INTERNATIONAL COPYRIGHT PIRACY

*Committee on the Judiciary:* Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on the “International Copyright Piracy: Links to Organized Crime and Terrorism.” Testimony was heard from John G. Malcolm, Deputy Assistant Attorney General, Criminal Division, Department of Justice; and public witnesses.

### AQUATIC INVASIVE SPECIES RESEARCH ACT

*Committee on Science:* Subcommittee on Environment, Technology, and Standards approved for full Committee action H.R. 1081, Aquatic Invasive Species Research Act.

### HARMFUL ALGAL BLOOMS AND HYPOXIA

*Committee on Science:* Subcommittee on Environment, Technology, and Standards held a hearing on Harmful Algal Blooms and Hypoxia: Strengthening the Science. Testimony was heard from Donald Scavia, Chief Scientist, National Ocean Service, NOAA, Department of Commerce; Robert Hirsch, Associate

Director, Water, U.S. Geological Survey, Department of the Interior; Dan Ayres, Coastal Shellfish Lead Biologist, Department of Fish and Wildlife, State of Washington; and public witnesses.

#### **OVERSIGHT—COAST GUARD AND FEDERAL MARITIME COMMISSION BUDGET REQUESTS; COMMITTEE ORGANIZATION**

*Committee on Transportation and Infrastructure:* Subcommittee on Coast Guard and Maritime Transportation held an oversight hearing on the Administration's Fiscal Year 2004 Budgets for the U.S. Coast Guard and the Federal Maritime Commission. Testimony was heard from the following officials of the U.S. Coast Guard, Department of Homeland Security: Adm. Thomas H. Collins, USCG, Commandant; and Master Chief Franklin A. Welch, USCG, Master Chief Petty Officer; and Steven Blust, Chairman, Federal Maritime Commission.

Prior to the hearing, the Subcommittee met for organizational purposes.

#### **OVERSIGHT—FEDERAL HIGHWAY AND TRANSIT PROGRAMS REAUTHORIZATION**

*Committee on Transportation and Infrastructure:* Subcommittee on Highways, Transit and Pipelines held an oversight hearing on Reauthorization of Federal Highway and Transit Programs: What are the needs, and how to meet those needs. Testimony was heard from Tim Martin, Secretary, Department of Transportation, State of Illinois; and public witnesses.

#### **SOCIAL SECURITY PROTECTION ACT**

*Committee on Ways and Means:* Ordered reported, as amended, H.R. 743, Social Security Protection Act of 2003.

#### **HOT SPOTS BRIEFING**

*Permanent Select Committee on Intelligence:* Subcommittee on Intelligence Policy and National Security met in executive session to receive a briefing on Hot Spots. The Subcommittee was briefed by departmental witnesses.

#### **FUTURE IMAGERY ARCHITECTURE PROGRAM**

*Permanent Select Committee on Intelligence:* Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Future Imagery Architecture Program. Testimony was heard from departmental witnesses.

#### **COMMITTEE MEETINGS FOR FRIDAY, MARCH 14, 2003**

*(Committee meetings are open unless otherwise indicated)*

##### **Senate**

*Committee on Armed Services:* Subcommittee on Emerging Threats and Capabilities, to hold hearings to examine the posture of U.S. Joint Forces Command and the role of joint experimentation in force transformation, in review of the Defense Authorization Request for Fiscal Year 2004, 9:30 a.m., SR-22.

##### **House**

No committee meetings are scheduled.

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#### **CONGRESSIONAL PROGRAM AHEAD**

**Week of March 17 through March 22, 2003**

##### **Senate Chamber**

On *Monday*, at 2 p.m., Senate expects to begin consideration of the First Concurrent Budget Resolution.

On *Tuesday*, Senate will resume consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit, with a vote to occur on the motion to invoke cloture.

During the balance of the week, Senate expects to continue consideration of the First Concurrent Budget Resolution, and may consider any other cleared legislative and executive business.

##### **Senate Committees**

*(Committee meetings are open unless otherwise indicated)*

*Committee on Agriculture, Nutrition, and Forestry:* March 20, to hold hearings to examine the nomination of Vernon Bernard Parker, of Arizona, to be an Assistant Secretary of Agriculture, 10:30 a.m., SR-328A.

*Committee on Appropriations:* March 18, Subcommittee on Military Construction, to hold hearings to examine Base Realignment and Closure, 10 a.m., SD-138.

March 19, Subcommittee on Defense, to hold hearings to examine, 10 a.m., SD-192.

March 20, Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings to examine the President's budget request for fiscal year 2004 for the Department of Commerce, 10 a.m., S-146, Capitol.

March 20, Subcommittee on Interior, to hold hearings to examine the President's proposed budget request for fiscal year 2004 for the Department of Agriculture Forest Service, 10 a.m., SD-124.

*Committee on Armed Services:* March 18, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for ballistic missile defense, 9:30 a.m., SD-106.

March 19, Subcommittee on Readiness and Management Support, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for acquisition policy and outsourcing issues, 9:30 a.m., SR-222.

March 19, Subcommittee on Strategic Forces, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for strategic forces and policy, 2:30 p.m., SR-232A.

March 19, Subcommittee on Personnel, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for the National Guard and Reserve military and civilian personnel programs, 3 p.m., SH-216.

March 20, Full Committee, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for atomic energy defense activities of the Department of Energy, 9:30 a.m., SH-216.

March 20, Subcommittee on SeaPower, to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense for the U.S. Transportation Command, 2:30 p.m., SR-232A.

*Committee on Banking, Housing, and Urban Affairs:* March 18, to hold hearings to examine proposals to regulate illegal Internet gambling, 10 a.m., SD-538.

March 20, Full Committee, to hold hearings to examine issues related to the Department of Housing and Urban Development's proposed rule on the Real Estate Settlement Procedures Act, 9:30 a.m., SD-538.

*Committee on Commerce, Science, and Transportation:* March 20, to hold hearings to examine the Space Shuttle Colombia, focusing on the future of space policy, 2:30 p.m., SR-253.

*Committee on Environment and Public Works:* March 18, Subcommittee on Fisheries, Wildlife, and Water, to hold hearings to examine the President's proposed budget for fiscal year 2004 for the Fish and Wildlife Service, 10 a.m., SD-406.

March 20, Subcommittee on Clean Air, Climate Change, and Nuclear Safety, to hold hearings to examine proposed legislation amending the Clean Air Act regarding fuel additives and renewable fuels, 9:30 a.m., SD-406.

*Committee on Finance:* March 18, to hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Commissioner of Internal Revenue, 10 a.m., SD-219.

*Committee on Foreign Relations:* March 18, to hold hearings to examine the war on terrorism, focusing on diplomacy issues, 9:30 a.m., SD-419.

March 18, Full Committee, to hold a closed briefing to examine the current hostage situation in Colombia, 4 p.m., S-407, Capitol.

March 19, Full Committee, to hold hearings to examine nonproliferation issues, 9:30 a.m., SD-419.

March 19, Subcommittee on East Asian and Pacific Affairs, to hold hearings to examine the effects and consequences of an emerging China, 2:30 p.m., SD-419.

March 20, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD-419.

March 20, Full Committee, to hold hearings to examine how to make embassies safer in areas of conflict, 2:30 p.m., SD-419.

*Committee on Governmental Affairs:* March 20, to hold hearings to examine possible terrorist threats on cargo containers, 9:30 a.m., SD-342.

*Committee on Health, Education, Labor, and Pensions:* March 19, business meeting to consider S. 15, to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, proposed legislation entitled "Lifespan Respite Care Act", "Pediatric Drugs Research Authority", "Caring for Children Act of 2003", "Genetics Information Nondiscrimination Act of 2003", and pending nominations, 10 a.m., SD-430.

*Committee on Indian Affairs:* March 19, to hold hearings to examine S. 424, to establish, reauthorize, and improve energy programs relating to Indian tribes, and S. 522, to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, 10 a.m., SR-485.

*Committee on the Judiciary:* March 19, to hold hearings to examine ethical regenerative medicine research and human reproductive cloning, 9:30 a.m., SD-226.

*Committee on Rules and Administration:* March 19, to hold oversight hearings to examine the operations of the Secretary of the Senate and the Architect of the Capitol, 9:30 a.m., SR-301.

*Committee on Small Business and Entrepreneurship:* March 18, to hold hearings to examine the practice of contract bundling in federal agency procurement, focusing on the loss of federal jobs in small business, 9:30 a.m., SR-428A.

*Committee on Veterans' Affairs:* March 20, to hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs, 10 a.m., 345 Cannon Building.

*Select Committee on Intelligence:* March 18, to hold closed hearings to examine intelligence matters, 10 a.m., SH-219.

*Special Committee on Aging:* March 20, to hold hearings to examine Medicare, focusing on prescription drugs, 10:30 a.m., SD-562.

## House Chamber

To be announced.

## House Committees

*Committee on Appropriations:* March 19, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and related Agencies, on Rural Development, 9:30 a.m., 2362A Rayburn.



March 19, Subcommittee on Defense, executive, on Fiscal Year 2004 National Foreign Intelligence Program, 10 a.m., H-405 Capitol, and on Fiscal Year 2004 Air Force Budget Overview, 1:30 p.m., 2362A Rayburn.

March 19, Subcommittee on Energy and Water Development, executive, on Department of Energy: National Nuclear Security Administration, 10 a.m., 2362B Rayburn.

March 19, Subcommittee on Foreign Operations, Export Financing and Related Programs, on Secretary of the Treasury, 2 p.m., H-144 Capitol.

March 19, Subcommittee on Interior, on National Park Service, 10 a.m., B-308 Rayburn.

March 19, Subcommittee on Labor, Health and Human Services, and Education, on Department of Education Panel: "Vocational, Adult and Postsecondary Education" programs, 10:15 a.m., 2358 Rayburn.

March 19, Subcommittee on Transportation and Treasury, and Independent Agencies, on Director, Office of Management and Budget, 2 p.m., 2358 Rayburn.

March 19, Subcommittee on VA, HUD and Independent Agencies, on Department of Housing and Urban Development, 10 a.m., and 1:30 p.m., 2359 Rayburn.

March 20, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, on Food, Nutrition and Consumer Services, 9:30 a.m., 2362A Rayburn.

March 20, Subcommittee on Commerce, Justice, and State and The Judiciary, and Related Agencies, on Secretary of State, 10 a.m., and on DEA and Bureau of Alcohol, Tobacco, Firearms, and Explosives, 2 p.m., 2258 Rayburn.

March 20, Subcommittee on Defense, on Fiscal Year 2004 Navy/Marine Corps Budget Overview, 9:30 a.m., 2212 Rayburn.

March 20, Subcommittee on Energy and Water Development, on Department of Energy: Nuclear Waste Management and Disposal, 10 a.m., 2362B Rayburn.

March 20, Subcommittee on Homeland Security, on Secretary of Homeland Security, 10 a.m., 2359 Rayburn.

March 20, Subcommittee on Labor, Health and Human Services, and Education, on Secretary of Health and Human Services, 10:15 a.m., 2358 Rayburn.

March 20, Subcommittee on Military Construction, on European Command Military Construction, 10 a.m., B-300 Rayburn.

March 20, Subcommittee on VA, HUD and Independent Agencies, on Neighborhood Reinvestment Corporation, 10 a.m., and on Agency for Toxic Substances and Disease Registry, 11 a.m., H-143 Capitol.

*Committee on Armed Services*, March 18, Subcommittee on Readiness, hearing on the state of military readiness and review of the fiscal year 2004 fiscal year defense authorization budget request, 2 p.m., 2118 Rayburn.

March 18, and 20, Subcommittee on Readiness, hearings on the state of military readiness and review of the fiscal year 2004 Defense Authorization budget request, 4 p.m., on March 18 and 3 p.m., on March 20, 2118 Rayburn.

March 19, full Committee, hearing on U.S.-France security relations, and H.R. 1023, to prohibit through the period ending December 21, 2007, any Department of Defense participation in any International aviation trade exhibition (known as an "air show") to be held, 10 a.m., 2118 Rayburn.

March 19, Subcommittee on Projection Force, hearing on U.S. Transportation Command's airlift and sealift programs, 5 p.m., 2212 Rayburn.

March 19, Subcommittee on Strategic Forces, hearing on space programs in the fiscal year 2004 national defense authorization budget request, 5 p.m., 2216 Rayburn.

March 19, Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on Department of Defense efforts to address the chemical and biological threat, 2 p.m., 2118 Rayburn.

March 19, Subcommittee on Total Force, hearing on hearing on domestic violence, Joint Officer Management and education reform, employer support of the Guard and Reserve, Reserve pay and benefits, and Department of Defense Active and Reserve Components Force Mix Study, 2 p.m., 2212 Rayburn.

March 20, full Committee, to continue hearings on 2004 fiscal year defense authorization budget request, with emphasis on Ballistic Missile Defense Programs, 9 a.m., 2118 Rayburn.

March 20, Subcommittee on Tactical Air and Land Forces, hearing on the fiscal year 2004 national defense authorization budget request, 11:30 a.m., 2118 Rayburn.

*Committee on Energy and Commerce*, March 18, Subcommittee on Oversight and Investigations, hearing entitled "A Review of NRC's Proposed Security Requirements for Nuclear Power Plants," 3 p.m., 2123 Rayburn.

March 19, Subcommittee on Commerce, Trade and consumer Protection, hearing entitled "Does the U.S. Olympic Committee's Organizational Structure Impede its Mission?" 10 a.m., 2322 Rayburn.

*Committee on Financial Services*, March 18, Subcommittee on Oversight and Investigation, hearing entitled "Paying Dividends: How the President's Tax Plan Will Benefit Individual Investors and Strengthen the Capital Markets," 3 p.m., 2128 Rayburn.

March 19, full Committee, hearing on the state of the international financial system, IMF reform, and compliance with IMF agreements, 10 a.m., 2128 Rayburn.

March 19, Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, hearing and markup of the Defense Production Act Reauthorization of 2003, 2 p.m., 2128 Rayburn.

*Committee on International Relations*, March 20, Subcommittee on East Asia and the Pacific, hearing on the U.S. and South Asia: Challenges and Opportunities for American policy, 1 p.m., 2172 Rayburn.

*Committee on Resources*, March 19, oversight hearing on Enhancing America's Energy Security, 10 a.m., 1324 Longworth.

March 19, Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the Administration's Fiscal Year budget requests for NOAA and the U.S. Fish and Wildlife Service, 2 p.m., 1334 Longworth.

*Committee on Small Business*, March 20, hearing entitled "Changes to SBA Financing Programs Needed for Revitalization of Small Manufacturers," 9:30 a.m., 2360 Rayburn.

*Committee on Transportation and Infrastructure*, March 19, Subcommittee on Economic Development, Public Buildings and Emergency Management, to mark up the following: Fiscal Year GSA lease resolutions; two GSA amending resolutions; H.R. 281, to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the "Tony Hall Federal Building and United States Courthouse;" H. Con. Res. 53, authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; a resolution regarding the 22nd National Peace Officers Memorial Service; and other pending business, 10 a.m., 2253 Rayburn.

March 19, Subcommittee on Water Resources and Environment, hearing on Meeting the Nation's Wastewater Infrastructure Needs, 1 p.m., 2167 Rayburn.

March 20, Subcommittee on Aviation, to consider a motion to go into executive session to hold a hearing on

Protecting Commercial Aircraft from the Threat of Missile Attacks, 9:30 a.m., 2253 Rayburn.

*Committee on Veterans' Affairs*, March 19, Subcommittee on Health, hearing on the availability and eligibility for pharmaceutical services provided by the Department of Veterans Affairs, 2 p.m., 334 Cannon.

*Committee on Ways and Means*, March 20, Subcommittee on Human Resources, hearing to Review State Use of Federal Unemployment Funds, 1 p.m., B-318 Rayburn.

### Joint Meetings

*Joint Meetings*: March 20, Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs, 10 a.m., 345 Cannon Building.

*Next Meeting of the SENATE*

1 p.m., Monday, March 17

*Next Meeting of the HOUSE OF REPRESENTATIVES*

12 noon, Monday, March 17

## Senate Chamber

**Program for Monday:** After the transaction of any morning business (not to extend beyond 2 p.m.), Senate expects to begin consideration of the First Concurrent Budget Resolution.

## House Chamber

**Program for Monday:** Pro forma session.

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