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House of Representatives

ENERGY POLICY ACT OF 2003—

(Continued)

□ 1630

Mr. DOYLE. Mr. Chairman, 39,700 of these people are directly employed by the industry.

Mr. Chairman, this is a bad amendment. Let us defeat it.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong support of this amendment. The National Academy of Sciences identified 13 readily-available technologies, each one of which would improve fuel economy from .5 percent to 12 percent. Three major automakers, GM, Ford and Toyota, have already announced plans to introduce vehicles that would get 35 to 40 miles per gallon within the next 2 years.

New technologies can improve fuel economy without reducing weight and size. It is irresponsible to pass a national energy policy that does not reduce the use of gasoline because 70 percent of the oil we use is to power our cars.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Michigan (Mr. UPTON), the chairman of the Subcommittee on Telecommunications and the Internet.

Mr. UPTON. Mr. Chairman, I rise in opposition to this amendment. The answer to better fuel mileage is probably in a different fueled vehicle. It is called hydrogen fuel cell vehicles.

This morning I met GM officials who gave me their new brochures on these cars that they are going to be manufacturing. They have spent hundreds of millions of dollars to develop and finance the new hydrogen fuel cell vehicle.

Now, what this amendment would do you cannot create with just magic. You cannot say just ''Poof, here it is. There you go.'' It would be nice to have a vehicle that delivered 40 or 50 miles per gallon. But to do that would take all of the engineering gusto away from developing what I think is the real answer, hydrogen fuel cell vehicles. It would take hundreds of millions of dollars out of that engineering cycle today and invest it into something else.

This is the answer. Let science prevail. Let science and the experts decide that this is the vehicle. Let them develop these types of vehicles, knowing that we are there, that we are going to have these cars in the showroom before too long. Let us not get off that track. Let us defeat this amendment. Let the research and development continue so that all of us will be able to drive one of these vehicles in the near future.

The CHAIRMAN pro tempore (Mr. BONILLA). The Committee will rise informally.

The SPEAKER pro tempore (Mr. BASS) assumed the chair.

FURTHER MESSAGE FROM THE SENATE

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

H.R. 1584. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

ENERGY POLICY ACT OF 2003

The Committee resumed its sitting.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, two facts are on a collision course:

Fact one, the concentrations of carbon dioxide, a pollutant that causes global warming, is skyrocketing and will continue to do so as this graph indicates.

Fact two, to date, the U.S. Congress apparently believes that since the mid-1980s American technological genius has disappeared by its willful failure to use our smarts and our can-do efforts to improve fuel-technology efficiency. If we had simply continued on the path of improving the efficiency of our vehicles from the mid-1980s until now, we would have eliminated our need for 70 percent of the imported oil from the Mideast.

How can the U.S. Congress be so pessimistic to think that the people that gave us Microsoft, that gave us biotechnology, cannot improve the efficiency of our vehicles?

John Kennedy said we could go to the Moon in 10 years. We ought to be able to improve our fuel efficiency in the 10 months in this session.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Chairman, I thank the ranking member of our committee for yielding me time.

Mr. Chairman, we come from a big State that wants big trucks and big cars, and my concern about the Markey amendment, not that we would not like to have more fuel efficiency, but it actually treats our trucks even harsher than what the National Academy of Sciences says is reasonable. That is why I think we need to have more study on it. Let us make sure we have a plan that works, not only for some parts of our country, but the whole country.

The Markey amendment will restrict consumer choice, particularly for folks where I come from, who like to drive

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trucks. But I do think we need to get better gas mileage; and hearing from some of the speakers in our committee, we are going to get better gas mileage, without the onerous provisions of the Markey amendment.

Again, this is much worse than what we considered in the last Congress, and that is why I think it should be voted down tonight.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Michigan (Mr. MCCOTTER).

Mr. MCCOTTER. Mr. Chairman, in my Michigan district, the best workers in the world make the best autos in the world; but if this amendment passes, my district's economic vitality will become ancient history. By arbitrarily altering market forces in an already struggling economic sector, a new hike in CAFE standards will endanger the already far-too-tenuous jobs of our autoworkers, manufacturers, parts suppliers, and car dealers, and the livelihood of all our citizens.

During these difficult economic times, when both parties are striving to help American workers and their families, we must not subordinate science to speculation and in the process subject our auto industry, America's economic engine, to governmentally mandated extinction.

For the sake of American workers and their families, we must defeat this amendment.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the distinguished gentleman for his leadership on this issue of many, many years.

I have some prepared remarks, but since I do not have that much time, I am going to summarize. The people that are tuned in to this, that are listening to C-SPAN today, we have on the floor a national energy policy. What some of us are trying to do is to put the legislative vehicle into drive, to go forward into the future, instead of insisting on keeping the vehicle in reverse. What is at stake are fuel-efficiency standards for how much gasoline we use in this country.

If in fact we want to become less dependent on foreign oil, clean up our air, embrace the technologies that are already there on the shelf, then this amendment would absolutely slide through the House.

But regardless of who is here in a handful of years, this policy, I predict, will become the policy of our land, because America is always about the future and the best ideas, and not the past.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana (Mr. JOHN).

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

Mr. Chairman, last week, the National Highway Traffic Safety Administration announced the largest fuel economy increase for light trucks in over 20 years. After studying the cost, safety, technological features, the effect on American jobs and other factors, the experts concluded that this increase represents the maximum feasibility level that manufacturers could possibly meet today.

Light trucks meet the demands of millions and millions of American families, small business, farmers, ranchers, and outdoor enthusiasts. In fact, last year, more consumers in Louisiana purchased light trucks than passenger cars; and this is true in more than 36 States in our Union.

The Boehlert-Markey amendment would force manufacturers to either stop making these vehicles or radically change them, including the safety features, on a product that millions of Americans want today.

I support the ongoing efforts to develop fuel-saving technology, but let us let consumer demand drive that market, and not unscientific Federal mandates.

I urge Members to vote ''no'' on the Markey-Boehlert amendment.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from the great pickup truck State of Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I thank the gentleman for recognizing that not all of America is alike, like the proponents of this amendment think.

Listen to me very carefully. My district represents the distance of Washington, D.C. to Chicago. Nobody represents more people in this Congress than I do, 904,000 people, after reapportionment.

But we do not have subsidized mass transit like you do in Massachusetts. Oh, we have mass transit; that is two herd dogs in our truck instead of one. No, we do not have mass transit. What we have is a lot of people out on a lot of miles of highway, unsafe miles.

I think of all the things we have to do in a State like Montana, travel 10 miles just to get to our post office, travel 20 miles maybe to get to school or to buy groceries, sometimes drive 100 miles to get to a hospital.

No, this is a one-size-fits-all solution that I came to Washington, D.C. to fight. It is time that we look beyond the Potomac, that the sun does not rise and set just on this river out here. There is an expanse of America. We cannot have one-size-fits-all.

I went out and tried to buy a truck the other day, and they are getting so light that I cannot put feed in the back because they could not assure me that the frame would not bend; 2,000 pounds of feed, and I cannot get it in the back of my pickup because they are making them so light to try to meet the CAFE standards.

Vote against this amendment.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, the auto industry has claimed that if CAFE standards are raised, they might have to stop making SUVs, yet their actions directly contradict these words.

As the gentleman from New York (Mr. BOEHLERT) indicated, recently, Ford, Toyota and GM all announced plans to introduce SUVs that travel over 35 miles per gallon over the next couple of years. Toyota has demonstrated with the Prius, which I drive, that hybrid technology works and consumers love it. Auto companies are showing that they have the technology to improve fuel economy without sacrificing safety.

I urge my colleagues to support the Boehlert-Markey amendment to improve fuel economy.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire (Mr. BASS), a distinguished member of the Committee on Energy and Commerce.

Mr. BASS. Mr. Chairman, I thank the chairman for yielding me time.

Mr. Chairman, I rise in opposition to the pending amendment, and I do so for three reasons.

First of all, the National Highway Traffic Safety Administration has promulgated reasonable standards which will take effect in 2005 to increase the efficiency of SUVs and light trucks.

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Secondly, this is no time, with a fragile economy, to be slapping an unreasonable Federal mandate on manufacturing. Manufacturing has been on the decline in this country now since the mid-1980s, and I think it is totally inappropriate to do that.

Thirdly, I hear from the proponents of this amendment that there are 13 or 12 readily available technologies that can be implemented without any difficulty or additional cost. My answer to that is, they will do it anyway. I have never heard of anybody promoting the sale of a vehicle because it consumes more energy. The fact is that the automobile companies want to make vehicles as efficient as they can possibly be, and they will do so and they will adopt these new efficiencies and they will do so under the rules that will be promulgated by the National Traffic Highway Safety Administration.

So I think what is going on now is reasonable, and I urge opposition of the pending amendment.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. BOEHLERT), the coauthor of the amendment with me.

Mr. BOEHLERT. Mr. Chairman, the opponents of this amendment are making up the arguments as they go along: Anything goes, no matter how outrageous or how wrong.

Safety. There is no compromise on safety necessary. That is not my opinion, that is the opinion of the National Academy of Science. We will not make cars lighter, we will make them smarter.

No job losses. That is as phony as a $3 bill. Americans are not going to stop

buying cars, they are just going to buy cars that are more fuel efficient, and the consumer wins. That is common sense.

Twenty-five years ago the CAFE opponents said, if we have CAFE standards, all America will be driving compacts or subcompacts. Ten years later, that is absolutely ludicrous. There are more SUVs on the road than ever before.

We have 15 minutes to debate the most important safety-promoting amendment for the bill. This is not a debate, it is a sound bite.

Support BOEHLERT-MARKEY.

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

The CHAIRMAN pro tempore (Mr. BONILLA). The gentleman from Louisiana does have the right to close.

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

The CHAIRMAN pro tempore. At this point, the gentleman from Massachusetts is reserving and has the right to close, and the gentleman from Michigan (Mr. DINGELL) has the right to precede him and is reserving the balance of his time.

Mr. MARKEY. So the two opponents of the amendment are each able to speak before the proponent of the amendment at the conclusion of debate?

The CHAIRMAN. The final order of speakers will be, and I correct myself here, the gentleman from Michigan (Mr. DINGELL), the gentleman from Massachusetts (Mr. MARKEY), and the gentleman from Louisiana (Mr. TAUZIN).

Mr. DINGELL. Mr. Chairman, in order that I can give my full and undivided attention to the gentleman from Massachusetts (Mr. MARKEY), for whom I have immense respect even though he is dead wrong on this one, I yield myself 2 minutes to close.

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

Mr. DINGELL. Mr. Chairman, this wonderful amendment, it just does not work. Although I love my good friends, the authors of it, they are dead wrong. It is going to cost jobs. The UAW says so. It is going to hurt the auto industry. The auto industry says so. It is going to force every American to ride around in a mini-car. It is going to fix it so that SUVs and decent-sized pickup trucks are not going to be available to people. It is going to mean that the auto industry is going to have to produce larger vehicles, such as larger than light-duty trucks, for purposes that ranchers and farmers and businessmen will have need of. And it is going to require unsafe vehicles, or at least less safe vehicles to be available to the American motoring public.

The simple answer is, it is going to require almost exclusively the production of mini-cars. The result is going to be a significant loss of safety.

The thing that we must understand about this is that the law on CAFE is now working. Automobiles and light pickup trucks and so forth are about twice as efficient as they were before we passed it. That has been an enormous advance of great benefit to the American people, and it has been something which has been of great help and done at great cost to the auto industry.

Something else that needs to be known: These cars are not manufactured on the basis of arithmetic averages. They are produced to meet CAFE standards on the basis of geometric or harmonic averages, which means that to produce one decent-sized car in which an individual or a company or a family may successfully and safely drive, the companies must produce many smaller cars.

So what are we looking at? We are looking at something which is going to adversely impact the American consumer with this amendment and also something which is going to adversely impact the auto industry.

Let me remind my colleagues that one job in seven in this country is an auto job, a supplier or a manufacturer. Look here, see where our people work and what this is going to do. There is no one in this country who is not dependent upon the automobile industry for a livelihood.

Mr. Chairman, let us have a responsible, sensible package of automobile fuel efficiency legislation. Let us not grasp at straws, and let us not push forward with legislation which, very frankly, although it sounds good, is wondrously mischievous and is going to not only hurt the country, the consumer, but also the auto industry and the auto workers.

Mr. MARKEY. Mr. Chairman, I yield myself the remaining time.

In 1987, the fuel economy standard for the United States reached 27 miles per gallon. It had increased to that amount over a 10-year period because of an act of Congress. That act of Congress changed our relationship with imported oil so that it reduced dramatically our dependence upon imported oil.

Since that time, we have sequenced the human genome in medicine, revolutionizing that industry. We have deployed the Internet around the world, revolutionizing communications. We have changed our defense technology such that we could bring a country like Iraq to its knees within 3 weeks. But in fuel economy standards, we have gone backwards, back to 24 miles per gallon, increasing to 65 percent our dependence upon imported oil.

If we do not pass this amendment, we will have 70 and 75 and 80 percent dependence upon imported oil over the next generation.

This is the most important amendment we are going to consider today. I ask for an ''aye'' vote on the Boehlert-Markey amendment.

Mr. TAUZIN. Mr. Chairman, I yield myself the balance of the time.

It has been argued that the bill is silent on CAFE. Not so. The bill calls for a study to actually replace CAFE, just as NHTSA is recommending that we study CAFE from top to bottom. Do we know why? Because it has awful, perverse effects.

One time GM came up with a new SUV that was much more fuel efficient than its old model, and it suffered, it got penalized under CAFE. Why? Because more Americans wanted that vehicle, and it upset their average. That is how perverse the system sometimes works. We call for revamping that system.

Secondly, last year we improved the CAFE standards for SUVs, an amendment that the gentleman from Michigan (Mr. DINGELL) and I took through the conference committee and has now been implemented into law. I think because it has been implemented, I am having a harder time getting the gentleman from Michigan (Mr. DINGELL) to support the rest of this bill, but it is well on its way to saving fuel for the American economy.

But the bill goes further. It provides $1.7 billion for the hydrogen fuel car, for the FreedomCar initiative, for new hybrids and alternative fuels, and it provides for the implementation of the President's hydrogen car infrastructure, a dramatic improvement in fuel efficiency when the hydrogen fuel car hits the market.

The amendment gives us lighter cars and smaller cars and more traffic deaths. The bill takes us on the path to new fuels, new efficiencies, new technologies. Stick with the bill. Let us defeat this amendment.

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Boehlert-Markey amendment.

If the U.S. auto industry believes it would suffer under increased fuel economy standards, what will be the effect on the U.S. auto industry when Americans import fuel efficient autos from foreign companies?

Because—with the rising cost of gas, the detrimental effect on our environment, and the strong desire of American consumers to be independent of foreign oil—we will be purchasing fuel efficient autos.

Mr. Chairman, we shouldn't fool ourselves. Americans will purchase fuel efficient cars . . . and we should set policy today so those cars will be American-made.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Boehlert-Markey Amendment to reduce our consumption of oil by increasing fuel economy standards for passenger cars and light trucks.

The United States cannot continue on a course of increased oil consumption with little to no regard for the implications it has on our environment, economy and national security.

There is no better time to focus on reducing our reliance on foreign oil than right now.

Increased fuel efficiency standards and tax incentives for conservation and renewable energy sources should be at the heart of our national energy policy in a post-September 11 world.

This amendment requires the Department of Transportation to issue rules to ensure the total amount of oil that cars and SUVs consume in 2010 will be 5 percent less than the

total amount they would otherwise consume if the average fuel economy standards were to remain at 2004 levels.

These savings could be achieved by increasing fuel economy standards to 30 miles per gallon.

Under this amendment, the Administrator of the National Highway Transportation Safety Administration will have maximum flexibility in how the standards are set.

The standard could be increased for cars or SUVs or only the heaviest trucks.

This is a common sense amendment which represents a modest step forward in our nation's efforts to become more energy efficient.

The Boehlert/Markey Amendment will help protect the environment, reduce our dependence on foreign oil and save drivers money at the pump.

Mr. Chairman, I agree with those who say ''we cannot conserve our way out of this energy problem.''

However, until we raise CAFE standards, we cannot honestly tell the American people this is a balanced energy plan.

It is absolutely imperative we are more efficient and make better use of God's precious resources.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this very sensible amendment and I commend my colleagues Mr. BOEHLERT and Mr. MARKEY for their persistence in pushing this issue forward year after year.

It shouldn't have to take years for Congress to act on improving fuel economy. With the average fuel economy of all new passenger vehicles at its lowest point since 1980 and with fuel consumption at its highest, there shouldn't be disagreement about the wisdom of improving CAFE standards.

Yet there is disagreement, and clearly we can't count on the Administration to make the right choice. The President's recent CAFE proposal for light trucks is actually less ambitious than voluntary measures announced earlier by General Motors and Ford.

And as much as I believe in the Administration's vision of a hydrogen future, I don't believe we should forgo making smart short-term choices. A recent study tells us that significantly increasing fuel economy standards now could save 25 times more oil than would be saved by waiting for fuel cell vehicles to become commercially available.

So Mr. Chairman, I believe we must abandon energy inefficiency and instead work to reduce U.S. dependence on foreign oil, cut back on air and carbon dioxide pollution, and save consumers money at the gas pump. The American people can benefit from improved CAFE standards.

Mr. WAXMAN. Mr. Chairman, I rise in support of the Boehlert-Markey amendment.

I strongly believe that we need to increase CAFE standards and that our country needs to be heading towards more fuel efficient vehicles. I will support this amendment and I urge all members to support it as well.

However, since it is clear that this amendment lacks the votes in the House to pass, I am particularly disappointed that the Republican leadership did not permit me to offer an amendment I had offered at Subcommittee and Committee that would address our oil dependence in another way.

My amendment would have allowed us to keep faith with our American troops by beginning to address our nation's dependence on foreign oil.

My amendment would have directed the President to implement a plan to reduce U.S. demand for oil by 600,000 barrels per day. This is the average amount of oil we have imported every day from Iraq over the past five years. The President can rely on voluntary measures, regulations, or other means. The amendment does not provide any new authority for funding, but the President can come back to Congress to request that if he needs it. And the President need not meet the full target if he finds and certifies that there are no practical opportunities to further reduce the waste of oil.

In no way would my amendment have undone or precluded the many measures in this bill designed to boost domestic oil production. These measures include two separate federal grant programs for onshore and offshore production, as well as exemptions for oil and gas activities from the Safe Drinking Water Act and the Clean Water Act. And although I oppose it, the bill includes oil drilling in the Arctic National Wildlife Refuge, as well as numerous other provisions to encourage production on public lands.

Also, nothing in my amendment would have mandated or provided new authority for any increase in vehicle fuel economy standards.

Instead, my amendment would have attempted to eliminate the waste of oil in this country.

I'm not going to belabor statistics today. But there are three points I want to mention.

First, the United States holds 3 percent of the world's oil reserves, but we consume 25 percent of annual worldwide oil production.

Second, over the past five years, we have imported on average 600,000 barrels of oil per day from Saddam Hussein and Iraq.

This means that third, we have sent over $5 billion per year to Saddam Hussein and Iraq. At least part of this money was used to purchase the weapons that are now firing at our troops.

I sought to offer my amendment because this legislative exercise is almost surreal. We are at war with Iraq, and millions of Americans believe that this war is about oil. We have a bill before us that reinforces this belief. In almost 400 pages, there is nothing that focuses on the easiest and most common-sense step we can take—eliminating the waste of oil in this country.

Now, let me be clear about what I would call for. By eliminating the waste of 600,000 barrels of oil per day, we're talking about a 2.5 percent reduction from projected demand. Let's think about how easy that would be to achieve.

For one thing, we could keep the tires on our vehicles properly inflated. This could save up to 200,000 barrels per day—one-third of the target. Upgrading air traffic management systems could save another 50,000 barrels a day, while reducing flight delays. Weatherizing homes heated with oil could save over 80,000 barrels/day. And perhaps each one of us could think about whether we really need to make that extra trip to the store. These are just a few of the many, many things we could do to reduce waste.

When Californians faced the energy crisis, the Governor called on them to reduce demand for electricity by 10 percent. They did it and averted further blackouts. I believe that if the President called on Americans to support our troops by using oil wisely, Americans would response enthusiastically.

So I want to ask my colleagues, is this modest savings really beyond our ability to achieve? Are we really so beholden to the oil industry that we are actually in favor of wasting oil?

My amendment would have asked us to make the smallest of sacrifices. And this is at a time when we are asking 250,000 of our servicemen and women to give, potentially, the very greatest sacrifice of all. When I offered this amendment at subcommittee markup, no Americans had died in Iraq. Now, sadly, over 100 Americans have sacrificed their lives in this war.

I know that every person in this room wants to do his or her part to keep faith with our brave troops. Our part, and our obligation, is to make sure that no American has to risk his or her life fighting needlessly for foreign oil.

Unfortunately, we will not even have the opportunity to debate and vote on my amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in support of the Markey-Boehlert amendment, which saves oil by increasing fuel economy standards for autos and light trucks. This amendment requires the Department of Transportation to promulgate rules to ensure that the total amount of oil cars and light trucks will consume in the year 2010 will be 5 percent less than the total amount they would otherwise consume if the average fuel economy standards were to remain at 2004 levels. Raising the standard will ensure that such technology will lead to an improvement in the overall fleet rather than simply offsetting other less fuel efficient vehicles. Increasing the standard will reduce the amount of oil the nation must now import.

According to the National Resources Defense Council (NRDC), by simply increasing average fuel efficiency on cars, SUVs, and light trucks from 24 to 39 miles per gallon over the next decade, we would save 51 billion barrels of oil—more than 15 times the likely yield from the Arctic. Plus you get oil savings as you ramp up to the full 40 mpg. Instead of investing in renewable energy sources and raising CAFE standards, the Bush Administration continues to increase our dependency on oil and ruin our environment. The environmental policies of the administration are detrimental to our environment, present and future, and they must be reversed.

The National Academy of Sciences said in its 2001 Effectiveness and Impact of Corporate Average Fuel Economy Standards report that ''General economic conditions, and especially the globalization of the automobile industry, seem to have been far more important than fuel economy regulations in determining the profitability and employment shares of the domestic automakers and their competitors.'' They also stated that ''it is technically feasible and potentially economical to improve fuel economy without reducing vehicle weight or size and, therefore, without significantly affecting the safety of motor vehicle travel.''

The technology is there and it is about time we utilize it. Our children are looking to us to leave them with a safe and healthy environment and we need to start taking actions to meet this goal. I urge my colleagues to support the Markey-Boehlert amendment.

The CHAIRMAN pro tempore. All time for debate on the amendment offered by the gentleman from New York (Mr. BOEHLERT) has expired.

The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. BOEHLERT) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House report 108–69.

AMENDMENT NO. 2 OFFERED BY MR. DINGELL

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DINGELL:

Strike title VI of Division A and insert the following:

TITLE VI—ELECTRIC ENERGY

SEC. 601. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of section 101 of this Act in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 602. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC. UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

''(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

''(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

''(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

''(d) EXEMPTION UNDER 204(f) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.''.

SEC. 603. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

''(2) Section 201(f) shall not limit the application of this subsection.''.

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 604. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term ''electric power or natural gas information processor'' means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks

transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase ''purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas'' includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 605. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking ''$5,000'' in subsection (a) and inserting ''$5,000,000 for an individual and $25,000,000 for any other defendant''

(2) By striking ''$500'' in subsection (b) and inserting ''$1,000,000''.

(2) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended as follows:

(1) By striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) By striking ''$10,000 for each day that such violation continues'' and inserting ''the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation''.

(3) By adding the following at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate

commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

''(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

SEC. 606. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 607. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Financial Accounting Standards Board shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 608. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

''(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.''.

SEC. 609. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: ''In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.''.

(2) By striking the second and third sentences.

(3) By striking out ''the refund effective date or by'' and '', whichever is earlier,'' in the fifth sentence.

(4) In the seventh sentence by striking ''through a date fifteen months after such refund effective date'' and insert ''and prior to the conclusion of the proceeding'' and by striking the proviso.

SEC. 610. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: ''This section shall not apply to sections 301 and 304 of this Act.''.

SEC. 611. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

''(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

''(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

''(3) any violation of section 101 of the Energy Markets Fraud Prevention and Consumer Protection Act of 2002,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Michigan (Mr. DINGELL) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my substitute amendment replaces the electricity provisions of H.R. 6. My amendment is supported by all of labor, by all of consumer groups, by the public power industry, and by a host of other consumer and business organizations.

This is the first time that the House of Representatives has considered changes to the Nation's energy laws since the Energy Policy Act of 1992. Given the volatility and market manipulation that occurred in California

and other West Coast markets during 2000 to 2001, and the real need for reform, I wish I could muster kinder words for this portion of the bill which the amendment changes.

Unfortunately, title VI underscores the continuing lack of consensus about the direction of the Nation's electric markets. In the rush to produce an electricity title, a strange, hybrid, amphibian monster has come forth. It has produced something which has neither competition nor market reform and, indeed, there is not mention of the word ''competition'' anywhere in the bill. Instead, title VI combines elements of industry deregulation with provisions favoring special interests. Sadly, neither of these has much to do with protecting consumers or investors in this critical industry.

Among its deficiencies, title VI repeals the Public Utility Holding Company Act of 1935. It ties Federal regulators' hands in reviewing unjust and unreasonable electricity contracts. It codifies into permanent law a patchwork of different transmission regimes, placing some lines under Federal jurisdiction and others under State jurisdiction. While the utility may tell us that this last provision takes care of things, do not believe it, because it is going to make a fine controversy, which will continue to plague us.

Just as important, the bill lacks fundamental reforms needed to prevent recurrence of the abuses which the Federal Energy Regulatory Commission uncovered at its recent western markets investigation, and proposes only limited and superficial market reforms.

It is both because of what the title does and what it does not do that I am offering this substitute amendment. My amendment takes a different tack, setting aside deregulation proposals like PUHCA repeal; and instead, provides for a number of common-sense reforms. By curbing fraud and manipulation, which is not done under the committee bill, my amendment will protect consumers and reassure Wall Street and small investors that the industry is again stable.

This amendment gives FERC broad authority to take action against fraud in both electricity and natural gas markets. The Commission's report recently found that some of the abuses in western markets during 2000 and 2001 were not even illegal. This bill would correct that.

The amendment also gives FERC the necessary tools in the form of audit trail authority and robust transparency requirements to detect and deter manipulation.

One disturbing aspect of the Enron scandal was the timing of the Securities and Exchange Commission's decision this year to revoke Enron's ''exempt'' status under PUHCA, under which they have committed all manner of outrage on consumers and investors alike.

My amendment would also reform FERC's market-based energy rate policy and permit refunds for electricity overcharges from the date it began, not just from the date upon which they were filed with the FERC.

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Finally, the substitute amendment increases civil and criminal penalties to the level of the Sarbanes-Oxley legislation enacted in the 107th Congress.

If my colleagues wish to vote for reform, this is the proposal. It is not one which is sought by the special interests; but it is one which is sought by consumers, investors, and others.

I urge my colleagues to vote for protection of consumers and investors and against future Enrons. In short, vote for the Dingell substitute amendment.

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

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

Mr. Chairman, let me first applaud the intent of my friend, the gentleman from Michigan (Mr. DINGELL), in terms of trying to benefit consumers and prevent market manipulation. But if that is the intent, then I am afraid his amendment goes exactly the wrong direction. Here is why:

The issue is not whether FERC currently has the authority to deal with fraud, manipulation, and deception, or whether FERC is even using that authority. Clearly, the FERC has the authority and is using it now aggressively to crack down on market abuses.

The Federal Power Act requires FERC to ensure that all rates, terms, and conditions for wholesale power sales and for transmission services are in fact ''just and reasonable and not unduly discriminatory.'' This empowers the FERC to prohibit fraud, manipulation, deception, other anticompetitive conduct that distorts the market or harms consumers.

I have heard a number of my Democratic colleagues cite the manipulative practices FERC has identified in the Western markets. I am aware of that; but that is only half the story. What has been overlooked is the fact that FERC has identified these things in the context of taking strong enforcement actions against them. FERC has found, for example, many of the practices to be unjust and unreasonable and is taking action.

A recent commission staff report identifies the following, among others. Let me list them: fraud, manipulation, deception, attempted manipulation, gaming, wash trades, withholding, price distortion, inflated pricing and bidding, violation of tariff antigaming provisions, market abuse, unjust enrichment, misreporting prices, providing false or misleading information, taking unfair advantage of market rules, and anomalous market behavior.

Not one of these anticompetitive practices is just and reasonable or beyond the FERC's authority to act right now. That is why FERC is taking action right now against them.

The issue is not whether H.R. 6 does enough to update the FERC's existing authorities. It does. The electricity title of H.R. 6 enhances and modernizes FERC's penalty and enforcement powers in specific ways that FERC itself has requested.

FERC Chairman Pat Wood has testified that he needs market transparency authority and increased civil and criminal penalties for violation of the Federal Power Act's own rules and regulations.

The bill does both of these things and more: it adds transparency for both electricity and gas, and it dramatically increases the criminal and civil penalties. It makes needed adjustments in FERC's refund and investigative authorities.

But H.R. 6 does not stop with penalties and enforcement; the Dingell amendment does. The Dingell substitute strikes the entire electricity title.

So we should ask ourselves, what does the Dingell substitute do to promote investment in critical infrastructure or to increase our electric supply? The answer is zero.

What does it do to protect system reliability, which is essential for all customers? The answer again is zero. Or to promote new technologies for greater efficiency? Zero. Or to protect consumer privacy and prevent slamming and cramming of retail customers? Zero.

That is the electricity title the Dingell amendment would strip. That is the problem: it does nothing but impose a cumbersome new regulatory framework on top of FERC's already existing broad authorities under the Federal Power Act.

It is not clear how this new SEC-style framework would work in conjunction with the ''just and reasonable'' standard of the current law, nor is it clear how broadly this new framework would apply. It applies in the Dingell amendment to every entity.

Let me tell Members what I think that means. I think it means that it applies equally to every rural co-op, every municipal utility, and every Federal utility. So those concerned about rural co-ops, Federals, and munis, they ought to know this. When the Dingell amendment talks about any entity, it covers all of these entities.

Our bill, on the other hand, covers these entities in very limited, carefully defined ways, in open access, in refund authority. We exempt the smaller co-ops and munis under 4 million megawatts.

I find it very troubling, on the other hand, the Dingell substitute would inject FERC regulatory authority completely over these, possibly as FERC would interpret it, over all the co-ops and munis.

The electricity title of H.R. 6 goes to the heart of the matter. Without adequate investment in transmission and a diverse, reliable supply of electricity, the result would be a chronic failure of the Nation's electricity market and higher prices for consumers. Regulatory overkill is not the answer.

Enforcement, yes, is very important. Our electricity title addresses that. But the key to protecting consumers is to improve the operation of the competitive wholesale electricity markets and eliminate the transmission congestion and other factors that have allowed the manipulation to occur in the first place.

According to a 2002 Department of Energy study, competition in wholesale electricity markets reduces consumers' electricity bills by nearly $13 billion annually. It is time now not to turn our backs on the wholesale competition; we have to look ahead.

Mr. Chairman, I hope we defeat this Dingell amendment which would strip out the incredibly good electricity title of this bill and simply add SEC overregulatory burdens on a FERC that is absolutely empowered and can do its job today.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the majority is proposing the biggest change to our Nation's electricity laws since the 1930s. Unfortunately, they do this while ignoring the corporate abuses that we have seen over the last few years.

Let me tell the Members, those of us from California have seen these abuses in a major way. By some accounts, California has lost $40 billion due to energy company manipulation and FERC inaction, and the State will never likely be made whole.

Deregulating the energy companies further when they have acted so irresponsibly in the past makes little sense to those of us in the West, and it is something the rest of the country ought not to invite upon their ratepayers. A national energy bill should ensure that what happened in California never happens again. This bill makes it more likely.

The energy companies argue that what happened in California and other States was simply an insufficient supply combined with a bad State law. Well, it was a bad State law, but they are not telling us the whole picture. We now have proof that companies intentionally mapped the electricity markets to increase prices.

The remedy for corporate fraud is vigorous government supervision. Lax regulation, which this bill would provide, can lead to rampant price-gouging, as California experienced during its crisis. But this bill moves towards deregulating the energy industry and does so without adding needed protections.

The substitute offered by my colleague and friend, the gentleman from Michigan (Mr. DINGELL), contains what is necessary to address the corporate abuses that have so harmed the Nation. This substitute will make it unlawful to engage in the types of fraudulent, manipulative, or deceptive acts that have hurt Western families. Then it gets tough on crime by upping the criminal and civil penalties and providing treble damages.

Unlike the bill before us, these penalties will actually make it uneconomic for energy companies to manipulate the market in order to gouge consumers. The substitute will also require the Federal Energy Regulatory Commission to carefully review market-based rates annually to ensure that they are just and reasonable.

The gentleman from Louisiana (Mr. TAUZIN) said if Members are worried about all these other parts of the energy industry being regulated, they ought to oppose the Dingell amendment. What he does not point out is that only if they are committing fraud will they be covered under the Dingell amendment. We should support that.

Mr. Chairman, we should make it unprofitable to engage in the kind of fraud and manipulation of the markets that we have seen in California. Without the Dingell substitute, the bill before us invites more price-gouging, more deceptive practices, more fraud.

I urge support for the Dingell amendment.

Mr. TAUZIN. Mr. Chairman, I am honored to yield 3 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, first I think we should point out that the Committee on Rules made in order the Dingell amendment as a substitute, as a substitute for the electricity title. We should commend our chairman on the Committee on Rules for doing that.

Having said that, this is not a substitute; this is an expansion of Federal authority over natural gas and electricity generators and transmitters anywhere in this country, regardless of their size, if it is deemed that they have directly or indirectly used any means that would employ any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate, any entity.

Now, the electricity title in the bill has bent over backwards to develop a compromise that protects States, protects small co-ops, protects small municipalities against FERC jurisdiction. The Dingell substitute right off the bat says "any entity."

It then goes further. Not only the FERC, but Federal courts, can prevent these entities from distributing or transmitting or generating electricity or natural gas.

Then it goes even further and says a foreign court, a foreign court, on page 11, I believe of the Dingell substitute, a foreign court: "such entity has been convicted of any felony or misdemeanor," misdemeanor, "or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds."

I do not understand that. But if we read that literally, a U.S. energy supplier that tried to sell electricity in Iraq and was convicted in a Saddam Hussein court could be prohibited in the United States of America from transmitting or generating electricity or natural gas.

The Dingell substitute is silent on reliability. The Dingell substitute is silent on siting. The Dingell substitute is silent on the ability to create new grids around this country. It says nothing about RTO, Regional Transmission Organization policy.

It is not a substitute; it is an attempt to be punitive towards any entity in this country that is engaged in the generation and transmission of electricity or natural gas. It may be well intentioned, but it is totally misguided. I hope we will reject it out of hand.

Mr. BOUCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I have in my hand a letter from the National Rural Electric Cooperative Association. It will be useful information for my friends, the chairman of the subcommittee and the chairman of the committee.

It says,

> Dear Representative DINGELL:
>
> Electric cooperatives do not endorse the electricity title of H.R. 6. We have serious problems with the repeal of Public Utilities Holding Company Act (PUHCA), and with incentive rates and participant funded transmission.
>
> H.R. 6 expands Federal Energy Regulatory Commission jurisdiction over electric cooperatives' transmission through the so-called "FERC Lite" provision. The Dingell amendment is more narrowly crafted and related to fraudulent, manipulative or deceptive practices.

For the information of my good friends on the other side of the aisle, the public power folks support our amendment, not the committee bill.

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

I notice that the letter does not say they support the Dingell amendment; it just says it is narrowly crafted.

That is correct; It is narrowly crafted. It strips out the improvements and reforms in electricity.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, it is in our national interest to expand the grid.

If Members want to end market manipulation, oppose the Dingell amendment and expand the grid. If they want to protect critical infrastructure, expand the grid and oppose this amendment. If Members want to lower prices for consumers, oppose this amendment and help us expand the grid. If Members want to create jobs in America today, they have to oppose the Dingell

amendment because we have to expand the grid.

Expanding the grid is in the critical national interests of our Nation. I cannot believe that we would have an amendment, when we have energy security issues, and we would not work to expand the transmission grid in this country.

Mr. BOUCHER. Mr. Chairman, I yield myself 1 minute and 30 seconds.

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

Mr. BOUCHER. Mr. Chairman, I urge the adoption of the amendment of the gentleman from Michigan (Mr. DINGELL), which makes the changes that truly need to be made in the laws governing the electricity markets.

I commend the gentleman from Michigan (Mr. DINGELL) for his approach. His amendment is directed to the heart of today's problem, which is market manipulation and fraudulent conduct.

The amendment assures appropriate recordkeeping in electronic form of wholesale market transactions. It increases penalties for misconduct. It substantially improves the ability of the Federal Energy Regulatory Commission to monitor the gas and electricity markets and to act against those who engage in fraudulent and manipulative conduct.

Around these principles, broad agreement can be achieved. I urge the adoption of these provisions now. The other electricity provisions, which are contained in the committee's comprehensive bill, can and should be considered separately and at a later time.

□ 1715

The consensus to approve these broader measures has simply not been reached. And so, for today, I urge adoption of the Dingell amendment and deferring to a later time the other fundamental and controversial electricity market measures that are contained in the committee bill.

Mr. TAUZIN. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Nebraska (Mr. TERRY), a member of our committee.

Mr. TERRY. Mr. Chairman, I appreciate the gentleman yielding me time.

When I heard our ranking member, the gentleman from Michigan (Mr. DINGELL) talk about our rural co-ops, first of all, I heard from him a great deal when we passed this 2 years ago; but I have not heard from him, so it came as a surprise to me. But also I have in my hand a letter from the North American Electric Reliability Council, or NERC. Let me read a portion of that letter.

They, NERC, stand in strong opposition to the Dingell amendment which would strike several provisions. Because of several reasons that they state in this letter, they urge support for the electricity title of H.R. 6 and oppose the Dingell amendment.

Mr. Chairman, this is an important provision to support the bill, H.R. 6, as it stands; and I just want to give a quick story about a company that used to be located in Omaha called Enron.

Enron was originally an Omaha company, and they defied and lied to everybody and then left town. But it is amazing when they defrauded their shareholders and consumers, what happened when that company was dissolved, a company called MidAmerica Energy was able to buy back the northern natural gas component of that. They were able to because PUHCA was not involved in the natural gas part of it, and they could buy it and bring those jobs back to Omaha. The same company, that would like to build power plants around, cannot because of PUHCA.

If we want to resolve this Nation's energy crisis, Mr. Chairman, we need to adopt the provisions in H.R. 6 and vote against the Dingell amendment.

Mr. Chairman, the letter from the North American Electric Reliability Council is as follows:

NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL,
Princeton, NJ, April 10, 2003.

Hon. W.J. TAUZIN,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN TAUZIN: On behalf of the North American Electric Reliability Council (NERC), I would like to express NERC's strong support for the reliability provisions in the electricity title of H.R. 6, and our strong opposition to the Dingell amendment, which would strike these provisions.

As you well know, the bulk power system is increasingly stressed. Today, there are no mandatory reliability rules enforceable against all users and operators of the bulk power grid. The reliability provisions in the electricity title of H.R. 6 would correct this situation. It is critical that this legislation be enacted as soon as possible to help ensure the reliability and security of the North American bulk power system. For this reason, we urge support for the electricity title of H.R. 6 and oppose the Dingell amendment to strike the reliability language from H.R. 6.

Sincerely,

MICHEHL R. GENT,
President and CEO.

Mr. BOUCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, in our committee, we had a huge, successful string of hearings dealing with the Enron crisis and the aftermath of that set of scandals which rippled through the entire electricity and natural gas marketplace.

The Federal Energy Regulatory Commission, responding to our inquiries with regard to what they needed in order to deal with that crisis, said that there are seven deadly sins in this marketplace. Enron called them things like, Ricochet, Fat Boy, Death Star, Wheel Out, Get Shorty. The Federal Energy Regulatory Commission called them the seven deadly sins of Enron. And the seventh one, Round Tripping.

This legislation only bans one of the seven deadly sins of Enron, Round Tripping. That would be like saying, well, we are outlawing sloth, but we are not going to do anything about pride, envy, gluttony, greed, lust, we will let them all stay on the books.

So what the Dingell language does is say that we give antifraud authority to the Federal Energy Regulatory Commission so they can go against each and every one of the seven deadly sins of Enron and all of those other companies that were engaging in systematic defrauding of American consumers and competitors of those companies across our country.

And, in addition, the Dingell language dramatically increases the penalties that the Federal Energy Regulatory Commission can impose upon these companies so that when they get caught, the punishment fits the crime.

The Dingell language mandates that electronic trails of all these documentations have to be kept. They cannot just put it on a piece of paper, written in pencil. That makes it almost impossible to reconstruct the trail of what they were doing in their efforts to defraud the American consumer and the other companies across the country, an electronic trail like we have at the Securities and Exchange Commission, or at the CFTC, at other trading entities for equity and futures and options all around the world, everywhere but in the electricity and natural gas on-line trading marketplace. There we are still using pencil and paper like it was the 1980s, ancient history in trading in the world, and we want to bring it forward.

The Dingell amendment does that, so that when they commit the crime, we will be able to identify it, the FERC will be able to trail it, stop it, and then the punishment under the Dingell amendment will fit what they did to the American consumer and public. I urge an ''aye'' vote.

Mr. Chairman, I rise in support of the Dingell substitute and ask unanimous consent to revise and extend my remarks.

If you are concerned at all about the threat of fraud and manipulation in electricity markets, you should vote for the Dingell Democratic substitute.

The Dingell substitute would add a basic antifraud provision to the Federal Power Act, giving the FERC the tools needed to bring enforcement actions using this antifraud authority, and impose tough civil and criminal penalties on those who violate the antifraud or other pvosions of the Federal Power Act.

The first part of the amendment is a basic antifraud provision that uses language identical to that of the antifraud provisions of the Federal securities laws, which have been in place for the last 65 years. It creates a general antifraud prohibition intended to be broad in application, making it unlawful for any entity, directly or indirectly, by use of any means or instrumentality of interstate commerce, to use or employ any fraudulent, manipulative, or deceptive device or contrivance in connection with the purchase or sale of electricity or natural gas in contravention of such rules and regulations as the FERC shall prescribe.

In the Energy and Commerce Committee, we've heard testimony from the FERC about

what Chairman Pat Wood referred to as the ''Seven Deadly Sins'' of Enron's market manipulations—trading practices known as ''Price Manipulation-Load Shift,'' ''Export of California Power Richochet'' or ''Megawatt Laundering,'' ''Fat Boy or Incing Load'', ''Non-Firm Exports, ''Death Star,'' Wheel Out,'' ''Get Shorty,'' and ''Selling Non-Firm Energy as Firm Energy.''

But the bill before us today prohibits only one of the Seven Deadly sins—Roundtripping.

That's like saying that we're outlawing sloth, but we're not going to do anything about pride, envy, gluttony, anger, greed, or lust!

The Dingell substitute would fix that. We shouldn't just be outlawing one of Enron's Seven Deadly Sins, we should be addressing them all.

FERC should not always have to fall back on its ''Just and Reasonable'' rate authority when it is confronted with fraudulent activities, and there should be a higher penalty available to FERC when a fraud or manipulation has occurred than merely ordering a refund of excessive charges. That is why this amendment is needed.

In addition, the substitute amendment gives the FERC the power to direct the establishment of electronic audit trails which are a fundamental feature of securities and commodities markets. By requiring market participants to make and keep time-stamped trading records in electronic form and to periodically provide them to the regulator, audit trails give FERC the ability to conduct market surveillance and to investigate suspicious and possibly fraudulent or manipulative trading activities. Such audit trails have been in place for many years in our stock and bond markets, and in our nation's futures markets.

The amendment also strengthens the civil and criminal penalties for violations of the Federal Power Act. The current penalties are absurdly low—$5,000—which is chump change for one of these huge companies. The bill increases these penalties to up to $1 million. That's an improvement, but it is not good enough. What we've done in the substitute is to increase the criminal penalties up to the levels the House Republicans pressed for when they added the Sensenbrenner amendment to the recently enacted Sarbanes-Oxley bill—up to $5 million for individuals and $25 million for companies. In addition, the penalties section also enhances the ability of the court to censure or place limitations on the activities of individuals found to have engaged in serious violations enumerated in the provision. This is drawn directly from section 15 of the Securities Exchange Act, and has been an important enforcement tool for the SEC for many, many years.

If we have learned anything over the course of the 3 years following the Enron scandal, and the subsequent revelations of widespread fraud and market manipulation in the Western electricity markets, it is that the perfect markets assumed by free market ideologues differ from the real markets observed by consumers.

In fact, the FERC staff has now issued two huge reports on their investigations into the Western electricity markets. What they found was a market that was rigged, transparency systems that could be gamed, and electricity and gas prices that were unjust and unreasonable.

But, the FERC staff report also shows the problem that FERC has from a regulatory and enforcement perspective is that the limitations of current law force it to go after fraudulent companies or rigged electricity markets by prosecuting for filing violations, or commencing rate-making proceedings, when the real heart of the issue is fraud. The House Majority proposal responds to these findings only half-heartedly with a proposal so narrowly circumscribed as to miss most of the Enron-style shenanigans.

Chairman Wood expressed support for the antifraud provisions of the Dingell substitute when I offered them as an amendment and he and his staff have suggested changes to these sections that have been incorporated into the amendment the gentleman from Michigan is offering today. So if you are against fraud in our nation's market, if you want FERC to be able to take action against those who would manipulate these markets at the expense of consumers, you need to vote for the Dingell amendment today.

I urge adoption of the amendment.

Mr. TAUZIN. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from Louisiana (Mr. TAUZIN) has 4½ minutes remaining. The gentleman from Virginia (Mr. BOUCHER) has 4 minutes remaining.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Mississippi (Mr. PICKERING), a member of the Committee on Energy and Commerce.

Mr. PICKERING. Mr. Chairman, I rise in opposition to the Dingell substitute.

First, H.R. 6 appropriately targets and creates, effectively, authority and punishment for those who engage in fraud and manipulation. We have already seen the FERC act aggressively to enforce any type of misconduct by those companies such as Enron in market manipulation and fraud. Just as we responded to other corporate scandals, we have in this act and in the FERC appropriated authority and action to punish wrong-doers. But what we do not want to do is to needlessly expand FERC authority to rural co-ops and communities, to give courts sweeping authority that is unnecessary, unwarranted and unwise and the way that we can target wrongdoing effectively, while not creating new bureaucracy and new sweeping court authority.

For that reason, for the rural co-ops and for the others that do not need to be necessarily targeted by the FERC jurisdiction, I oppose the Dingell substitution.

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I rise in proud support of the Dingell substitute, and I am especially supportive of the provision in the substitute that would prohibit fraudulent, manipulative, and deceptive acts in electric and natural gas markets.

These provisions will help prevent electricity problems like those that occurred in the great State of California, where it is clear that energy companies used fraudulent and deceptive plans to inflate the market. And although our energy costs in the State of California are approximately $6 billion annually, price gouging caused that amount to skyrocket to $44 billion in 2000 and 2001. How absurd.

Let me state that people in California are paying the price. Many of our small businesses in the districts that we represent have gone bankrupt. In fact, our consumers were faced with electricity costs that rose up 300 percent in 4 short years. Today, consumers are still waiting for refunds and rebates and payments that they made as a result of the price gouging.

I would ask Members to please support this substitute amendment. It does the right thing for Californians, and it sets a course for the country.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, I first wanted to thank the committee chairman and the subcommittee chairman for working closely with me and the people I represent in a very rural part of Oregon to carefully craft this to take care of some very important needs of our rural electric co-ops, our munis and others.

The thing that concerns me is, if we go into conference with this title completely gone, then we have lost some of the guarantee that you and I have worked out to take care of some of the issues in the Northwest, and that is of deep concern.

The other thing is being a Westerner, I watched what happened in that market out there. And, yes, I am against fraud and I am against manipulation and all of that. I think our version of this bill brings out a pretty heavy sledgehammer. We do not need to bring out the MOAB and destroy the whole market.

I think what we can do here is, we are directing FERC carefully in what to do and giving them the guidance that they need to stop the manipulation and the round tripping in the market. And I believe what we are doing makes a lot of sense.

Mr. Chairman, I support the gentleman's version of this legislation, and I urge opposition to the Dingell amendment.

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I rise in strong support of this proconsumer substitute offered by the distinguished ranking member. This important amendment will help protect consumers from price gouging, collusion, blackouts, and anticompetitive practices in the electric energy market.

This amendment preserves PUHCA, the Public Utility Holding Company. For the past 7 decades, PUHCA has helped prevent electric energy companies from ripping off consumers by manipulating the market. This is very important because energy is not just another commodity; it is a necessity, like

food and shelter. Consumers need to be protected from unfair business practices.

This amendment enhances FERC's antifraud authority, requires FERC to ensure that consumers are not charged exorbitant rates due to market manipulation. When they are overcharged, this amendment would guarantee a chance to recover meaningful refunds.

This amendment is supported by all of the major consumer organizations. Do not turn your back on your constituents. Vote for the Dingell amendment. It is a vote for consumers, not energy executives.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from Telecom Gulch, California (Mr. ISSA), a distinguished member of our committee.

Mr. ISSA. Mr. Chairman, I have listened carefully to the statements of the supporters of this amendment and I apologize for having to say that I have never seen more profoundly misguided statements.

As a Californian, I am acutely aware of how we got into problems in California, how this bill, at least partially will get us out, and how the substitution would do nothing but leave us with the problem we are in.

There is no question, California's problems came from misguided laws that led to market manipulation, no question at all, companies took advantage of it. But also the Los Angeles Department of Water and Power took advantage of it, and at least this law as it is written will cause some control over that public power. Right now, we cannot get a penny back from the manipulation that went on with public power.

Additionally, there is no question in my mind that California will continue to have problems unless we have a functional transmission system. Today, we do not. Without the kind of reforms that this provides, we will not have it. Please vote down the substitution.

Mr. BOUCHER. Mr. Chairman, we have one additional speaker. I would like to ask the gentleman from Louisiana (Mr. TAUZIN) if he is prepared to close or if he has other speakers.

Mr. TAUZIN. Mr. Chairman, I have one additional speaker who will close, so I would ask the gentleman to use his time.

Mr. BOUCHER. Mr. Chairman, I yield the balance of our time to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Chairman, with all respect for all of my colleagues, there are certain things that are very simple and very clear here.

The bill before us does not address the problem. It repeals PUHCA. It eliminates the merger protections. It has virtually no protections in it against fraud. It raises the bar significantly for FERC to modify contracts. And it fixes it so that you cannot get speedy refunds going back to the date that the wrongdoing occurred.

Now, what does the substitute do? It gives FERC broad antifraud authority in every part. And I would note that it is supported by both the public power people and by the co-ops. It directs FERC to establish audit trails that do other things, including requiring transparency of transactions and rate-making so as to more easily detect and deter wrongdoing.

□ 1730

It requires the SEC to review existing PUHCA exemptions to prevent future Enrons from obscuring its actions, and I would note that SEC and FERC have pointed out the huge number of improprieties associated with Enron.

It increases civil and criminal penalties, and it reforms FERC's authority to permit refunds of unjust and unreasonable market-based rates back to the date that they began.

If my colleagues represent any place West of the Continental Divide in the United States, they should support the amendment because the amendment is crafted to address the problems which we found in the different reviews which took place of the misbehavior of Enron and others in the electrical utility industry. I would note that the abuses there cost consumers billions, not millions, billions of dollars, and in almost every State West of the crest line of the Rocky Mountains, including California but also including Nevada and Utah and Washington and Oregon.

If my colleagues want to stop fraud, if they want to stop wrongdoing, if they want to protect consumers, if they want to protect the American investing public, if they want an honest rate-making system, vote for the amendment.

Mr. TAUZIN. Mr. Chairman, I yield the remaining time to the gentleman from Texas (Mr. BARTON), the chairman of the Subcommittee on Energy and the author of the electricity title, which would get stripped by the Dingell amendment. He will close on this dastardly amendment by the gentleman from Michigan (Mr. DINGELL).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, the electricity title before us in the bill has 10 titles.

It has a title on transmission capacity. The Dingell substitute is silent.

It has a title on transmission operation. The Dingell substitute is silent.

It has a title on reliability. The Dingell substitute is silent.

It has a title on PUHCA. The gentleman from Michigan (Mr. DINGELL) does refer to PUHCA.

It has a title on PURPA. The Dingell substitute is silent.

It has a title on renewable energy. The Dingell substitute is silent. Renewable energy includes net metering, renewable energy production. The Dingell substitute is silent.

It has a title on market transparency, round trip trading prohibition and enforcement. The gentleman from Michigan (Mr. DINGELL) does address market transparency and enforcement.

It has a title on consumer protection. The Dingell substitute is silent.

It has a title on merger review and reform and accountability. The Dingell substitute is silent.

It has a title on economic dispatch. The Dingell substitute is silent.

Mr. Chairman, the Dingell substitute is not a substitute. It may be well intentioned where it does address, but out of 10 titles, it addresses 1½ titles of the electricity title. We should reject it and adopt the compromise bipartisan electricity title that has been worked out over the last 4 years in subcommittee and full committee, and I would hope that we would reject the Dingell substitute.

Mr. KENNEDY of Minnesota. Mr. Chairman, I rise today to express concerns about provisions in Title 6 of H.R. 6 that I believe could have adverse consequences for rural electric cooperatives. Rural coops are critical to rural America.

I am concerned that H.R. 6, as it currently stands, could subject rural cooperatives to overly burdensome Federal regulations and add additional costs. Further, I believe we must build in sufficient guarantees to prevent market power abuses.

Having said that, I believe the Dingell substitute also goes too far in extending the reach of the Federal Energy Regulatory Commission (FERC) over rural coops and does not go far enough in addressing important issues like reliability and privacy protection that face our consumers today. For that reason, I will oppose the Dingell substitute.

Fortunately, this is the beginning rather than the end of the process. I strongly encourage Chairman BARTON and Chairman TAUZIN to change H.R. 6 in conference so electricity is made more affordable and reliable without harming the rural cooperatives that are the backbone of America's electric delivery system.

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

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). All time on the amendment offered by the gentleman from Michigan (Mr. DINGELL) has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

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

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

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

It is now in order to consider amendment No. 3 printed in House Report 108–69.

AMENDMENT NO. 3 OFFERED BY MRS. WILSON OF NEW MEXICO

Mrs. WILSON of New Mexico. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mrs. WILSON of New Mexico:

In division C, in section 30407(a), strike ''and'' after the semicolon at the end of paragraph (1), strike the period at the end of paragraph (2) and insert ''; and'', and add at the end the following:

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentlewoman from New Mexico (Mrs. WILSON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

The amendment that we are considering places limits on oil exploration in the Alaska National Wildlife Refuge. I believe that it is possible to have a balanced, long-term energy plan for this country that includes both exploration for the energy we need and protection of the land that we love.

Mr. Chairman, in the course of the debate on these issues on what we should do with respect to Alaska, we kind of made a promise. The people who want to explore for oil in Alaska have said that they think it is possible to do this with no more than 2,000 acres of total surface disturbance. What this amendment does is take them at their word because all of us know that sometimes here in Washington people say things and then later on those promises are not kept. So we are going to write the promise into the law.

This amendment was approved in the comprehensive energy bill that was passed by this House in the last Congress, and it was approved in the amendment in exactly the same form as we are hearing it still today.

What is 2,000 acres? What are we really talking about here? Two thousand acres is about three square miles. It is a tiny part of the coastal plain of ANWR. To make this kind of real, I kind of think of it this way: if all of Alaska were a 2-hour movie, then ANWR, this section here, would be about 6 minutes and 24 seconds. The coastal plain area would be about 30 seconds and 2,000 acres would be the blink of an eye.

In order to explore for oil and reduce our dependence on foreign oil, I think it is possible to have this balance that allows surface disturbance in the blink of an eye. This bill requires that we use the best available technology. It favors things like ice roads rather than gravel roads, and by 2,000 total acres of surface disturbance, that includes everything: roads, pylons, pipelines, support structures, airfields, whatever it is. It is limited to no more than 2,000 acres.

I live in the most beautiful State in the Nation, and I know some people in this room would disagree with that, but the Land of Enchantment is the third largest supplier of natural gas to this country and number six in oil production. We have some of the Nation's largest coal and uranium reserves. It is possible to explore for energy and to protect the land that we love. This amendment writes that into law.

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

The CHAIRMAN pro tempore. Does the gentleman from Massachusetts (Mr. MARKEY) claim the time in opposition?

Mr. MARKEY. Mr. Chairman, yes, I would like to claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman is recognized for 10 minutes.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from the State of Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in strong opposition to the amendment.

We are talking here about a very small area, the coastal plain area; and as we can see, there is a lot of area, a huge area already available for leasing for oil and gas drilling. Most of that has not been explored.

I oppose the amendment because I believe this coastal plain ought to be preserved and protected against oil and gas drilling. The Reagan administration called that little coastal plain the biological heart of the refuge. Indeed, the best ecosystem at this temperature in this whole hemisphere exists on coastal plain. It is a remarkable area. But look what 2,000 acres of drilling does because that is what this amendment does; it restricts drilling to 2,000 acres.

Two thousand acres would allow eight Alpine-type fields, 19 satellite fields, 26 satellite fields of another type, two docks, so on and so forth. My colleagues, you can see how once we site those various fields and the roads and waterways and pipelines that have to connect them and the support system for all the people, we do make a huge impact on the coastal plain, and it will no longer be the pristine coastal plain it is today. That kind of impact will change the environment quite dramatically.

Second point, this is not an area rich in water. In fact, the U.S. Fish and Wildlife study describes this whole ANWR as a technically dry area, with less than 5 inches of precipitation each year. In addition, the coastal plain has few lakes. They are shallow and unevenly distributed.

One has to get water to build ice roads, and because the lakes are unevenly distributed and shallow, drilling pads would have to be sited all across the region due to the distribution of the water resources. Because the lakes are shallow, if the necessary amount of liquid is taken out from under the ice cap during the winter, and with five inches of precipitation annually, the lakes will not be able to refill to a health level.

So one of the reasons drilling will be so environmentally devastating to this coastal plain is because it will destroy the water resources of the region and make them unable to support the ecosystem, that system so unique to this area, so valuable to our hemisphere, and such a remarkable natural resource that it deserves continued preservation.

Mrs. WILSON of New Mexico. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources.

Mr. POMBO. Mr. Chairman, I thank the gentlewoman for yielding me the time.

The entire area of the north slope of Alaska is nearly 100 million acres. It is nearly the size of California. Arctic National Wildlife Refuge is nearly 20 million acres. What this amendment does, I think, is responsibly goes in and narrows the scope of what we are looking at in the underlying bill by setting aside 2,000 acres.

The gentlewoman who just had the map down on the floor showed a map of it spread out, the 2,000 acres spread out, and I think it is quite amusing that it shows 28 airports on her map over that 2,000 acres.

I will just say that I support the gentlewoman's amendment. I think this is a responsible way of dealing with oil exploration in the north slope of Alaska along the coastal plain. I think this is a responsible way of looking at our future in dealing with today's demands.

I support the amendment, and I urge my colleagues to vote ''yes'' on the amendment.

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

Mr. Chairman, when is 2,000 acres, not 2,000 acres? Well, it is when we are talking about the Wilson amendment. This amendment does not mandate that the 2,000 acres be contiguous or that we count roads necessary for production or the gravel mines necessary to build the roads and the pipelines necessary to move oil to market. It would only count when their support posts touch the ground. This is accounting that would make Arthur Andersen very proud.

I have a poster which shows my colleagues what proponents of this amendment want us to believe will happen in the Arctic refuge. Here is the red dot placed randomly on the 1002 area of the Arctic refuge, what we are all debating about. The dot is intended to mislead us into believing that its impact on the refuge would be very small. None of us, of course, knows exactly what the industry would do if we let them loose in the refuge because drilling and producing oil is a messy, inexact, unpredictable business. One thing we know for sure is that it would not look like a nice, neat, red dot on a white background.

The overlay is much more realistic in terms of what we can expect. This is taken from a 1987 environmental impact statement of the Department of the Interior, the same environmental impact statement the underlying bill says is good enough for starting a leasing program.

As we can see, it is not a red dot. It represents impacts estimated by the Department of the Interior spreading over 130,000 acres to 303,000 acres, one-fifth of the entire 1002 area, not a 2,000-acre dot.

This shows the pipelines needed to get the oil out of the refuge, the feeder lines to the wellheads and the impact area around the facilities.

The surface area is extensive and stretches across the entire refuge.

□ 1745

It shows oil extraction the way it appears when it is a serious mineral extraction exercise.

Now, just so the listening audience can have an idea as to how much 2,000 acres is, the entire New Jersey Turnpike, 12 lanes, going 100 miles through the entire State of New Jersey, is 1,800 acres. The entire New Jersey Turnpike. Put the entire New Jersey Turnpike, 12 lanes, across 100 miles of this Arctic Refuge. That will give my colleagues an idea of what 2,000 acres looks like. And lest anyone believe that is still a pristine area, they do not understand that oil and pristine wilderness do not go together.

Mrs. WILSON of New Mexico. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman from Massachusetts is clever and creative, but he is also misinforming the public. The amendment that I proposed includes all production facilities, all roads, all pipelines, all within the 2,000-acre area; and the map he displayed is far more than 2,000 acres in his red lines.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my neighbor, the gentlewoman from New Mexico (Mrs. WILSON), for yielding me this time and allowing me to speak on this amendment.

Mr. Chairman, I rise in support of the Wilson amendment. I want to follow up on what my colleague from Massachusetts said. He is correct, drilling for oil is messy, inexact and unpredictable, but that is what our economy runs on. Maybe 20 or 50 years from now we will be able to have some other energy source, but for the foreseeable future we have to have hydrocarbons. That is why I appreciate the Wilson amendment, because it limits the production and the pipelines and everything else in ANWR to that 2,000 acres.

I have had the opportunity a couple of times to go to ANWR on the coastal plain to meet with the residents of Kaktovik. I found out something interesting the last few days when I have asked my colleagues, who went up there with the environmental community. I asked them if they sat down with the native Alaskans, who want production in their community because they want the jobs. And they do not want it spoiled, they do not want oil running out on the ground or hurting their fisheries, but they want it because they know they can do it efficiently and they can do it clean and they also know that that it is good for the economy of our country.

My colleagues talk about what we import. Well, it is just strange to me that we close off ANWR, we close off California, and we close off Florida. The only place they want to drill is in Texas, and we are willing to do it to fuel our country.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. GILCHREST)

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time, and I appreciate the effort on the part of the gentlewoman from New Mexico to limit the impact on the Arctic slope in oil drilling. I am here to speak now on another perspective.

First of all, I think when we use this oil up, we will be more dependent on foreign oil. Once this is gone, a tiny fraction of the world's oil and when it is gone, we will be more dependent on oil from the Middle East and other places.

But I am speaking on behalf of the effects of the human environment here, and I want to quote an Arctic elder. ''The land can tell us everything we want to know.'' We might think of an Eskimo saying that. ''The only problem is that it does not have a voice. We cannot hear it. But the spirit of the land is always there.''

Many parts of our country that depend on hunting and fishing also have agriculture and forestry. This is one of the few places on the planet where there is no agriculture, there is no forestry. The entire culture, nutritionally and economically, depends on whales, polar bears, seals, and caribou. They depend on what the pristine wilderness gives them. Even a 2,000-acre imprint would cause, because of the sound and because of the disturbance, the migration routes of all these things to change. This one 2,000 acres in this narrow area has a great impact, a difficult impact on the culture of this community.

So I am speaking on behalf of the culture of the northern Native Alaskans.

Mrs. WILSON of New Mexico. Mr. Chairman, may I inquire the time we have remaining?

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentlewoman from New Mexico (Mrs. WILSON) has 5 minutes remaining, and the gentleman from Massachusetts (Mr. MARKEY) has 4 minutes remaining and the right to close.

Mrs. WILSON of New Mexico. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, as a former member of the Presidential Oil Policy Commission and as the current chairman of the Subcommittee on Research of the Committee on Science, I am convinced we are going to solve this problem of energy dependence. Through scientific research, we are going to find more efficient, better uses, we are going to develop conservation, and we are going to develop alternative uses of energy. But in the meantime, we need the exploring of oil and getting some of those resources until we come up with those scientific advances. We need this opportunity.

Look, the people against this amendment are saying we are making ANWR better and so do not limit it to 2,000 acres. Let us make it better. Let us make the final decision on ANWR after we pass this amendment.

And with that, I would just say it is an area less than 2 miles square in the millions of acres that are now in ANWR.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. OLVER).

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

Mr. Chairman, drilling in the Arctic Refuge solves none of our energy problems. Development will take a decade and cannot provide more than 2 percent of our oil need. Drilling in ANWR is bad energy policy, but it is terrible environmental policy. ANWR is a fragile ecosystem, and drilling in this environmentally sensitive area risks one of our national treasures.

We currently consume 25 percent of the world's oil, but only 2 percent of the world's oil reserves are located within the U.S. So we cannot drill our way out of dependence on foreign oil. ANWR is neither a short-term nor a long-term solution to our energy needs.

For the long haul, our national security and the security of our world depends on using less fossil fuel. We need a crash program of research and development for renewable and nonpolluting sources of energy, but the majority blocked such amendments. Instead, this bill gives us more of the same, billions of dollars in subsidies to the fossil fuel and nuclear industries and new threats to the environment.

I urge my colleagues to think: 2,000 acres is this amendment; 1,800 acres is the New Jersey Turnpike. I urge a ''no'' vote on the amendment.

Mrs. WILSON of New Mexico. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from Arizona (Mr. RENZI), who has just returned from Alaska.

Mr. RENZI. Mr. Chairman, this weekend I was fortunate to visit the Eskimo village of Kaktovik. And though I have respect for the gentleman from Maryland, we did not eat whale meat or caribou, we ate turkey sandwiches.

There are plenty of people that have never been to that Eskimo village who

want to see the Eskimos in their igloos. They want them returned to the Ice Age. What the people want, the only people who live there, is they want safe, reasonable oil development. They want to see us and help us draw out those energy resources that are beneath their feet. We have taken the time to give them back their land, but we do not give them the opportunity to go after the resources that they need to sustain their economy.

We spoke to an 81-year-old elder up there who believes that the land was given to him by the Creator. It was given to him to use in harmony, in a holistic approach.

Mr. Chairman, what is so good about this legislation is that it requires the energy development companies to use the highest and best technology available to mankind. It requires that they not leave the environment scarred. It requires that fish and wildlife not be disturbed.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Washington State (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, I have been to Yellowstone, Glacier, and Mt. Rainier National Parks. And after being on the banks of the Aichilik River, right next to where they want to put this oil production facility, I can warrant there is no more beautiful biologically dynamic place, full of wonderful critters, grizzly, caribou, and ptarmigan, anywhere in America.

I think Americans think about the Arctic a little bit like they think about the Mona Lisa. It is beautiful, they will probably never get to see it in person, but they would not want to put a mustache on it, albeit just a small mustache. Americans do not believe a mustache belongs on the Mona Lisa, and an oil production facility does not belong in the Arctic Wildlife Refuge.

Mrs. WILSON of New Mexico. Mr. Chairman, I yield myself 30 seconds just to say that I agree with my colleague from Washington, it is a beautiful place which should be preserved, which is the nature of this amendment, to find the balance between exploration and preservation.

Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, I want to speak about another national wildlife reserve. It is not in the cold north of ANWR. It is not in the frozen tundra along an Arctic coast, which is already producing just a short distance away, in Prudhoe Bay, an amazing amount of resources for the good of our country. It is the national wildlife reserve located in deep south Louisiana. It is called Mandalay. It is beautiful.

And if my colleagues think there are any critters running around in the Arctic, or in the ANWR, they should come to Mandalay. It is so rich in wildlife, with fish diversities of which one could never imagine. We call Louisiana ''Sportsmen's Paradise,'' there is so much fish, so much wildlife there. In fact, when I came to Washington as a young freshman, I told the Department of the Interior they had to get the alligators off the endangered species list quick or put us on, one or the other.

We have alligators, fish, turtles, and every kind of wildlife a person can think of in Mandalay Wildlife Reserve. There are also 100 producing wells. Each one of those wells produces for the good of our country. It produces in an environmentally safe way. Royalties from that production goes back into protecting Mandalay and the 5 million acres in Louisiana that we protect as wildlife areas, including Mandalay. We do it in an environmentally sensitive way in the heart of a region that is so full of wildlife it cannot even compare to the Arctic and ANWR.

What the gentlewoman is attempting to do in this effort is to produce for the country's sake, so we do not have to depend upon people like Saddam for our oil. In the interest of helping this country, she is reducing the footprint to a mere 2,000 acres, which is a lot smaller than Mandalay, a mere 2,000 acres. She is going to reduce the footprint of this activity to an area so small it is almost unimaginably small; and then this country would be better off for it.

The gentlewoman's amendment needs to be adopted and we need to make sure this Nation takes advantage of this other national wildlife reserve.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentleman for yielding me this time and also for his leadership.

I rise today in opposition to the Wilson amendment and in strong opposition to this energy bill. Our national security depends on energy security. We all know that. But instead of investing in the future by developing new, cleaner forms of energy, this bill tells us the answer to America's energy problems lies in the Arctic Refuge. Well, if we drain every drop of economically recoverable oil out of this wilderness, it will be consumed in 6 months. So that is hardly the answer.

We have all heard that drilling in ANWR will create thousands of new jobs. But investing in innovations and energy technology and improvements in energy efficiency could produce hundreds of thousands of new, good-paying jobs that are a lot closer to home for most of our constituents than the Arctic tundra.

The question of drilling in the Arctic is also a question of environmental justice and native rights. Many native tribes oppose drilling. They know this land is sacred and they know what drilling will do to it.

The Arctic Refuge is a fragile ecosystem. If we allow drilling, we will not be able to go back and make it whole. This amendment opens the door to drilling and destruction that will expand far beyond 2,000 acres.

□ 1800

Mrs. WILSON of New Mexico. Mr. Chairman, I yield myself the balance of my time.

This amendment would limit the environmental impact on the Alaskan National Wildlife Refuge, and I think it is important to put in context how much it would. If the front page of a newspaper were the size of Alaska, 2,000 acres is less than one character on the page. That is a significant limitation. For some Members it is still not enough, but I believe it is possible to have balance.

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

Mr. MARKEY. Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to this amendment. This is very clever, well crafted. It is designed to give people cover to say they oppose Arctic drilling when, in fact, they might not. Let us be clear: if Members oppose Arctic drilling, the vote that counts is voting ''yes'' on Markey-Johnson. That is the vote that matters substantively, and that is the vote that counts politically.

This amendment purports to protect the environment by limiting the impact of drilling to 2,000 acres throughout the Arctic refuge. Guess what, the drilling was already going to occur on a limited number of acres. This amendment does not change a thing. The fact is that 2,000 acres is a lot of territory in an area that is now undisturbed. What is worse, the impact of this drilling will be felt far beyond the borders of those 2,000 acres. We are talking about migratory wildlife, among other vulnerabilities. They do not notice artificial, man-made boundaries. So vote against this amendment which protects nothing. It will not protect ANWR, and it will not provide cover for those seeking to put a happy face on an environmentally devastating vote.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentlewoman from New Mexico (Mrs. WILSON).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New Mexico (Mrs. WILSON) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–69.

AMENDMENT NO. 4 OFFERED BY MR. PETERSON OF PENNSYLVANIA

Mr. PETERSON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. PENCE). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. PETERSON of Pennsylvania:

In division C, at the end of section 30409 add the following:

(c) USE OF BONUS PAYMENTS FOR LOW-INCOME HOME ENERGY ASSISTANCE.—Amounts that are received by the United States as bonuses for leases under this title and deposited into the Treasury under subsection (a)(2) may be appropriated to the Secretary of the Health and Human Services, in addition to amounts otherwise available, to provide assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Pennsylvania (Mr. PETERSON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today with my colleague from Pennsylvania to offer an amendment that will provide additional energy assistance to low- and fixed-income individuals under the low-income assistance program, LIHEAP.

LIHEAP provides heating and cooling assistance to nearly 4 million households across the Nation. Unfortunately, LIHEAP is able to provide assistance to only about 15 percent of the 30 million households who are eligible. The amendment the gentlewoman from Pennsylvania (Ms. HART) and I are offering would authorize funds paid to the U.S. Treasury as bonuses for leases in the Arctic National Wildlife Refuge, ANWR, to be used for LIHEAP. The Congressional Budget Office estimates $2.1 billion in revenues would be generated over a 5-year period from the bonuses.

Today we all know that energy prices are high due to a long, cold winter across much of the Nation. In Pennsylvania, it is still snowing today. Energy prices this winter compared to last year are 30 percent higher for natural gas, 60 percent higher for heating oil, 25 percent higher for propane, and 11 percent higher for electricity. I can testify to the long, cold winter in Pennsylvania and the great need for energy assistance.

The Pennsylvania LIHEAP program in fiscal year 2003 will serve over 300,000 households. The average household benefit is just over $200. Without LIHEAP assistance, many of my constituents would have to make a choice between heating and eating.

The amendment before the House will provide much-needed energy assistance to low-income consumers. The amendment can provide an additional average to $400 million annually to LIHEAP. Dedicating funds to LIHEAP from the production of oil and gas from ANWR will help low-income consumers lower their energy burden. It is a sound public policy to dedicate funds generated from the hope of oil and gas production in Alaska to people in need of energy assistance across the country.

I urge my colleagues to have a heart and support the Peterson-Hart amendment.

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

Mr. MARKEY. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MARKEY) is recognized for 10 minutes.

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

Mr. Chairman, as I read the gentleman's amendment, it says that amounts that are received by the United States as bonuses for leases under this title and deposited with the Treasury ''may be appropriated to HHS'' to help fund the low-income assistance program.

If the gentleman would be willing to engage in a colloquy with me, it seems that it would be entirely discretionary as to whether or not the Committee on Appropriations actually uses the funds that would be raised in order to help the LIHEAP program; is that so?

Mr. PETERSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. PETERSON of Pennsylvania. We are not appropriating. We are authorizing over and above what has been authorized in the past. We are increasing the authorization. We cannot appropriate.

Mr. MARKEY. So as Members are voting, they are not voting for an actual appropriation for additional money for LIHEAP. As the gentleman knows, in past years the Congress has authorized fairly substantially high levels of funding for LIHEAP, and yet the Committee on Appropriations has never quite felt that they had to honor the authorization level. As a result, we have had some difficulty ensuring that the full funding for heating assistance is on the books.

Mr. PETERSON of Pennsylvania. Mr. Chairman, if the gentleman would continue to yield, when we authorize, we never can guarantee that it is going to be appropriated. It is a two-part process. I am a member of the Committee on Appropriations; and as a member of the HHS subcommittee, I intend to do my best to make this a reality, hopefully with the gentleman's help.

Mr. MARKEY. Mr. Chairman, my point is there is going to be a tremendous amount of budgetary pressure on Congress for the remainder of the year. The war in Iraq has yet to be completely paid for, the deficit continues to explode, and the Committee on Appropriations will know that language like this did pass; but my experience in the past has been that they regard it with about as much weight as the piece of paper upon which it is printed. That is a sad experience for Members on authorizing committees. Has the gentleman had the same experience in the past with the Committee on Appropriations?

Mr. PETERSON of Pennsylvania. If the gentleman would continue to yield, yes, I have; but I think I am in a little better position in this situation. I know the gentleman from Ohio (Mr. REGULA) is very sensitive to this issue. We are not on the authorizing, but we are making a source of funding available to increase by this amount of money. That is our goal, and we are going to do our very best to make it happen.

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

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Pennsylvania (Ms. HART).

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

Ms. HART. Mr. Chairman, I rise in support of the amendment. In fact, I would be surprised if any of my colleagues could in their right mind oppose it.

LIHEAP is a well-established program by the Federal Government, and it is one that anyone who lives in the North is familiar with. Low-income households spend more than 14 percent of their income, some as high as a third, on heating in the winter. Nonlow-income households, your average person, probably spends 5, or as low as 3, percent on heating.

It is important for us as Members of Congress to find ways to make sure that people are warm and comfortable in their homes in the winter. We have all heard of the scary and sad stories of a person who did not have heat and did not have the money to pay for it who froze during a very cold winner. The LIHEAP program has helped to try to prevent that, but almost two-thirds of those who qualify have not been able to access the program for one reason or another.

Part of the reason is money. We are here today, I with my colleague, the gentleman from Pennsylvania (Mr. PETERSON), to support additional funds being authorized for the LIHEAP program. It is very simple. We are going to help more people stay warm through these cold winters. The Federal Government gives States and other jurisdictions these annual grants to help low- and fixed-income people pay heating bills. It has worked well in Pennsylvania. We worked to increase the program while I was a State senator.

The most current Department of Health and Human Services report shows that nearly 4 million households across the Nation received winter assistance; 300,000 of them are in Pennsylvania. My colleagues and I have supported this program. We have sent a

letter to the President supporting this program. In January the White House announced additional funds for the program. What we are doing today is making sure those funds will be available.

Reports shows that energy prices this past year compared to the year before were 30 percent higher for natural gas, 60 percent higher for heating oil, 25 percent higher for propane, and 11 percent higher for electricity. It is clear that we need to find new sources to embellish the LIHEAP program and help families stay warm for the winter. This amendment authorizes more money to go into the LIHEAP program and keep more people warm. I urge Members to support it, and we will make sure that the money is there for next year's cold winter.

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

Mr. Chairman, the good news about the bill itself is on a bipartisan basis, the legislation which we have before us actually does authorize $3.4 billion for the LIHEAP program, which is great news. It is something that essentially reflects the bipartisan support which exists for this program on both sides of the aisle, and we do not really have a debate over that at all.

The amendment by the gentleman from Pennsylvania (Mr. PETERSON) asks the Committee on Appropriations to use this money that may be raised from leasing in the Arctic, but they do not have to abide by that, and that is the bottom line in terms of the bite that this amendment would have on anything that the appropriators would do.

It should be noted by Members that there is in fact no binding effect which the amendment would have in terms of increasing the actual appropriations that would be set aside for the low-income program. Unfortunately, over the years, the appropriators have always fallen far short of the dollar amount that our committee has authorized to be spent on the low-income program.

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

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman has a good point. We have a lot of work to do with the Committee on Appropriations. But if the appropriators were to find this new source of revenue, if this bill did pass and they found it and they appropriated money out of the royalty fund without us first having authorized it at our committee level, the gentleman from Massachusetts and I would be objecting to the appropriators authorizing on an appropriation bill. We would say in effect that we have not authorized it yet; they had better not spend it.

So this is an important first step, I would tell the gentleman. The gentleman is correct we would still need the appropriation later; but if we do not do the first step, they cannot do the second step.

Mr. MARKEY. Mr. Chairman, reclaiming my time, we already have in the underlying bill authorized $3.4 billion, and they can find it from wherever the revenues are that come in, including the revenues that might come in if there is ever any drilling up in the Arctic refuge; but they would not be constrained in terms of their ability to use it for these purposes, although the gentleman from Louisiana (Mr. TAUZIN) and I are lifelong authorizers, and so we understand the relationship that exists between what it is that we exhort that committee to do and what they ultimately reserve the right to put in place in an actual spending bill.

□ 1815

Mr. TAUZIN. Mr. Chairman, will the gentleman yield again?

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, my concern is that without this amendment, the reason why I think we ought to adopt it, is that there are laws on the books that provide for where royalty and bonus income goes, and without a provision that gives the appropriators a chance to say, no, this money can go to LIHEAP, in fact, on this date in the House Chamber the House authorized it; without that having been done, they may interpret the law to mean that they cannot use these moneys.

I would urge my friend to at least give them that option.

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

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, one of the things I have noted since coming to Congress is that we have a tendency to boil these arguments down to money. How much money one has got in their portfolio, what their dividends look like at any given time. Sometimes we lose track of the fact that what really makes this country great is how we treat our most vulnerable, our children and our seniors. This is one of those issues, how we are treating people that do not have the ability to pay their heating bills.

I find it interesting that there would be an argument against something like this. I say to the gentleman from Massachusetts (Mr. MARKEY), trust me, you will feel the heat if we authorize this money, but we do not appropriate this money. If that money is sitting there, it will be spent on heating assistance. The difficulty is, in this country, that we do not have the ability to pay as many people as we want to.

This is a great amendment because it takes an energy bill that is necessary, that should have been passed many years ago, and applies some of the revenue to a need that exists in this country, and that is to help those less fortunate than others to pay their heating assistance.

And I thank the gentleman from Pennsylvania (Mr. PETERSON) and the gentlewoman from Pennsylvania (Ms. HART) for putting this amendment before us, and I hope that we can support it.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time.

I rise to address this amendment, which seems to me to be a harmless amendment. It may result in applying some more money for LIHEAP. In fact, the word ''may'' is the key word in the amendment. So that is not a bad thing, except for the damage that might be done in the process.

There has been quite a bit of discussion today and there will be quite a bit more about how much petroleum would come from the Arctic Wildlife Refuge. It is not a lot. And also, though, a lot will be said about the damage that would be done in getting that oil.

We have heard some discussion about the footprint and just how small it will be. Let me just mention one thing that is often not considered that will explain how the footprint really is larger. Take, for example, the ice roads that would be built every winter to allow trucks to drive to and from the rigs. Their environmental impact is not only the effects on the ground, which I would say is considerable, but in the fresh water drawn from nearby lakes. In fact, there is not enough fresh water. The effect of drawing this water from the lakes in order to build the ice roads allegedly, purportedly, so as not to damage the environment, will leave these lakes in such a depleted situation that they will freeze all the way through and die.

So there is, indeed, this kind of footprint that extends beyond just the poured concrete area. So we may through this amendment get a little more money for LIHEAP, but it could be at great cost.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

This amendment is a Band-Aid. This amendment helps people who cannot afford to pay for energy, and there are a lot of them. This winter we have had spikes in prices because we do not have enough gas and we do not have enough oil; and when prices spike in this country, it hurts our country and it hurts the poorest of people who have to still drive a car, who have to still heat their homes.

This debate is about having adequate energy supplies to prevent spikes in prices, because I want to tell my colleagues, if we do not do that, we could double and triple LIHEAP next year and the year after and there will not be enough to help the poor who will need it. Because people will not be able to afford to heat their homes, our commercial businesses will not be able to afford to heat their places, and our industries will be going out of business because they will not be competitive.

This amendment just helps those for the moment, but if we do not fix the

main problem, we are going to really be in trouble.

Mr. Chairman, I yield as much time as he may consume to the gentleman from California (Mr. POMBO), chairman of the Committee on Resources.

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

I find it quite interesting, in listening to the debate on this particular amendment, if ANWR is approved, if oil and gas exploration is approved, there will be a substantial amount of money that comes in in the form of royalties and bonuses to the Federal Government. I think all of us agree that there are ways that we would like to spend this money.

The gentleman from Pennsylvania (Mr. PETERSON) came to me, and after discussing this in great detail, I agreed with this amendment because this is an energy bill. It is about a balanced energy policy for the future of this country. Part of that balance is in LIHEAP, and that is to provide for those who need the help. And the gentleman came to me and the gentlewoman from Pennsylvania (Ms. HART) came to me and said, this is what we ought to be doing with the money. I think this is extremely important.

But I also find it kind of ironic that those that represent the States that would benefit the most from LIHEAP have risen in opposition to this, because if this does go into effect and that money does come in, it is their constituents who stand to benefit the greatest from this amendment being in place. There are other places we could spend this money, and I would expect that they would rise in strong support of the gentleman from Pennsylvania's (Mr. PETERSON) amendment because their constituents benefit much more than mine do. But because it is an energy bill, because it is a balanced approach for the future of energy policy in this country, I believe that it is the right thing to do.

I support the gentleman's amendment. I urge my colleagues on the committee and my colleagues in the House to vote in favor of the Peterson-Hart amendment because it is the right thing to do at this time.

Mr. MARKEY. Mr. Chairman, may I ask how much time is remaining?

The CHAIRMAN pro tempore (Mr. PENCE). The gentleman from Massachusetts (Mr. MARKEY) has 2 minutes remaining. The gentleman from Pennsylvania (Mr. PETERSON) has 1½ minutes remaining.

Mr. MARKEY. And what is the order of close on this amendment?

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MARKEY) has the right to close.

Mr. MARKEY. Mr. Chairman, then I reserve that right to close. I am the remaining speaker.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

I will conclude by sharing that this amendment is important to the parts of this country who have huge heating costs and cooling costs, to help those that are less fortunate than most of us, those that a big piece of their income goes to heat and cool their homes; and this takes a part of the bonuses and puts it in that fund. It has been argued that we do not appropriate, but we do not appropriate anything as an authorizer.

I happen to be an appropriator too, and I intend to do my very best. I will promise the gentleman from Massachusetts that I will do my very best to make sure this gets in the pipeline.

But I want to conclude with the following: The real problem of LIHEAP will only quadruple if we do not bring energy supplies available to this country. If we do not increase oil supplies, energy prices will spike. If we do not increase gas supplies, home heating and manufacturing costs will go out of sight. If we look at the charts, if we look at the graphs, our gas supplies are the lowest in this country they have ever been. Our prices at the moment are prices they do not want to fill with because it is over $5 a 1,000.

We have an energy crunch in this country. We have a shortage of both gas and oil. We can import oil from unstable parts of the world, but we do not have the ability to do that with gas, and if we do not bring supplies out of places like ANWR and every place we can, if we do not open up lots of parts of this country that are locked up, I am going to tell my colleagues, people are not going to be able to afford to heat their homes, businesses are not going to be able to run efficiently and be competitive, and our economy will be in the tank.

We must pass a comprehensive energy bill.

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

It seems to me that if there is a real concern about appropriating money up to the full $3.4 billion level that is authorized in the underlying energy bill that is supported on a bipartisan basis here on the floor today, at least that part of the bill, then the best thing that we can do is to make it clear to the appropriators that each of us wants that level to be reached in the appropriations process.

The gentleman from Mississippi (Mr. PICKERING) and I are circulating a letter to Members to ensure that, not like last year where all the appropriators could find was $1.8 billion, but this year they find $3.4 billion so that the cold-weather States and those hot-weather States, whether it be Massachusetts or Mississippi, any other State in the Union, all are able to be fully funded under this low-income program. And I think that that is the only realistic way in which we are going to be able to ensure that we do take care of this problem. Because ultimately the appropriators are left to their own discretion in terms of how much money they want to appropriate for any program, and I am just afraid that with the war in Iraq, with the looming budget deficits that are just skyrocketing, perhaps as high as $500 billion this year, that this language just will not do the job in terms of getting them to take care of this very important program.

Mr. QUINN. Mr. Chairman, as many of you know, I have risen many times to speak here on the floor about the need to support and expand the LIHEAP program.

LIHEAP is a bipartisan issue, and always has been.

I am never surprised to see how my colleagues from both sides of the aisle jump at the opportunity to work together to protect and enhance LIHEAP funding.

Last year, LIHEAP served 4.4 million households.

However, since the year 2000, 2.66 million people have become unemployed, many of whom will seek assistance until they can find new jobs.

The economic downturn has left more households dependent upon energy assistance to ensure that their heating power remains connected.

LIHEAP funding allows for these economically strained people to focus on essential items.

In a time when state officials are forced to slash their budgets the responsibility falls to us to ensure that no family goes without heat when the winter hits.

Many of you have joined me over the past few years calling for increases in funding for the important program.

This amendment provides some direction and opportunity to find that funding.

We must take advantage of opportunities such as this one to identify sources of funding for the LIHEAP programs.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 by the gentleman from New York (Mr. BOEHLERT), amendment No. 2 by the gentleman from Michigan (Mr. DINGELL), amendment No. 3 by the gentlewoman from New Mexico (Mrs. WILSON).

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

AMENDMENT NO. 1 OFFERED BY MR. BOEHLERT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from New York (Mr. BOEHLERT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 268, not voting 4, as follows:

[Roll No. 132]

AYES—162

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Ballance
Bartlett (MD)
Becerra
Bereuter
Berkley
Berman
Bilirakis
Bishop (NY)
Blumenauer
Boehlert
Boyd
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Case
Clay
Cooper
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley (CA)
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Inslee
Israel
Jackson (IL)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kaptur
Kelly
Kennedy (RI)
Kind
King (NY)
Kirk
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Platts
Price (NC)
Ramstad
Rangel
Reynolds
Rothman
Roybal-Allard
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn
Young (FL)

NOES—268

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bell
Berry
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (IN)
Carson (OK)
Carter
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frost
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kennedy (MN)
Kildee
Kilpatrick
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—4

Gephardt
Houghton
McCarthy (MO)
Paul

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. PENCE) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1847

Messrs. CULBERSON, SIMMONS, MEEKS of New York, BISHOP of Utah, EDWARDS, BACHUS, MEEK of Florida, THOMPSON of Mississippi, RUSH, KANJORSKI, and Mrs. MYRICK changed their vote from ''aye'' to ''no.''

Mrs. KELLY, Mr. EVANS, and Ms. WATERS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 2 OFFERED BY MR. DINGELL

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Michigan (Mr. DINGELL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 193, noes 237, not voting 4, as follows:

[Roll No. 133]

AYES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blackburn
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Duncan
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gilchrest
Gonzalez
Goode
Gordon
Graves
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moran (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—237

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blunt

Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
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
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goodlatte
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Majette
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
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)
Sandlin
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—4

Gephardt
Houghton
McCarthy (MO)
Paul

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that there are 30 seconds remaining on this vote.

□ 1855

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MRS. WILSON OF NEW MEXICO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentlewoman from New Mexico (Mrs. WILSON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 226, noes 202, not voting 6, as follows:

[Roll No. 134]

AYES—226

Abercrombie
Aderholt
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—202

Ackerman
Akin
Alexander
Allen
Andrews
Baird
Baldwin
Ballance
Bartlett (MD)
Bass
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Bradley (NH)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Frank (MA)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gilchrest
Gonzalez
Gordon
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
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Kleczka
Kucinich
Lampson
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Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Nunes
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wicker
Woolsey
Wu
Wynn

NOT VOTING—6

Delahunt
Ford
Gephardt
Houghton
McCarthy (MO)
Paul

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. PENCE) (during the reading). The Chair will remind Members that there are 2 minutes remaining in this vote.

□ 1902

Mr. PASTOR changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. FORD. Mr. Chairman, on rollcall No. 134, had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore (Mr. BEREUTER). It is now in order to consider amendment No. 5 printed in House Report 108–69.

AMENDMENT NO. 5 OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN pro tempore. The Clerk will designate amendment No. 5.

The text of amendment No. 5 is as follows:

Amendment No. 5 offered by Mr. MARKEY:

In division C, strike title IV.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I ask unanimous consent to yield 5 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) so she may control those 5 minutes.

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

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Markey-Johnson amendment, which would protect the pristine area that was originally set aside by that radical Republican environmentalist, Dwight David Eisenhower. This amendment would protect ANWR by simply striking the sections of H.R. 6 that would open the area to drilling. It is that simple.

We can have lots of spirited debate about the science and impact of drilling and other essential matters related to this issue, but I will leave that to others. For me, this is an issue of fundamental principle: what right do we have as human beings, and what sense does it make as a Nation, to open a pristine area to oil drilling when we are not willing to take the simplest, easiest steps to conserve oil?

Raising CAFE standards would have been the only truly significant conservation measure in this bill. By doing so, more oil would be saved quicker than even the most optimistic projections of economically recoverable oil from ANWR. As a friend of mine likes to say, go figure.

Opening ANWR without any consideration of taking serious conservation steps is simply irresponsible. We are denying future generations a wilderness because we refuse to take painless steps to control our own generation's appetite for oil. I do not know when that kind of thinking became conservative, but I do know for eons that kind of gluttony has been considered wrong.

The proponents of drilling add insult to injury with their spurious arguments in favor of drilling. It is only a few thousand acres, they say. That is like saying, do not worry, the tumor is only in your lungs. The drilling will have impacts that will affect wildlife throughout the area.

The proponents say the drilling in Prudhoe Bay has seen no ill environmental effects; but in reality, some of the largest environmental fines in history have been paid because of damage in the Prudhoe Bay and the open-for-business north slopes, $22 million since 1999 alone.

Mr. POMBO. Mr. Chairman, I rise to claim time in opposition.

The CHAIRMAN pro tempore. The gentleman from California (Mr. POMBO) is recognized for the time in opposition.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG), whose district ANWR is in.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding time to me. The gentleman from California (Mr. POMBO) is a great committee chairman.

One thing that bothers me the most, the gentleman from Massachusetts (Mr. MARKEY) has never been to ANWR, the gentlewoman from Connecticut (Mrs. JOHNSON) has never been to ANWR, the gentleman from New York (Mr. BOEHLERT) has never been to ANWR. They do not know what they are talking about, period. They are literally taking scripted messages from certain interest groups, that is all they are doing, and mimicking their words.

My people, my people the Kaktovik, they want this drilling. The Eskimos that live there want this drilling. They have seen what has happened in Prudhoe Bay, which has in fact increased the population of the caribou, increased the game population overall.

We can do this safely. To have people sit on this floor, because it is supposed to be the hall of the people, the Representatives of the people, to speak about something they know nothing about is, frankly, very disturbing to me.

I am one of these few people who understand one thing: this is a form of representative government. The gentleman from Massachusetts (Mr. MARKEY) did not go. He had an opportunity to go up and listen to the people, my people, many people who were guaranteed 92,000 acres by this body, and they had it for their social and economic well-being; and you are telling them they cannot in fact drill on their own land. Shame on you.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

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

Mr. MENENDEZ. Mr. Chairman, I strongly support the Markey-Johnson amendment. In my view, the potential benefits to drilling in the Arctic National Wildlife Refuge are greatly outweighed by the loss.

The Congressional Budget Office estimates that only 2.5 billion barrels of oil are economically recoverable from the refuge. That is less than a fourth of what proponents of drilling claim, and about what the U.S. consumes in 4 months. It is not simply worth trading the possibility of 4 months of energy for the loss of crucial breeding and migratory habitat of more than 200 animal species and over 130 species of birds.

Nevertheless, this legislation allows drilling in the Arctic National Wildlife Refuge, which reflects an utter disregard for the preservation of America's last remaining untouched wilderness. To believe that we could drill in ANWR without causing irreversible environmental damage is foolish.

This bill contains no true environmental protections for the refuge, and this amendment would provide that environmental protection. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

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

Mr. REHBERG. Mr. Chairman, I was a staffer on the Committee on Resources 20 years ago when the distinguished gentleman from Massachusetts (Mr. MARKEY) was making the same tired arguments. Here we are 20 years later, still without an energy policy.

Over the course of those years, my colleague, the gentleman from Massachusetts, has yet to visit either ANWR. That is right, I said either ANWR. Why? Because there are really two ANWRs, the one the authors of this amendment like to talk about, and the one that is actually at issue when we talk about energy development.

To illustrate this, I would like to highlight the testimony of the mayor of the borough that includes ANWR, testimony that my friend, the gentleman from Massachusetts, would have heard if he had taken the time to go up to Alaska last Saturday, as we did.

Testifying as to the two ANWRs, the mayor said:

''The first ANWR is beautiful mountain scenery that seems to go on forever. It is a world of wildlife, a refuge from the noise and disruption of human community. You are here in the second ANWR. It is tundra, an old military site, and Eskimos who have lived and hunted and survived around here for thousands of years. You won't see this ANWR on Sierra Club posters. That is because it is not really a refuge, it is a land of many uses.

''This is Eskimo country. It has a thriving village whose residents work at local jobs and hunt for caribou, whales, and all the other animal species that have always sustained our people. The Sierra Club would probably be happier if they would stop hunting and fishing; but we would be happier if they would stop floating down all the

rivers in ANWR disrupting the wildlife that we depend on. But we can all get along if we acknowledge two ANWRs and allow both to exist.''

Mr. Chairman, that is the issue here. There are two ANWRs, the one the environmentalists like to raise money on, and the one that is part of a balanced energy plan that we are debating here today.

This amendment is intellectually dishonest. The sponsors speak of the first ANWR as justification for their amendment, yet ignore the fact that it really applies to the second ANWR. I would support it if it only applies to the first, but it does not.

I urge defeat of this amendment and urge my colleagues to take the mayor's advice and consider both ANWRs when casting their vote.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I rise in support of this amendment.

California is the most diversified, the biggest user of energy. Why did we get there? Because we said no to the oil companies, we said no to offshore drilling, we said no to more drilling, because we said yes to developing alternative energy. We developed alternative energy in wind and solar, in geothermal and biomass.

Guess what, we have private venture capital. We attracted America's brightest to develop alternative energy.

The only way we are going to solve our energy problems is to get off our addiction to oil. With the thinking on ANWR, they would drill right here in the Capitol if there was oil under this building.

□ 1915

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself 2¼ minutes.

Mr. Chairman, today's vote really is about our values, the ability to balance the value we place on critical environmental resources, unique ecosystems supporting literally hundreds of thousands of species of animals, birds and fishes, and the value we place on a little more oil. Choices must be made and there are good alternatives to the small amount of economically recoverable oil in the refuge. But there are no alternatives for those who depend on its ecosystem, nor for the refuge as a unique national natural resource.

Alternatives? You bet there are alternatives. In the Alaska National Petroleum Reserve area, there are over 50 million undeveloped acres available for oil drilling. There is a proposed notice of sale for 9.8 million acres in the Beaufort Sea. The State of Alaska is planning to hold annual lease sales covering 14.1 million acres of land. I could go on with a long list, but I do not have time.

In addition to all these undeveloped lands available for drilling in Alaska and that region, there are also alternative sources of energy. Fuel cells. There are new technologies that would give us more miles per gallon. That are excellent alternatives to drilling in this pristine area. There are no alternatives to preserving the ecological vitality and integrity of this region.

In that area, can you imagine what it will take, the roads it will take, the drilling pads it will take to support drilling rigs weighing 2.2 million pounds? You cannot just build a little old road across a grass field. You have got to get tons and tons of gravel in there. You have got to get support for that level of equipment. These are big outfits. They take a lot of people to support. They take a lot of pipelines to deliver the oil. And, ironically, there is not enough available water in this area to feed the kind of road building that would be necessary.

So there is not even the infrastructure to make good on the promise of oil that those who would develop this area promise. Yet, taking that water will destroy the ecosystems dramatically across the board throughout the region.

So there can be no compromise. Oppose drilling in the ANWR.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, do not take the word of a Congressman who visited the North Slope for the last 3 days. Take the words of Herman Aishana, a whaling captain who serves on the Kaktovik City Council and is the former mayor. We have got Members of Congress calling this area a pristine untouched wilderness. His words, No matter how blind, no matter what anyone wants to call it, this country is hardly a wilderness and will never be a wilderness.

These people of Kaktovik have developed a relationship of trust of over 20 years with these energy companies. We take their land from them, we give it back to them as a gift. But we do not give them back the resources that they need to sustain themselves to build their economy. Do not lock up the people of Kaktovik. Do not lock them up on a reservation. Give them the resources that they need to sustain themselves.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado (Mr. UDALL).

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment, and in doing so, I would like to take a moment of personal privilege and speak about my father, Morris Udall, who served in this body for 30 years with many of us here today. And there have been suggestions in the Committee on Resources that Mo Udall, were he alive today, would vote against the Markey amendment. I would tell you that I believe he would vote for the amendment today.

In 1980, my father opposed drilling in the refuge. I believe he would oppose drilling today, but he would say the real issue is not the past. It is the future. He lived by the credo that we do not inherit the Earth from our parents, but we borrow it from our children. And he would say we are gambling with our children's inheritance.

The odds are not good and the stakes are too high. We should not gamble with the heart of the refuge for a few months of oil. We have better alternatives and we should leave our children with some choices about how they use their inheritance. That is why I urge a ''yes'' vote on Markey-Johnson.

Mr. Chairman, I strongly support this amendment.

On the question of whether to open the coastal plain, Congress is being asked to gamble on finding oil there. So, we first must decide what stakes we are willing to risk, and then weigh the odds.

The stakes are the coastal plain. The U.S. Fish and Wildlife Service says it ''is critically important to the ecological integrity of the whole Arctic Refuge'' which is ''America's finest example of an intact, naturally functioning community of arctic/subarctic ecosystems.''

What are the odds? Well, the best estimate is by the U.S. Geological Survey (USGS). in 1998 they estimated that if the price of oil drops to less than $16 per barrel (as it did a few years ago) there would be no economically recoverable oil in the coastal plain. At $24 per barrel, USGS estimated there is a 95 percent chance of finding 1.9 billion barrels of economically recoverable oil in the refuge's coastal plain and a 50 percent chance of finding 5.3 billion barrels.

But Americans use 19 million barrels of oil each day, or 7 billion barrels of oil per year. So, USGS is saying that at $24 per barrel, there is a 50 percent chance of finding several months' supply of oil in the coastal plain.

There is one 100 percent sure bet—drilling will change everything on the coastal plain forever. It will never be wilderness again. We do not need to take that bet. There are less-sensitive places to drill—and even better alternatives, including conserving energy and more use of renewable resources.

For example, fuel-efficiency standards for new cars and light trucks could feasibly be raised to more than 40 miles per gallon by 2010. Experts estimate that alone would save 10 times as much oil as would likely be extracted from the Arctic refuge over the next 30 years.

In short, when it comes to drilling in the Arctic National Wildlife Refuge, I think that the stakes are too high and the odds are too long—especially since we have better options. So I do not support it.

For the benefit of our colleagues, I am attaching excerpts from an article in Foreign Affairs by two Coloradans—Amory R. Lovins and L. Hunter Lovins.

Founders and leaders of the Rocky Mountain Institute, they are recognized experts on energy issues.

The article, entitled ''Fool's Gold in Alaska,'' clearly shows that drilling for oil on the coastal plain does not make sense in terms of economics, national security, or environmental protection. As they put it, ''Drilling for refuge oil is a risk the nation should consider taking

only if no other choice is possible. But other choices abound.''

We should opt for those other choices by adopting this amendment.

Here are key excerpts from the article I mentioned:

[From Foreign Affairs, July/August 2001]

FOOL'S GOLD IN ALASKA

(By Amory B. Lovins and L. Hunter Lovins)

THE BOTTOM OF THE BARREL?

Oil prices have fluctuated randomly for well over a century. Heedless of this fact, oil's promoters are always offering opportunities that could make money—but on the flawed assumption that high prices will prevail.

Leading the field of these optimists are Alaskan politicians. Eager to keep funding their state's de facto negative income tax—oil provides 80 percent of the state's unrestricted general revenue—they have used every major rise in oil prices since 1973 to advocate drilling beneath federal lands on the coastal plain of the Arctic National Wildlife Refuge. Just as predictably, environmentalists counter that the refuge is the crown jewel of the American wilderness and home to the threatened indigenous Gwich'in people. As some see it, drilling could raise human rights issues under international law. Canada, which shares threatened wildlife, also opposes drilling.

Both sides of this debate have largely overlooked the central question: Does drilling for oil in the refuge's coastal plain make sense for economic and security reasons? After all, three imperatives should shape a national energy policy: economic vitality, secure supplies, and environmental quality. To merit serious consideration, a proposal must meet at least one of these goals.

Drilling proponents claim that prospecting for refuge oil will enhance the first two while not unduly harming the third. In fact, not only does refuge oil fail to meet any of the three goals, it could even compromise the first two.

First, the refuge is unlikely to hold economically recoverable oil. And even if it did, exploitation would only briefly reduce U.S. dependence on imported oil by just a few percentage points, starting in about a decade. Nor would the refuge yield significant natural gas. Despite some recent statements by the Bush administration, the North Slope's important natural-gas deposits are almost entirely outside the refuge. The gas-rich areas are already open to industry, and environmentalists would likely support a gas pipeline there, but its high cost—an estimated $10 billion—would make it seem uneconomical.

Furthermore, those who suppose that any domestic oil is more secure than imported oil should remember that oil reserves almost anywhere else on earth are more accessible and more reliably deliverable than those above the Arctic Circle. Importing oil in tankers from the highly diversified world market is arguably better for energy security than delivering refuge oil to other U.S. states through one vulnerable conduit, the Trans-Alaska Pipeline System.

* * * * *

Increase energy productivity now delivers two-fifths of all U.S. energy services and is also the fastest-growing ''source.'' (Abroad, renewable energy supply is growing even faster; it is expected to generate 22 percent of the European Union's electricity by 2010.) Efficient energy use often yields after-tax returns of 100 to 200 percent on investment. Its frequent fringe benefits are even more valuable . . .

* * * * *

Efficiency also has major policy advantages. It is here and now, not a decade away. It improves the environment and protects the earth's climate. It is fully secure, already delivered to customers, and immune to foreign potentates and volatile markets. It is rapidly an equitably deployable in the market. It supports jobs all over the United States rather than few firms in one state.

* * * * *

A BARREL SAVED, A BARREL EARNED

If oil were found and profitably extracted from the refuge, its expected peak output would equal for a few years about one percent of the world oil market. Senator Frank Murkowski (R–Alaska) has claimed that merely announcing refuge leasing would bring down world oil prices. Yet even a giant Alaskan discovery several times larger than the refuge would not stabilize world oil markets. Oil prices reached their all-time high, for example, just as such a huge field, in Alaska's Prudhoe Bay, neared its maximum output. Only energy efficiency can stabilize oil prices—as well as sink them. And only a tiny fraction of the vast untapped efficiency gains is needed to do so.

What could the refuge actually produce under optimal conditions? Starting about ten years from now, if oil prices did stay around $22 per barrel, if Congress approved the project, and if the refuge yielded the USGS's mean estimate of about 3.2 billion barrels of profitable oil, the 30-year output would average a modest 292,000 barrels of crude oil a day. (This estimate also assumes that such oil would feed U.S. refineries rather than go to Asian markets, as some Alaskan oil did in 1996–2000.) Once refined, that amount would yield 156,000 barrels of gasoline per day—enough to run 2 percent of American cars and light trucks. That much gasoline could be saved if light vehicles became 0.4 mpg more efficient. Compare that feat to the one achieved in 1979–85, when new light vehicles on average gained 0.4 mpg every 5 months.

Equipping cars with replacement tires as efficient as the original ones would save consumers several ''refuges'' full of crude oil. Installing superinsulating windows could save even more oil and natural gas while making buildings more comfortable and cheaper to construct. A combination of all the main efficiency options available in 1989 could save today the equivalent of 54 ''refuges''—but at a sixth of the cost. New technologies for saving energy are being found faster than the old ones are being used up—just like new technologies for finding and extracting oil, only faster. As gains in energy efficiency continue to outpace oil depletion, oil will probably become uncompetitive even at low prices before it becomes unavailable even at high prices. This is especially likely because the latest efficiency revolution squarely targets oil's main users and its dominant growth market—cars and light trucks—where gasoline savings magnify crude-oil savings by 85 percent.

* * * * *

As long as the world runs largely on oil, economics dictates a logical priority for displacing it. Efficient use of oil wins hands down on cost, risk, and speed. Costlier options thus incur an opportunity cost. Buying costly refuge oil instead of cheap oil productivity is not simply a bad business decision; it worsens the oil-import problem. Each dollar spent on the costly option of refuge oil could have bought more of the cheap option of efficient use instead. Choosing the expensive option causes more oil to be used and imported than if consumers had bought the efficiency option first. The United States made exactly this mistake when it spent $200 billion on unneeded (but officially encouraged) nuclear and coal plants in the 1970s and 1980s. The United States now imports oil, produces nuclear waste, and risks global climate instability partly because it bought those assets instead of buying far cheaper energy efficiency.

Drilling for refuge oil is a risk the nation should consider taking only if no other choice is possible. But other choices abound. If three or four percent of all U.S. cars were as efficient at today's popular hybrid models, they would save the equivalent of all the refuge's oil. In all, many tens of times more oil is available—sooner, more surely, and more cheaply—from proven energy efficiency. The cheaper, faster energy alternatives now succeeding in the marketplace are safe, clean, climate-friendly, and overwhelmingly supported by the public. Equally important, they remain profitable at any oil price. They offer economic, security, and environmental benefits rather than costs. If any oil is beneath the refuge, its greatest value just might be in holding up the ground beneath the people and animals that live there.

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

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. NUNES), a new member of the committee.

Mr. NUNES. Mr. Chairman, we had a great opportunity to go up and visit the people of Kaktovik this past week because I wanted to see the differences in the fairy tales that I have heard since I have been here in the United States Congress. And today I want to highlight some of those fairy tales that we have heard today.

We have heard about the Mona Lisa, that the Mona Lisa has a mustache. We have seen maps that have 28 airports on them. We have seen people hold up newspapers that compare the newspaper to the size of Alaska. We have talked about lakes disappearing because of ice roads. And now the biggest fairy tale of all is that we have an amendment offered by people, by Members of this body who have never been to this region, this beautiful region in the United States.

The energy bill that I will vote for tonight is a bill that is an environmentally sound policy that put in preservation 18,998,000 acres.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the remainder of my time, 45 seconds, to the gentleman from Massachusetts (Mr. MARKEY) for purposes of control.

The CHAIRMAN pro tempore (Mr. BEREUTER). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from the State of California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me time. I thank the gentlewoman for offering this amendment along with the gentleman from Massachusetts (Mr. MARKEY).

I have been to Kaktovik. I have been to the North Slope. I have been to the mountains. I have been to the plains. I

have been there in the winter, I have been there in the spring, and I have been there in the summer. And, yes, it is a wilderness area. No, it does not have 200-foot-tall trees. No, it does not have lakes. It does not have a lot of attributes that we consider here in the lower 48, but it is pristine, and it is a wilderness, and it is worth saving.

And it is certainly worth saving when you consider how much energy, how much energy this Nation is prepared to waste under this legislation. If it is so valuable, why are we wasting it? Certainly you would not waste it to go in and invade this wilderness area for this purpose. It simply makes no sense at all.

I have talked to the natives up there. I have talked to the whaling captains. I have been all through their community, and I understand their desire. But this is a national asset. This is not to be determined by the whaling captains. This is not to be determined by the Congressperson from that district.

This is a national asset and it ought to be protected as such. We ought to understand that we do not have an energy policy that is worthy of this.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, the Mandalay National Wildlife Refuge in Louisiana is a national asset, too, but there are 100 producing wells on it. And the people of California and the people of Massachusetts benefit from the fact that we produce a hundred wells in the Mandalay National Wildlife Refuge, a refuge that is much more abundantly full of resources than ANWR.

What people forget is that inside ANWR, inside the area, 1002, that was designated for drilling, that is what 1002 is; out of this 19-million-acre ANWR, 1002 is the area we set aside for production. And inside it is 92,000 acres of private property. It belongs to the people who live there, and they cannot even produce their resources.

Now, I understand if California does not want to produce or Massachusetts does not want to produce. If they want to depend upon the Mandalay Wildlife Refuge in Louisiana for oil and gas, I can understand that. We make that deal. We produce in Louisiana. We do it in an environmentally sensitive way, and we produce oil and gas for the rest of the country. If we shut down tomorrow, the country is out 25 percent of its oil and 25 percent of its gas. What do you think Massachusetts and California will do then?

But the people of ANWR, 1002, the people who live on the 92,000 acres, want to produce their own private lands and you will not let them. Not government lands, their own private lands, and you will not let them; that is what this amendment does. It says to private property owners in America, the Native Alaskans who live on this private property, you cannot produce your own property, you cannot produce resources for the rest of the country if you choose to do so.

Well, let me ask a simple question. Do you think the ANWR, the 1002 area where these people live, is any more precious than the Mandalay area in Louisiana? Do you think it deserves more attention, more protection, more sacred status than the Mandalay area, my district in Louisiana?

It does not. It does not. We produce in Louisiana. It is time for the rest of you to do the same thing.

The CHAIRMAN pro tempore. The Chair would state that the gentleman from Massachusetts (Mr. MARKEY) has 2 minutes remaining. The gentleman from California (Mr. POMBO) has 3 minutes remaining.

The gentleman from California has the right to close.

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

This is an issue about going to a pristine area in the Arctic and drilling in order to build a pipeline, in order to bring the oil down to California to put it in SUVs that get 12, 13 miles per gallon. The people who propounded this amendment just voted against an amendment that would have increased the fuel economy standards up to 30 miles per gallon for SUVs. Rather than do that, they say to future generations that they would prefer to desecrate this sacred refuge.

Now, I saw a Roll Call about a week ago and the Congressman from Montana's picture was in there. He was a staffer at the time. He had a beard. He had some glasses. He looked a lot younger. I did, too. People change, but there are certain things that should not change. The Arctic Refuge is one of those things. And I think, unless we have a compelling reason not to increase the fuel economy standards of SUVs that we have no right to first go to a pristine wilderness that should be preserved for the next generation.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON) and then we will close.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, in Corsicana, Texas, there is the first commercial oil field of any size outside of the State of Pennsylvania. It is in my district. It began producing oil in the early 1900s. The old Mexia field, the Bryan College Station field, these are all fields that are either in my district or in my old congressional district. They have been producing oil for generations and generations.

In the Bryan College Station field, that field goes through the water table for Bryan College Station. Over 200 producing wells, no environmental problems.

Now, somehow it is okay to produce in those fields in my home State, but it is not okay to produce in ANWR where there are fewer people per square mile than there are various animals. And we have shown in Prudhoe Bay that the animal habitat actually flourishes with oil production.

I cannot understand why we are opposed to producing between a million and a million and a half barrels a day for 30 years. I would hope we would oppose this amendment.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MARKEY) has 1 minute remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from the State of Colorado (Mr. UDALL).

□ 1930

Mr. UDALL of Colorado. Mr. Chairman, I thank my friend from Massachusetts for yielding time to me.

This is about the future, but I think the past is instructive; and I ran across the following from a report in 1978.

The subcommittee, it says, has noted the eloquent statements of a number of prominent Alaskans about the idea of building a pipeline across the coastal plain, and the report quotes the senior Senator from Alaska who told the Council on Environmental Quality, some have appropriately compared the idea with slicing a razor blade across the face of the Mona Lisa.

I am not saying the Senator from Alaska would support this amendment. I am sure he would not, but in the spirit of what Teddy Roosevelt said when he saw the Grand Canyon, ''This is God's handiwork; we cannot improve on it,'' let us let the wildlife refuge be. We cannot improve on it. Support the Markey-Johnson amendment.

Mr. POMBO. Mr. Chairman, I yield myself the remaining time.

This is a difficult amendment. It really is because much of what my colleagues on the left have to say about ANWR I agree with. It is a unique, beautiful area that should be preserved. I absolutely agree with them, and I do not think that that should be part of the debate.

When we look at the north slope of Alaska, an area that is nearly the size of California, nearly 100 million acres and we take ANWR out of that, it is an area that is nearly 20 million acres, about the size of South Carolina. What we are proposing is that we take a very small portion of that 100 million acres, the 20 million that is ANWR, 2,000 acres that would be set aside.

I have been up to the Arctic, and the gentleman from California (Mr. GEORGE MILLER) is right. He has been in the summer and he has been there in the winter, and so have I; and I can tell my colleagues that it is a fascinating place. In the summer it is fascinating, and in the winter it is darn cold; but it is just as fascinating.

I, quite frankly, love it up there. I think it is a beautiful place that deserves the protection of this House and of this Congress. If this amendment were to protect 18,998,000 acres of ANWR, we would have no debate. If this amendment said that we were going to turn most of it into a wilderness area that would be preserved forever, we would have no debate because

what my colleague is doing is he is presenting a false choice. He is telling us in this House and he is telling everybody in America we have to choose between a healthy economy and a healthy environment; we cannot have both. He is setting up a false choice.

I urge my colleagues to reject this amendment, to reject his false choice and support the underlying bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I support the Markey/Johnson amendment to prohibit drilling for oil in the Arctic National Wildlife Refuge. I come from Houston, TX, what has been called the energy capital of the world, and I appreciate that oil and fossil fuels deserve much credit for driving our economy and prosperity over the past centuries. I know that oil, and natural gas will continue to play a large role over the next century at meeting our energy needs. However, we all know that fossil fuels are not the wave of the new millennium. We are overly dependent on foreign sources of oil, bought from people that we would prefer not be reliant on.

Some of our colleagues have suggested that the best way to decrease our reliance on foreign oil, is to tap into oil in the Arctic National Wildlife Refuge. As it stands, H.R. 6 will allow such drilling. But that approach is poorly informed and short-sighted.

Our children, especially in inner cities like in my district of Houston, have an epidemic of asthma from breathing smog and polluted air. A better approach to decreasing our need for foreign oil, is to decrease our need for oil, in general. I am pleased with the work we have done in the Science Committee to improve R&D that will lead to the fuels of the future: solar, wind, hydro-, fusion, and hydrogen. Energy companies, like Shell Oil in my district, have realized that the future is not simply about oil. They have started to take advantage of their expertise in energy needs-assessment, production, and distribution, to find ways to make their companies leaders in the alternative and renewable energies market. Why does it sometimes seem that policy makers are more attached to oil, than oil companies are?

No matter how safe we try to be, shipping and pumping oil will occasionally lead to spills and leaks that can have detrimental effects on the environment. There are many areas of the country where oil drilling has been successfully and safely carried out for years. By coupling improved technology for exploring for sources in those regions, to better conservation efforts, we can provide for the needs of the future.

My colleague from Houston, NICK LAMPSON and I introduced a provision in the Science Committee markup last year that provided for an inventory of such safe U.S. oil resources. It will lead to a report by the Secretary of the Interior to the Congress as to the oil and natural gas reserves in waters off the coast of Louisiana and Texas. I am pleased to note that that provision has been expanded in H.R. 6 and will be a part of a comprehensive report on the status of U.S. oil reserves. No matter how we decide to manage our resources in the future, it is important that we take stock and are informed about our options.

Although there are some nations that we would prefer not to be forced to buy oil from, there are other allies overseas who deserve and could use the added revenue and support. For example, the African continent is thought to have large reserves of untapped oil. If there are environmentally sound means of retrieving that oil, in a way that would serve the people of the area—helping them get critical medical services, water, food, and homes—that would be a worthy pursuit.

What I am saying is that there are many sources both here and abroad, from which we can retrieve oil in a safe way, in order to serve our nation's energy needs during the transition to the fuels of the future. Pumping oil out of one of the most pristine and spectacular pieces of land in the world simply is not necessary.

No matter how large the ''footprint'' is, the fact is that the sight and sounds of drilling, and the pumping of oil through pipelines, and shipping threatens the vibrant ecosystem in the region and risks disaster. Some say that with new technology, probably, nothing will happen. To me that is like saying, ''I am too lazy to insulate my house, so to pay my energy bills, I'll just cancel my children's health insurance plan for a while.'' Maybe the kids won't get sick, and you'll end up with a few extra dollars in your pocket. But, that does not make it a smart move.

What we would be doing by drilling in ANWR is similar—taking a grave risk with a fragile ecosystem, to provide maybe 6-months worth of oil, about 5 years from now. This is a natural treasure that belongs to our children. I, and the people in my district, who appreciate oil and the energy needs of America, do not feel it is right to take that risk.

I will vote for the Markey-Johnson amendment.

Ms. HARMAN. Mr. Chairman, is there someone here today who can tell me why it is worth destroying forever the remarkable Arctic National Wildlife Refuge for a few months' supply of oil—oil that is a decade away from recovery? Some 95 percent of Alaska's North Slope is already open to oil and gas exploitation.

Is there someone here today who can tell me why it is smarter for this country to exploit ANWR for a miniscule amount of oil than it is to increase CAFE standards and make all vehicles more fuel efficient? A small increase in fuel efficiency creates a large decrease in the amount of oil we import.

Is there anyone here today who can tell me why, at the same time it talks about hydrogen-powered automobiles and fuel cells, this administration is throwing its support behind the big automakers' lawsuit against California's clean car law?

Is there anyone here today who can tell me why it's better to drill in ANWR than it is for this country to promote and invest in clean energy-producing technologies and renewable sources of energy?

True national security is defined by more than staggering military superiority. Our standing in the world is measured by more than our muscle. A healthy planet, clean water and clean air go hand-in-hand with a healthy economy.

This country, the wealthiest and most powerful in history, can and must do more to set an example for the rest of the world. Protecting ANWR is a good start.

Ms. WOOLSEY. Mr. Chairman, Americans realize we should not risk 1.5 million acres of pristine wilderness for a meager, 6-month supply of oil that wouldn't even be available for 10 years.

My constituents in Marin and Sonoma counties are miles from the Arctic Refuge. But there are two easy reasons why we care about land in Alaska.

First, the people I represent believe strongly in respecting and preserving all the world's environment not just for today, but for generations to come.

Second, they know that once we start to let oil interests pilfer the environment in Alaska, the Bush administration and their oil buddies might see the California coast as next.

Mr. Chairman, if we open this door today, even a crack, it will be impossible to close. Oppose drilling in the Arctic Refuge.

Ms. MCCOLLUM. Mr. Chairman, I rise today to strongly oppose any attempt to open the Arctic National Wildlife Refuge to industrial development and encourage my colleagues to support the Markey-Johnson amendment to protect this unique ecosystem, which is unlike any other in the world.

It's outrageous that after 2 years we are here again debating whether to open America's last, untouched landscape. Having visited the refuge, I know firsthand how fragile it really is.

This area is already under stress: global warming is thawing the Refuge's tundra and nearby development pollutes the air.

Yet, this House is debating a bill that would permanently harm Alaska's coastal plain—an irreplaceable wilderness, a home to wildlife that sustains the culture and traditions of Alaska's native people—by allowing oil and natural gas development.

What we should be debating is how to achieve true energy independence. This bill does nothing more than continue our pattern of increasing oil imports and unchecked consumption.

Energy security and more jobs can be achieved if we invest in conservation and research the next generation of energy efficient appliances, homes and automobiles.

Developing homegrown, renewable fuels like ethanol and wind will also provide more long-term benefits for our environment, our economy and our workers.

It's time we end this debate, join with the majority of Americans and start prioritizing our energy future.

Even if we open the Arctic Refuge tomorrow, it won't produce a drop of oil for over a decade. Even then peak production is 20 years away.

We should not be shortsighted. Support the Markey-Johnson amendment today and oppose any attempts to open this fragile tundra to industrial development.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Johnson Amendment to protect the Alaska National Wildlife Refuge.

The coastal plain of ANWR is the last major part of the North Slope that has not been developed. Protecting and preserving our splendid natural resources is a patriotic and moral obligation.

In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers. Efforts to drill in ANWR are ill-conceived and will ultimately do little to help achieve a long-term, sustainable, and comprehensive national energy policy.

Mr. Chairman, drilling in the Arctic Refuge is a quick fix, not a sustainable solution.

I urge my colleagues to vote ''yes'' on the Markey-Johnson amendment.

Mr. CROWLEY. Mr. Chairman, I rise in support of the Markey-Johnson amendment to protect the Arctic National Wildlife Refuge from being sacrificed to the harmful and reckless impact of drilling, logging, and development.

The Arctic Refuge provides a home to millions of animals and migratory birds; it provides subsistence to Native American people in Northeast Alaska; and it provides pristine wilderness for the generations of Americans after us.

Opening up the Arctic Refuge to oil drilling will not significantly reduce our oil imports—in fact, according to the Bush Department of Energy's on data, even when oil production hits its peak the Refuge oil would only reduce American oil imports by 2 percent.

Furthermore, even the oil industry acknowledges that it will take 10 years to develop and delivery oil from the Arctic Refuge.

The bottom line is that more oil production is not the answer to our energy needs—if we are going to address this issue honestly, then we must focus on developing renewable energy resources and energy efficient policies.

The CHAIRMAN pro tempore (Mr. BEREUTER). All time has expired.

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

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

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

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

It is now in order to consider amendment No. 6 printed in House Report 108–69.

AMENDMENT NO. 6 OFFERED BY MR. VITTER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. VITTER:

After the table of contents, insert the following new section:

SEC. 2. ENERGY POLICY.

It is the sense of the Congress that the United States should take all actions necessary in the areas of conservation, efficiency, alternative source, technology development, and domestic production to reduce the United States dependence on foreign energy sources from 58 percent to 45 percent by January 1, 2013.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

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

This amendment is very simple and straightforward. It stems from an alarming fact which is at the absolute heart of the need for this national energy policy, and what is that fact?

Last year, 58 percent of our oil resources consumed in the U.S. came from foreign sources. How has that changed over time? That is 20 points more than the level of the 1973 Arab oil embargo, and it is a full 10 points more than in 1991 when we fought the first Gulf War.

This amendment addresses that in a simple, straightforward way. It sets a policy. It declares a sense of the Congress that we will establish a specific goal of reducing that number to 45 percent by 2013, 10 years from now.

Again, this goes to the heart of our whole endeavor of creating a balanced national energy policy to achieve real energy independence and to reduce our dependence on foreign sources. We clearly need to explore all options available, conservation, efficiency, alternative sources, technology development, domestic production to achieve that independence; and this will help set an important benchmark to make us do that.

I want to thank the gentleman from Louisiana (Mr. TAUZIN) for his leadership in bringing up a well-balanced bill that addresses all of these options. This bill is the right energy policy and makes the right strides toward reducing that dependency on foreign sources in particular.

Briefly, why 45 percent? Because, number one, it would be significant. It would turn the corner because we are not only at 58 percent, but we are quickly increasing that number over time such that if we do not do something, we will be at two-thirds and over two-thirds in the very near future. Secondly, it is a realistic goal which is absolutely achievable.

Why do we not set this goal as a clear marker to turn the corner to reduce our dependence on foreign sources? Right now, just like the rest of our Nation's fuel, most of the fuel actually used by our military is from foreign sources. That is clearly not smart. That is clearly a danger that we can perceive in wartime, and it is a danger for our general economy even in peacetime.

I look forward to broad-based support of this amendment. I would note that it was included in the previous version of the energy bill which we passed through the House last year.

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

The CHAIRMAN pro tempore. Is there a Member that claims time in opposition?

The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 7 printed in House Report 108–69.

AMENDMENT NO. 7 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. TOM DAVIS of Virginia:

Page 34, starting on line 12 (in section 11006(f)), strike ''the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' and insert ''Congress''.

Page 41, line 24 (in the matter proposed to be inserted by section 11010(a) as section 6005(c)(3) of the Solid Waste Disposal Act), strike ''the Committee'' and all the follows through ''Representatives'' on page 42, line 4, and insert ''Congress''.

Page 43, before line 5 (at the end of subtitle A of title I of division A), insert the following new section (and conform the table of contents accordingly):

SEC. 11011. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and the Congress a report on the study required by this section not later than 6 months after the date of the enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

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

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(3) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term ''telecommuting'' means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(5) FEDERAL EMPLOYEE.—The term ''Federal employee'' has the meaning provided the term ''employee'' by section 2105 of title 5, United States Code.

Page 182, after line 6 (at the end of subtitle D of title IV of division A), insert the following new section (and conform the table of contents accordingly):

SEC. 15050. STUDY ON REDUCING PETROLEUM CONSUMPTION.

(a) IN GENERAL.—The Administrator of General Services, in cooperation with the Secretary of Energy, shall conduct a study to consider the merits of establishing performance measures to guide the reduction of petroleum consumption by Federal fleets.

(b) MATTERS TO BE ADDRESSED.—The study shall assess the feasibility of performance measures—

(1) to enable agency and congressional decisionmakers to establish annual and long-term performance goals to define the level of petroleum consumption reduction to be achieved by Federal fleets;

(2) to improve the effectiveness and accountability of Federal efforts to reduce petroleum consumption and dependency;

(3) to enhance decisionmaking by providing objective information on achieving performance objectives; and

(4) to provide an alternative to the mandated alternative fueled vehicle requirements in section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Administrator shall submit to the Committees on Environment and Public Works and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Reform of the House of Representatives a report on the study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

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

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, on March 20, the Committee on Government Reform reported out the Federal Government Energy Management Improvement Act, establishing energy efficiency standards and policies for Federal buildings and the Federal fleet of automobiles. The committee, which has primary jurisdiction over Federal procurement policy, Federal property management, including the management of buildings and vehicles and the Federal civil service, marked up this legislation dealing with these issues with the intention that it would be made a part of the comprehensive energy bill.

This amendment being offered by me and the gentleman from California (Mr. WAXMAN), my ranking member on the Committee on Government Reform, improves the comprehensive energy bill by harmonizing the provisions regarding Federal energy efficiency in H.R. 6 with the provisions reported out by the committee.

First of all, our amendment would add a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States as a way for the Federal Government to be a leader in energy conservation.

The second thing that our amendment would do is direct the General Services Administration, in cooperation with the Department of Energy, to consider the merits of establishing performance measures to guide the reduction of petroleum consumption by the Federal fleet.

Congress' role should be to decide where the Federal Government should be in terms of energy consumption in any given year. Then we should give Federal managers as much flexibility as possible to achieve these expectations.

Unfortunately, Congress is too often in the business of dictating how agency managers should accomplish certain performance goals and how they should manage these operations. It is time for Congress to move away from micromanaging the executive branch, and this amendment is an attempt to do just that.

I urge adoption of this amendment.

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

The CHAIRMAN pro tempore. Does any Member claim time in opposition?

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent to claim the time in opposition, even though there is no opposition to the amendment.

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

There was no objection.

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

I would like to thank the gentleman from Virginia for his efforts on this energy bill. It has been a pleasure to work with him on these issues on a bipartisan, collegial basis. Together, we have attempted to seriously examine the Nation's energy policy and provide some commonsense changes that would improve Federal energy management.

The Committee on Government Reform is the committee of jurisdiction for Federal Government management and procurement, and the committee unanimously adopted a bill addressing energy-related Federal management and procurement issues.

In particular, the committee carefully examined the existing programs that are intended to encourage the Federal Government to use alternative fuel vehicles and reduce the use of gasoline. The committee found that the existing program does not work. Agencies are using taxpayers' money to buy vehicles that can run on alternative fuels, but then they are operating them on gasoline, defeating the whole purpose.

Thus, the committee unanimously adopted, and I want to underscore that, unanimously adopted provisions to address this problem by allowing agencies to acquire fuel-efficient hybrid electric vehicles and by creating an incentive for agencies to use alternative fuels.

We also worked out on a bipartisan basis a plan for increasing the use of clean, renewable energy by the Federal Government. Despite the committee's actions, the committee's provisions were not included in the base bill. The gentleman from Virginia (Mr. TOM DAVIS) and I filed these provisions as a floor amendment, but it was not made in order. The amendment that we are now debating contains only a few minor study provisions adopted by the Committee on Government Reform. In other words, this bill is so relentlessly and excusably pro-consumption, pro-production, pro-exploitation of energy that we are not even allowed to debate bipartisan amendments that would modestly reduce Federal energy consumption.

As offensive as this is, this is only one of many egregious aspects of the procedure we are following today; and as bad as the process is, the substance of this bill is even worse.

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Last Congress I opposed the energy bill because it provided massive subsidies for energy industries and forced our constituents to pay the tab. That bill was offered with a brazen disregard of taxpayers, consumers, the environment, and the real energy needs of this country.

Now, we have seen Enron fall, we have proof of rampant price gouging in the West, and we are in the midst of a war in Iraq. After all this, we are debating an energy bill that is even worse than the last one. I have to wonder if we are really capable of learning from experience.

Once again, this bill is a massive payback to oil and gas, coal, nuclear, and utility industries; and the subsidies in this energy bill are even more skewed toward the energy industry.

This bill is also so laden with environmental giveaways to energy industries. For example, oil and gas companies, such as Halliburton, will get exemptions from the Clean Water Act and the Safe Drinking Water Act. Taxpayers will pick up the cost of refineries' compliance with the Clean Air Act. States and the public will have less input on pipelines that will degrade our coasts. The bill rigs the hydroelectric dam relicensing process against Native Americans, fishermen, farmers, cities, and environmental advocates; and the bill tramples State authority to apply environmental protections in siting transmission lines.

This bill also ignores reality and our real energy needs. We have learned that energy companies have fraudulently price gouged families, yet this bill does not address fraudulent acts. We have learned that oil companies are responsible for polluting critically important sources of drinking water, yet this bill would protect them from the consequences of their actions.

We have learned that energy deregulation can lead to higher prices and declining service, yet this bill pushes deregulation forward, heedless of the risks. We have learned almost daily of new impacts from global warming as icebergs break free and habitats retreat, yet this bill pretends it is not happening.

We have learned that with only 3 percent of the world's oil reserves, the United States can never drill its way to independence from Middle Eastern oil, yet this bill does nothing to meaningfully address our dependence on that oil.

We must wake up. We are at war, and most people believe this war has something to do with oil. After all, Iraq is

the seventh largest oil-producing country, and Saddam's wealth and power come from oil. The weapons that are still killing our young men and women were purchased with oil revenues.

I filed a very simple common-sense amendment to begin to address our dependence on oil. It would direct the administration to reduce waste of oil by the amount that we are importing from Iraq each year. Who could support wasting oil? Well, apparently the majority in this body. They have just voted to drill in the Arctic National Wildlife Refuge, yet the House is not even allowed to debate a proposal to reduce oil waste. This is a bad process and a worse outcome.

As we wage this war in Iraq, we have been largely isolated because of our failed diplomatic efforts. This diplomatic failure did not happen overnight. The foundation was laid when the President rejected the global warming treaty, a priority for most of the world. Subsequent unilateral rejection of the treaty after that treaty, and other treaties after that, only helped to ensure international distrust of the United States.

I offered an amendment expressing the sense of Congress that the United States should reengage in international negotiations on global warming, not accept the Kyoto Protocol, just carry out the promise that President Bush made to pursue an alternative. This language was unanimously accepted yesterday by the Committee on Foreign Relations in the other body, the Senate, but the House does not have the chance to debate a single measure on global warming, even a consensus one with bipartisan support like I proposed.

It is time for us to admit that our foreign policies and our energy policies are not severable. We cannot set the Nation's energy course while ignoring interactions with the rest of the world. This legislation does not represent reality in America today, it represents only the reality of a lobbyist-filled reception room and smoky back rooms here in Washington, D.C.

I will be opposing this energy legislation. I hope other Members will join me in doing so as well. Perhaps if a majority of us reject the energy bill, we can get back to work on meeting the real needs of our country in dealing with trying to break away from our dependence on oil and other energy resources.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume, and I share my friend's regret that his amendment was not made in order. I testified for it at the Committee on Rules. But somewhere in that speech I think was endorsement of the pending amendment; am I correct?

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

Mr. TOM DAVIS of Virginia. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I certainly support the amendment that the gentleman and I are being allowed to offer today, even though it is not what we voted out of committee. It is a study resolution. I do not think anybody can object, should object to it or would object to it.

But I wanted to use this opportunity, since I had some time on our side, to express my feelings about the whole energy bill and the process by which this bill is being rammed through the Congress.

Mr. TOM DAVIS of Virginia. Reclaiming my time, Mr. Chairman, I did not want the merits of the amendment to be lost.

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

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to disassociate myself from any of the gentleman's comments except the part where he said he supports the amendment of the gentleman from Virginia, because I do too.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time, and I ask for adoption of the amendment.

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

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, I demand a recorded vote.

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

It is now in order to consider amendment No. 8 printed in House Report 108–69.

AMENDMENT NO. 8 OFFERED BY MR. OBERSTAR

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. OBERSTAR:

Page 43, before line 5, insert the following:

SEC. 11011. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31 of title 40, United States Code, is amended by adding at the end the following:

"§ 3177. Use of photovoltaic energy in public buildings

''(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

''(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

''(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

''(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

''(B) To reduce the fossil fuel consumption and costs of the Federal Government.

''(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government's Million Solar Roof Initiative of 1997.

''(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

''(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

''(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

''(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

''(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

''(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

''(A) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

''(B) develop innovative procurement strategies for the acquisition of such systems; and

''(C) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Environment and Public Works of the Senate an annual report on the results of the program.

''(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Energy, shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

''(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There is authorized to be appropriated to carry out subsection (a) $210,000,000 for each of fiscal years 2004 through 2008. Such sums shall remain available until expended.

''(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There is authorized to be appropriated to carry out subsection (b) $52,700,000 for each of fiscal years 2004 through 2008. Such sums shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 3176 the following:

''3177. Use of photovoltaic energy in public buildings''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

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

Mr. Chairman, I offer this amendment for myself and for the gentlewoman from the District of Columbia (Ms. NORTON). It is to put in place a program of retrofitting Federal Government buildings with photovoltaic cells to generate electricity to operate these Federal buildings.

From the experience that we have gained over previous years, we know that not only can we supply all the electricity for Federal Government office buildings with photovoltaic rays, but also produce extra electricity that can be sold into the power grid and return some investment back to the Federal Government.

This is not a new idea. It was one that I first offered, I would say to my good friend, the chairman of the committee, in 1979. It was enacted and it was put in place at a time when photoelectricity from photovoltaic cells was running about $1.75 per kilowatt hour.

It is now down to 25 cents per kilowatt hour. With a huge cut in the program, it was literally terminated in the 1980s and into the 1990s. I think now is the time to, with further research, with more efficient cells, to get this program back on track and to save the government a huge amount of energy.

Now, the Federal Government spends $8 billion a year on utility costs for the 500,000 Federal Government offices that it operates, and we could save a considerable amount of money by retrofitting Federal Government buildings with photovoltaic cells. I have proposed in this amendment $263 million a year, subject to appropriations over 5 years. That is about equal to the amount we were investing in research and development on renewables in 1979. So this is not a great leap forward, but it is an important step forward.

I realize there may be some question about the total dollar amount per year, and that is a matter that can be subject to further discussion as the bill moves into conference. If the amendment would be acceptable here, perhaps some other number could be reached in conference, provided it is not a drastic reduction, but one that is a reasonable program.

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

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. BARTON) is recognized for 10 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume, and I want to say to my good friend, the gentleman from Minnesota (Mr. OBERSTAR), that it is mild opposition. It is not head-in-the-sand opposition, but I have several questions and concerns. I am not going to ask for a rollcall vote. If it passes on a voice vote, we will work this out in conference. But I do want to point out some things.

The bill before us authorizes $200 million a year for clean coal technology. Coal provides over 50 percent of our electricity. The Oberstar-Norton amendment provides $262 million a year for solar voltaic energy, which produces about four-tenths of 1 percent of our energy. That seems to me to be a little bit of an imbalance.

On page 2 of the Oberstar amendment it says that the goal would be to install solar energy systems in 20,000 Federal buildings by the year 2010. That is an average of about 50 Federal buildings per congressional district. The only way we are really going to be able to do that is if we solar voltaic almost every post office in this country.

If we go down to the bottom of the page on page 2, it says the total amount of photovoltaic electric energy they hope to generate is 150 megawatt hours. Well, if we take the $1.3 billion that it would authorize, and admittedly that is an authorization, but if we took that $1.3 billion, divided it with 150 megawatts, which is the goal, that is a cost of about $10 million per megawatt, $10 million. Now, to put that in perspective, a base load coal plant, a base load natural gas plant, even a base load nuclear plant, we are talking $500 per megawatt. So that we are putting a lot, a lot of money into admittedly a good program.

Solar voltaics is a good program, but as the gentleman indicated, right now the best technology generates photovoltaic energy electricity at about 25 cents a kilowatt. A base station natural gas combined cycle plant generates at about 2 cents per kilowatt. So there are a lot of problems with the specific language in this amendment, but its goal is honorable.

So I am going to work with the gentleman and the gentlewoman from the District of Columbia in conference, but I want the gentleman to know that there are some major, major problems with the specifics in this language. The goal is noble, but the implementation may be somewhat flawed.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT), who, I believe, wants to speak in support of the amendment.

Mr. BARTLETT of Maryland. Mr. Chairman, I thank the gentleman for yielding me this time.

The United States has 2 percent of the known reserves of oil in the world. We use 25 percent of the world's oil. We now import 57 percent of what we use compared with 37 percent in 1973, at the Arab oil embargo.

Now, I know that we do not get a lot of our electricity from oil, but energy is fungible and we really have to reduce our reliance on fossil fuels, or the future holds big, big problems for us. Just looking at oil, for instance, there is about 1,000 gigabarrels of oil remaining in the world. That sounds like a lot, a trillion barrels, but we use 20 million barrels a day. The rest of the world uses 60 million barrels a day. The arithmetic is not very tough. That is about 40 years of known reserves of oil in the world.

Now, we will find more oil, there is no question about that. But there is also no question that we would like to use more oil, and so would those Third World nations who would like to industrialize their countries to do for their people what industrialization has done for our people. So we are going to be very lucky in the future if the additional oil we find matches the additional oil we would like to use.

So we have about 40 years of oil remaining in the world, and that is not forever. We really do need to reduce our dependence on fossil fuels and foreign oil, and this is a very good way.

I have a lot of personal experience with photovoltaics.

□ 2000

I have a vacation property that has 48 60-watt panels at 4kw inverters. It has been there for a number of years. It works flawlessly; and the more we use, the cheaper it will get. The further we go down the curve of pumping oil, the more expensive it will get. It will not be too many years before those curves cross. So this is a good start. It is something that we ought to do. The Federal Government needs to set the right example, and this is doing that. I certainly support the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, speaking in favor of the amendment, I think one of the reasons we have not moved forward on energy as much as we have is the vision of new technologies is difficult to visualize.

I want to show Members a home located in Loudoun County, Virginia, Hillsboro, Virginia. It is owned by Alden and Carol Hathaway. It was built for a total of $365,000. It incorporates solar photovoltaic cells in the roof panels, in the shingles themselves. It has an in-ground heat pump, and it is a net zero energy-using home today in Loudoun County, Virginia. During the year, it is zero. It qualifies as a net zero use under energy qualifications, and that is happening today for essentially what it costs to build a house in Loudoun County today.

This is a real thing that is here. It is not some sort a figment of our wild imagination, and the reason this works is a phenomenon the gentleman from Minnesota (Mr. OBERSTAR) has used as the basis for that amendment, and this show the price of solar photovoltaic starting at about $1 in 1980 per kilowatt, and has continued to decline in a radical reduction in cost down to about 20–25 cents per kilowatt at this time, which is exactly what the gentleman from Texas (Mr. BARTON) stated, and he is always right about these things. That is about where it is today.

But the thing that is important to note is this graph is going to keep going down; and the reason it is going to keep going down is the economies of

scale that allow us to produce units at a lesser price the more of them we make. So we should have confidence that if we increase the demand for photovoltaic cells, this price is going to continue to come down, and there will be more homes like the Hathaways' home in Virginia.

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

Mr. Chairman, my eyes are getting old and tired. I cannot read the chart of the gentleman from Washington (Mr. INSLEE) from here. At the end of the chart, what are the dollars per megawatt or cents per kilowatt price at the low end of the curve at the right on the photovoltaic?

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

Mr. BARTON of Texas. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Chairman, this projection goes to 8 cents per kilowatt hour in this projection. This projection is a little less optimistic than the actual which the solar association predicts.

The solar industry believes that this rate of decrease will be relatively constant because what they explain, because of the economies of scale, largely the price of production is the issue and the cost of solar photovoltaic efficiency. Because when we ramp up our production facilities, we dramatically lessen our costs. I think every time we increase the photovoltaic number of cell units produced by a factor of 10, the price has gone down by a factor of almost 2. That has been relatively consistent.

So they are a little more optimistic than this chart. I think the other thing about photovoltaics, what I think the future is, these are not going to be enormous plants that cover Arizona, but they are going to be more discrete local plugged-in networks that the gentleman from Texas (Mr. BARTON) has shown leadership on to produce this back into the grid. I think we have good opportunities there.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, I could not read the chart; and I am a supporter of solar photovoltaics. I have some concerns about the goals and dollar amounts, but the concept I am very supportive of.

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

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

Mr. Chairman, I appreciate the consideration of the gentleman from Texas (Mr. BARTON). He has raised some legitimate concerns. I think we can resolve those as the bill goes forward.

Ms. NORTON. Mr. Chairman, over 25 years ago, in May 1977, Congressman OBERSTAR testified in front of the Public Buildings Subcommittee, chaired by former Congressman Norman Mineta, our current Secretary of Transportation, about the stark reality of our energy demands.

As everyone knows, a few years earlier, in 1973, the oil embargo had sent shock waves through the nation as energy prices soared. For the first time, with the exception of fuel rationing during World War II, America faced a serious shortage of energy. Long lines formed at the gas pumps and a national maximum speed limit was set at 55 m.p.h. President Nixon ordered the lights on our monuments and public buildings here in Washington turned off to save power and encourage the nation to cut back on its energy consumption. Then, in 1977 we staggered again under the natural gas fuel crisis.

In 1977 President Carter created the Department of Energy by combining the Energy Research and Development Administration (ERDA), the Federal Power Commission, the Federal Energy Administration, and several programs in the Department of Interior. At this time the Federal renewable energy program was enhanced to include basic and applied research and development, and encouraged partnerships with the private sector in demonstration projects.

In developing incentives for the renewable energy program the Federal Government stepped in and created market incentives through a series of residential and business tax credits. It is even more relevant now than it was in 1977 that the Federal Government stimulate not only basic and applied research in alternative energy systems but also encourage the production of such systems.

Encouraged by both the Carter Administration's and Congress's interest in renewable energy and convinced that solar energy provided numerous benefits and cost savings, in June 1977 Congressman OBERSTAR introduced H.R. 7629, a bill to provide for the procurement of advanced photovoltaic energy devices for use in government buildings. The bill became part of a larger bill to establish a comprehensive national energy policy, which became PL 95–619.

Most unfortunately, the Reagan Administration chose not to fund the bill, resulting in not only a lackluster renewable energy program but also a serious deterioration of national focus.

So now, more a quarter century later, we find ourselves still struggling to develop a comprehensive national energy policy. It is in this environment that I join with Ranking Member OBERSTAR to introduce this amendment to H.R. 6—The Energy Policy Act of 2003.

The purpose of the amendment is "to accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public. . . ." The Federal Government has used federal procurements as a method of "jump starting" a technology. Procurements for the Department of Defense helped develop integrated circuits. The General Services Administration, using its FTS 2000 telecommunications contract was also successful in promoting advancements and enhancements in telecommunications.

Because of the government's interest in the benefits of solar technology, solar systems are frequently incorporated into the operations of Federal buildings. Just across the Anacostia River, here in the Nation's Capitol, at the Suitland Federal Center the General Services Administration has installed a large PV system to supply electricity for the Federal center. During disaster relief solar power systems step in quickly to supply efficient, easy to install, mobile power sources.

The amendment authorizes the Administrator of General Services Administration to establish a photovoltaic energy commercialization program for the purchase and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities. As I mentioned, the purpose of the program is to accelerate the growth of a commercially viable photovoltaic industry, to reduce the fuel consumption of the Federal Government, to stimulate general use within the Federal Government of life cycle costing, and to develop performance data to support policy decisions on future incentive programs.

This is an excellent amendment and I urge my colleagues to support it.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 9 printed in House Report 108–69.

AMENDMENT NO. 9 OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. BROWN of Ohio:

At the end of subtitle E of title II of division A, insert the following new section:

SEC. 12405. GASOLINE AVAILABILITY STABILIZATION RESERVE.

(a) ESTABLISHMENT.—

(1) AUTHORITY.—The Secretary shall establish a Gasoline Availability Stabilization Reserve (in this section referred to as the ''GAS Reserve'') system with a total capacity of 20,000,000 barrels of regular unleaded gasoline.

(2) RESERVE SITES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine a site for one GAS Reserve each in the Northeast and Midwest regions of the United States, and one in California. Such reserve sites shall be operational within 2 years after the date of enactment of this Act. The Secretary may establish two additional GAS Reserve sites at locations selected by the Secretary.

(3) SECURITY.—In establishing the GAS Reserve under this section, the Secretary shall obtain the concurrence of the Secretary of Homeland Security with respect to physical design security and operational security.

(b) TRANSPORTATION PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress, the Secretary of Homeland Security, and the Governor of each State in which a reserve will be sited a plan for the transportation of the contents of the GAS Reserve under this section to consumers in the event of an emergency sale under subsection (d).

(c) FILL DATE.—The Secretary shall complete the process of filling the GAS Reserve under this section by March 1, 2006.

(d) EMERGENCY SALE AUTHORIZATION.—The Secretary shall sell gasoline from the GAS Reserve if—

(1) the Governor of a State transmits to the Secretary a written request for GAS Reserve emergency sales assistance which—

(A) cites a physical disruption in the system supplying gasoline to the Governor's State; and

(B) demonstrates to the satisfaction of the Secretary that such disruption is likely to result in price volatility for retail gasoline markets in the Governor's State; and

(2) the Secretary determines that—

(A) GAS Reserve emergency sales would mitigate gasoline price volatility in the Governor's State;

(B) GAS Reserve emergency sales would not have an adverse effect on the long-term economic viability of retail gasoline markets in the Governor's State and adjacent States;

(C) the physical disruption described in paragraph (1)(A) is likely to result in general economic disruption in the Governor's State and adjacent States; and

(D) GAS Reserve emergency sales would serve to stabilize gasoline prices, not suppress prices below long-term market trend levels.

(e) PROCEDURE.—

(1) SECRETARY'S RESPONSE.—The Secretary shall respond to a request transmitted under subsection (d)(1) within 10 days of receipt of a request by—

(A) approving the request;

(B) denying the request; or

(C) requesting additional supporting information.

(2) APPROVAL.—If the Secretary approves a request, the Secretary shall provide to the Governor a written notice of approval that includes—

(A) a description of the GAS Reserve emergency sale plan; and

(B) an explanation of the Secretary's decision.

(3) DENIAL.—If the Secretary denies a request, the Secretary shall provide to the Governor a written notice of denial that includes an explanation of the Secretary's decision.

(4) ADDITIONAL INFORMATION.—If the Secretary requests additional information and the Governor does not respond for a period of 10 days, the Governor's request shall be denied. If the Governor provides all requested additional information in timely manner, the Secretary shall approve or deny the request within 10 days after receipt of such information.

(f) MAINTENANCE TRANSACTIONS.—The Secretary is authorized to conduct purchases and sales of gasoline at wholesale for maintenance of the GAS Reserve system. In conducting maintenance transactions, the Secretary shall ensure that—

(1) the GAS Reserve is available to respond to emergencies during periods of the annual gasoline market cycle when the Secretary expects demand to be highest;

(2) the GAS Reserve does not contain gasoline for a period of time so long as to jeopardize its quality; and

(3) maintenance transactions are timed so as to minimize their impact on the retail price of gasoline.

(g) REPORTS.—Not later than November 1 of each year, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report on the GAS Reserve program, describing the physical status of GAS Reserve facilities, the program's financial outlook, and the disposition of any emergency sales request received and any emergency sales conducted since the last report, and recommending any additional appropriations or technical changes appropriate to improve the program's operation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for construction and operation of the GAS Reserve for fiscal years 2004 through 2009.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Ohio (Mr. BROWN) and a Member opposed each will control 10 minutes.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, Members all know that when our local news stations report that a pipeline has burst or refinery has caught fire, we need to get ready for angry constituent phone calls and letters about gas prices. It has become almost an article of faith in most of America that practically any problem with the gasoline distribution system will cause the retail price of gas to spike, often dramatically. We all know that price spikes follow supply disruptions, just as summer follows spring.

This first sequence of events is followed almost certainly by a second equally predictable series of events: We fire off letters to the EPA, the Department of Energy, the FTC, the American Petroleum Institute, anybody we can think of who might be able to help. And even their responses are fairly predictable. The Department of Energy assures us they are monitoring the situation closely. The EPA assures us environmental regulations do not account for the price spikes. The FTC assures us that a market without overt collusion must be working perfectly, and the API says everything would be okay if only Congress would repeal the Clean Air Act and let them drill for oil about anywhere, even under the Lincoln Memorial.

Any Members who have had this experience know how frustrating it is. Constituents face a real problem, the industry tells us it is our fault, the government agencies tell us either there is nothing wrong or there is nothing they can do about it.

My amendment gives us a chance to change all that. My amendment requires the Secretary of Energy to establish 3 to 5 gasoline availability stabilization reserves modeled after the Strategic Petroleum Reserve. The Midwest, Northeast and California would get a reserve, and the Secretary would be authorized to site two more reserves anywhere in the country.

The reserve size would be 20 million barrels total, about 2 percent of the SPR. That is only enough gasoline to keep the whole country running for a day or two, but it should be enough to help any one region blunt the price effects of a refinery fire or a pipeline outage.

And that is what this reserve is intended for, emergency price stabilization, not general price control. Before authorizing an emergency sale from the reserve, my amendment requires the Secretary receive a request from the Governor based on a disruption to the physical system supplying gasoline to that State. Even then it is not a rubber stamp.

The amendment requires the Secretary to evaluate the Governor's request and consider the potential effects of the reserve sale on the area's retail gasoline markets. Only then can the Secretary conduct an emergency sale from the reserve. Even when a sale is authorized, the amendment requires the Secretary to conduct the sale so as to stabilize, not suppress, gasoline prices.

My amendment requires that the reserve program not create the very price instability the reserve is intended to prevent. In conducting routine purchases and sales, the Secretary must minimize the effects of these maintenance sales on the gas market. The amendment is not about assigning blame. It does not say that gas price spikes are the fault of greedy corporate robber-barons or environmental zealots. The amendment is about helping to minimize the effects of the supply system glitches on American consumers.

The logic is not complicated. Tom Greene, the senior assistant attorney general in California has said, ''Inventories have declined dramatically. One implication is that if there is a refinery fire or an outage, there simply is not a cushion to cover the outage, and so you see price spikes.''

My amendment provides that cushion. It is not a new, radical idea. Congress has done it before. The Energy Conservation and Policy Act amendments of 1990 authorized the creation of regional reserves of refined petroleum products, including gasoline. Congress is not the only body that has seen the virtues of the gas reserve. The State of California is considering a state-run reserve. A report requested by the energy commission there suggested such a reserve might save California consumers a billion dollars in the wake of a supply problem. The Consumer Federation of America has recommended this idea for the Midwest.

I urge Members to vote in support of this consumer-friendly, economic growth protection amendment.

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

Mr. TAUZIN. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Louisiana (Mr. TAUZIN) is recognized for 10 minutes.

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

Mr. Chairman, this amendment proposes to establish a gasoline reserve, 20 million barrels. That is 840 million gallons of gasoline. With one site each in the Northeast, Midwest and California, there would be over 6 million barrels or nearly 280 million gallons of gasoline at each one of these three locations.

To put it in proper perspective, Port Mobil in New York, one of the largest in the world, has a storage capacity of only 2.5 million barrels. This amendment more than doubles it at each of three locations. A large gasoline storage tank can hold about 300,000 barrels. This amendment would require 22 such tanks at each location.

Gasoline, as we all know due to its extremely volatile nature, has to be stored above ground. Vaporization is a major problem. Gasoline is extremely flammable. It is explosive. I find it very ironic if a private company proposed to build one of these facilities anywhere with this kind of magnitude, every environmentalist in the country, every safety advocate in the country would be there to oppose it, and it would likely not get built. Here we propose for the government to do it.

Gasoline, worst of all, has a shelf life of 1 year or less. Now I want to put this in perspective so we all understand what I am talking about. Have Members ever tried to use the lawn mower with last year's gasoline in it? Have you ever tried to start it? Now try 840 million gallons of old gasoline in lawn mowers and cars all over America.

But the amendment says the Secretary of Energy is authorized to conduct purchase and sales of gasoline for maintenance purposes such as maintaining gasoline quality. So now let us talk about market manipulation. Here the government, the Secretary, is buying and selling 840 million gallons of gasoline in order to turn over the inventory on a 1-year cycle. That would disrupt markets in the private sector as they tried to anticipate the Federal buy-and-sale plan. This is just a ploy for the Federal Government to begin regulating gasoline prices. We have to understand it for what it is.

The amendment requires the storage of regular unleaded gasoline. Depending upon the time of the year, there are between 20 and 24 different types of regular unleaded gasoline blends at any one time in America. In the Northeast alone, there are five different types of regular unleaded gasoline. Would the reserve have winter grade or summer grade, in addition to the various blends? Members can see what I am getting to.

This is an extraordinarily complex market that is made even more extraordinary because the government requires all of these different blends, and now we are going to put the government in the business of creating massive storage tanks all over America, manipulating sales and purchases all over the place with all of these different blends to boot, and having to do it on a regular cycle because old gasoline will not start the lawn mower.

The enactment into law of this amendment would be a disaster. It would be a disaster to communities where the site is located, it would be a disaster for the gasoline markets that would be disrupted by government built-in manipulation, and it would be a disaster to the Federal Government for wasting rather precious tax dollars.

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I urge my colleagues to defeat this amendment.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK).

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

I rise in support of the Brown GAS Reserves amendment.

Mr. Chairman, the bill before us today throws billions of taxpayer dollars at oil production. It undermines environmental protections for coastal States like my home State of Michigan, as well as Alaska's Arctic National Wildlife Refuge. All of this is done for the promise of oil that cannot possibly get to the market for several years.

Even if these measures do succeed in increasing America's supply of crude oil, they will do nothing, nothing, to require that America's oil companies supply regions like the Midwest. Michigan was hit hard in 2001 when pipeline outages cut into our region's gasoline supplies. Prices at the pump jumped through the roof, putting the squeeze on my constituents and putting the brakes on Michigan's economy. Again this year we have large and often overnight jumps in gas prices that are just simply outrageous and are creating distrust in our system of gasoline distribution in this country.

The problem is not that pipelines sometimes break down and refineries sometimes catch on fire. They happen; these are acts of God, and we cannot expect the industry to prevent every one of them. The problem, Mr. Chairman, is that oil companies do not keep enough gasoline reserves in our area to provide a cushion when accidents like this happen, and that is not just ancient history. Even as we debate this amendment today, my district is looking at another summer of driving without a safety net, without a cushion.

The Bush administration's Energy Information Administration reported just last week that gasoline ''stocks are very low for this time of the year on the East Coast and in the Midwest.'' The gentleman from Ohio's (Mr. BROWN) amendment, the GAS Reserves amendment would provide that cushion, that safety net that we need in Michigan to mitigate the price effects of physical disruptions in our region's gasoline supply system. For my friends in the Midwest, the Northeast, and California, history has shown that they also need that cushion, that safety net that is provided by this amendment.

I hope that my colleagues will join me in voting to give the Federal Government the tools it needs to make a real difference in the most important day-to-day energy issue facing our constituents and our economy. I ask that you join me in supporting the Brown amendment.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Chairman, first I want to thank the distinguished gentleman from Ohio (Mr. BROWN) for graciously, and I mean this, providing us copies of the amendment. The majority staff had the odd page copies but not the even page copies. So we appreciate it. That shows how closely we had been tracking this. So I am glad we got the entire amendment, and I appreciate that.

The gentleman from Ohio has many good ideas on the Committee on Energy and Commerce, and we have worked together on many of those ideas. This is not one of them. It is an idea, but just to put this in perspective, we use every day in this country 12 million barrels of gasoline, 12 million barrels. That is what we use to keep our transportation system going.

The gentleman's amendment authorizes 20 million barrels; that is not even a 2-day supply. So even if this were implemented, it would be 1½ days' supply. So that is the first problem with it.

The second problem, the gentleman very graciously says we are going to put a reserve in the Northeast, put a reserve in the Midwest, put a reserve in California and in two other places. That is five places. Somebody is going to get left out. If we put one in the Northwest and in the Southeast, then the Southwest gets left out. If you put one in the Southwest and the Southeast, then the Northwest gets left out. So we have got a little bit of a problem there.

We have got a security problem. Do we really want to put a national gasoline reserve in place that is just an invitation for a terrorist target? We have got that problem.

Then we have got the problem of overflow. If we do not use the gasoline, it becomes stale. Again, we are only storing 1½ days' supply, but we are going to be continuously changing this gasoline to make sure that it is fresh in case it needs to be used. That would probably cost more in the acquisition costs. So all in all this is not an idea whose time has come.

The gentleman has other ideas that I would encourage him to pursue more vigorously, because even if this were to be implemented, I do not think it would have the intended effect.

So I hope we would oppose the gentleman's amendment and work with him on some of these other amendments. But I thank him again for giving us the copies of the pages we did not have.

Mr. BROWN of Ohio. Mr. Chairman, how much time is left?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Ohio has 3 minutes remaining. The gentleman from Louisiana has 3½ minutes remaining.

Mr. BROWN of Ohio. I would like to close.

The CHAIRMAN pro tempore. The gentleman from Louisiana, who objects to the amendment, has the right to close.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the kind words of the gentleman from Texas (Mr. BARTON). I am intrigued that the two speakers who are against this amendment, one says there is too much gas that we are putting aside and reserving and the other says there is not enough gas we are reserving.

On the second argument, one said there are too few places and then the other says there are too many places where we are putting reserves. I do not quite get which it is.

But I ask each of my colleagues to think about when they go home this weekend to go to their grocery store, go to their son's or daughter's school, go to a local gas station, stop any one of their constituents, ask her or ask him what energy issue affects them the most on a day-to-day basis. I doubt that they will talk about electric power transmission lines. I doubt that they will talk about reprocessing nuclear fuel. I doubt that they will talk about building oil rigs, where they locate them, where they drill.

I will bet their constituents, almost every one that they ask, would say that the single energy issue affecting their daily lives most is the volatility of retail gasoline prices. People invariably, inevitably, almost every week will call them on the phone and talk to them in the grocery store or whatever and say, why did gas prices spike so much? Why did they go up so quickly? What happened this weekend to cause these to go up?

The bill before us today does nothing, absolutely nothing to address that important issue. We are going to pass an energy bill tonight or tomorrow or a couple weeks from now when we come back, and we will have accomplished nothing, done nothing to address the issue of price spikes in gasoline at the pump.

This amendment is about States' rights. It is about local control. It is about empowering governors to protect consumers in their States. It is not about forcing governors or forcing States to do something. It gives a governor, it gives the Secretary of the Department, it gives all of them tools to deal with the issue of price volatility. This amendment is, I would emphasize, the only thing in the bill that provides immediate relief for the most obvious tangible energy issue affecting our constituents.

I invite my colleagues to join me in approving this bill by adopting the reserves amendment.

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

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I too have a good friend from Ohio, but I would say the whole supply and demand equation still works. We are trying to get more supply through oil exploration. We have not built a new refinery in this country in 25, 30 years. Unfortunately, our bill does not help ease some regulatory burdens or have incentives to create new refineries. That is how we would solve their problem.

I fly into St. Louis, Missouri and if we fill up with gasoline in St. Louis and I have to drive to Springfield, Illinois, I go through three different fuel blends. There are three different fuel blends. There is a different fuel blend for St. Louis. There is a different fuel blend for Metro East, and there is a different fuel blend for Springfield, Illinois. Mr. Chairman, which fuel blend are we going to use to store and how do we separate it?

The intent is good. This cannot be implemented in the country today. So I would ask for defeat of the Brown amendment.

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

Let me put this in perspective for the gentleman from Ohio (Mr. BROWN). The gentleman from Illinois (Mr. SHIMKUS) is correct. The last time America built a major refinery was in my district over a quarter of a century ago. Over a quarter of a century ago was the last time we licensed and built a major refinery in America. That is pretty sad. The result has been that our refinery is at 93 percent capacity right now.

They are making gasoline and fuel oil to heat our homes and jet fuel, as fast as they can make it; diesel fuel for our vehicles, as fast as they can make it. The result is we are importing more refined products now than ever. We are importing more refined jet fuel, gasoline, diesel, fuel oil, everything else because we have stopped building refineries in America. That is pretty sad.

On top of that, we have got a fuel blend requirement in our system that causes regions of the country to switch blends every now and then, winter grade, summer grade, different blends to meet air quality standards, the result of which if there is any breakdown in the system, we have got real problems. But building gasoline reserves and having the Federal Government intervene in those sales and marketing and circulating these sales every year is just going to make it worse, I promise.

I hate to pick on the post office, but if my colleagues think the government running the Postal System is a good idea, and delivering all the mail and the e-mails of America and running the Internet, for example, put them in the gasoline business and see what a mess we have got. This is not going to work. It is a terrible idea.

And, to boot, I can see what happens at the end of the year. We have got all these blends and all these products sitting in these tanks we have not been able to market, and all of a sudden we are going to have an old gasoline disposal bill and we are going to be fighting over whether to put it in Yucca Mountain or somewhere else.

I mean, I can see what happens at the end of this thing. It just does not work.

If my colleagues want a system that works, help us build a good energy policy that produces more in America, that builds a refinery every now and then when we need one, instead of not having one built in a quarter of a century. That will work.

I ask the Members to reject this amendment.

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

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

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

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

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

It is now in order to consider No. 10 printed in House Report 108–69.

AMENDMENT NO. 10 OFFERED BY MR. UDALL OF NEW MEXICO

Mr. UDALL of New Mexico. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. UDALL of New Mexico:

Strike section 14029.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from New Mexico (Mr. UDALL) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

First of all, Mr. Chairman, I would like to thank the Committee on Rules for making this amendment in order.

This amendment is a simple amendment with a simple objective: striking section 14209 of the Energy Bill and to protect the health of thousands of residents of the and Navajo Nation.

Section 14209 provides a $10 million subsidy over 3 years to promote a highly experimental technology where uranium is mined from groundwater. The problem is, the groundwater is a pure source of drinking water for a community of over 10,000 Navajo Indians. The Navajo community has suffered enough from the effects of uranium mining. Hundreds of families have lost their loved ones and breadwinners to the scourge of uranium mining.

During the 1940s through the 1970s, Navajo men mined uranium in dirty mines with high levels of radon. As a result, many contracted lung cancer. The Navajo Nation has seen an epidemic of lung cancer caused by uranium mining.

The people of the Navajo Nation and the residents of Crownpoint and Church Rock, do not want this mining to occur in their groundwater. They have suffered enough. They are fighting now against a company in court

that is attempting to mine, and they are in court right now.

Some of my colleagues have approached me and asked me to withdraw my amendment because they believe that New Mexico was excluded. This is not the case. If it were, I would be pleased that the drinking water and aquifer of my constituents would not be threatened.

As written, section 14029 does not preclude uranium mining in New Mexico or anywhere else for that matter.

□ 2030

The Congressional Research Service has advised me that, as written, 14029 would permit in situ leach mining in New Mexico.

Specifically, if a domestic uranium producer has produced uranium in any of the States listed, Colorado, Nebraska, Texas, Utah or Wyoming, and produced uranium in any other State, then that company is eligible for the grants created by this section. Then they are not precluded from doing this procedure anywhere that uranium is located.

More importantly though, this is not just about New Mexico. In my opinion, we should not be experimenting in communities' water anywhere. I am trying to protect everyone near uranium mines from having their water supplies polluted.

Mr. Chairman, my first and foremost concern in offering this amendment is protecting the health of thousands of Navajos who would be severely impacted by this mining. There are, however, other concerns. This proposed subsidy would also lead to even further unsound fiscal policy.

At a time of skyrocketing Federal deficits and an uncertain economic future, we should not be giving away $30 million to the uranium industry. We have too many domestic priorities that are not being met because of policies like this subsidy. Taxpayers for Common Sense views this as an unfair and unwise corporate giveaway.

This is also about fairness. It is sadly ironic that we cannot find the financial resources required to fully fund the Radiation Exposure Compensation Act, or RECA, which was intended to clean up the mess left by the uranium industry; but we can find the resources for this $30 million subsidy to pollute more water and potentially ruin the health of more citizens.

We do not need more of this type of uranium development. Promoting this type of development does not safely provide new energy sources. Instead, it increases the potential for drastically harming the environment and causing potential harm to thousands.

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

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the amendment and claim the time in opposition.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Louisiana is recognized for 10 minutes.

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

Mr. Chairman, I rise in opposition to this amendment. I believe nuclear power is an essential source of electricity in the country. It provides about 20 percent of our power today. Nuclear generating capacity is critical to maintaining the diverse portfolio that everybody wants.

In order to have nuclear power, you have to have a reliable domestic source of nuclear fuel. Nuclear fuel is made of enriched uranium, which obviously comes from uranium ore, and which is mined from the Earth in several western States.

The Udall amendment seeks to strike section 14029 from the bill. That section authorizes $10 million per year over 3 years for the Secretary of Energy to enter into cooperative, cost-shared agreements with domestic uranium miners to develop improved uranium mining technologies, including those that have minimal environmental impacts.

It also supports the development of the advanced low-cost environmental restoration technologies, to clean up uranium mines after they are closed. Why would anybody, including any nuclear activist, oppose technologies to clean up old mines?

I understand that many Members are against nuclear power; but the fact is that nuclear power will continue to grow in our country, and this amendment seeks to ensure that we develop advanced and environmentally sensitive uranium mining and restoration.

Mr. Chairman, I believe a vote for the Udall amendment to strike this section is essentially a vote against nuclear power, and a vote in favor of this amendment is also a vote against the development of environmentally responsible uranium mining and clean up technologies.

So I urge that we oppose this amendment.

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

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my distinguished friend, the chairman from Louisiana, makes the point that this is solely a responsible way to help the uranium mining industry.

I would point out to the gentleman that the uranium industry, since its beginning, has received $60 billion in subsidies from the Federal Government. We have a serious glut in uranium right now, one, because of governmental policies, and, secondly, because our companies that operate here in the United States cannot compete internationally, and we have this huge glut of uranium on the market right now. So the solution that the gentleman and this bill come up with is to throw more money at an industry and prop it up and encourage that industry to go out and mine in situ in people's groundwater.

This is not the way to move. I do not think this is the kind of solution that would help my constituents, it does not help anybody's constituents who live near uranium mining, and I believe we ought to focus on what is going on here.

First of all, we are propping up an industry; secondly, we are damaging the groundwater of many people; thirdly, this just is not sound fiscal policy for our Nation.

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

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, I rise today to express my opposition to the Udall amendment to H.R. 6, which strikes section 14029 from the Energy Policy Act of 2003.

Let me say, one of the things that has been indicated in terms of the glut, and that is correct, but I want to indicate that the domestic uranium industry arose and expanded in response to government pleas that the private industry establish sufficient uranium to meet the American nuclear defense needs as well as the energy needs. However, in the 1990s the Russian Highly Enriched Uranium Agreement and the privatization of the U.S. Enrichment Corporation worked unintentionally to create an overwhelming glut.

Mr. Chairman, that is true, but that same glut caused the prices in the market to drop and the industry to have serious problems at below-production costs. The funding in section 14029 responds to the numerous obstacles stemming from these government actions which led to the drastic supply/demand imbalance that has occurred in the uranium industry that has left competitive domestic producers unable to survive.

That is why we need these resources, because at the present time the gentleman is correct, there is a glut. There is too much. That is why we need assistance and resources to help out.

Mr. Chairman, what these resources do basically is authorize funding for research at existing sites to make uranium recovery safer for people and the environment, and also to provide redress for impacted domestic uranium industries, by assessing the decontamination, by looking at the decommissioning, by reclamation and other environmental remedial costs. So when you look at what we are trying to do, it is basically trying to correct the situation we find ourselves in.

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentleman from Texas for his comments on this issue. I consider him a good friend. But on this issue I think we have to disagree.

They say the uranium market is hurt because of governmental policies. The real facts are that the uranium industry cannot compete internationally.

Other countries, namely Canada, are able to produce at far lower prices than the United States. What we are doing here by including this subsidy is propping up a dying industry.

Yes, there is a glut in the current uranium market, also created by governmental policies; but why are we giving away taxpayer money to increase the supply even more? What happened to competition? My friends from the other side always talk about competition. This is not competition; this is growing more and more and more supply.

This is a very unwise section of this bill, and it should be stricken.

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

Mr. TAUZIN. Mr. Chairman, I am pleased to yield such time as she may consume to the gentlewoman from New Mexico (Mrs. WILSON) for purposes of a colloquy.

Mrs. WILSON of New Mexico. Mr. Chairman, the Committee on Energy and Commerce adopted an amendment that I offered in committee regarding research to reduce the impact of uranium mining on water. The amendment sought to make clear that this research would be restricted only to the States of Colorado, Nebraska, Texas, Utah or Wyoming; and no other States, including New Mexico, would be the location for this type of research.

Does the gentleman agree that is the intent of the language included in the bill today?

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

Mrs. WILSON of New Mexico. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, that is precisely the intent that was in fact discussed and acknowledged when we accepted the gentlewoman's amendment in full committee.

Mrs. WILSON of New Mexico. Mr. Chairman, reclaiming my time, some readers of the language are asking questions about the intent. Would the gentleman be willing to work in conference to make technical corrections to the language in order to make that intent perfectly clear?

Mr. TAUZIN. Mr. Chairman, if the gentlewoman will yield further, yes, I would.

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentlewoman from New Mexico for her willingness to come to the floor and clarify the intent of the legislation. I appreciate her efforts on this issue. However, even if the language in the bill were in line with the intent, I still believe my amendment is necessary. This subsidy has dangerous implications for the entire Nation, not just my district.

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

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS).

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

Mr. Chairman, I rise tonight in opposition to the Udall amendment. The Udall amendment would strike from the energy bill all funding for research and development into environmentally sensitive uranium mining and reclamation technologies.

Uranium mining is necessary for the production of enriched uranium that is then necessary to create the fuel used in the production of nuclear power. Nuclear power must not be excluded from the Nation's long-term energy plan. It is now, more than ever, a national security issue. I think that we should invest in new technologies that can be used to extract uranium from the ground. Section 10429 creates a uranium mining research and development program to improve uranium mining technologies.

The main focus of section 10429 is to develop environmentally sensitive uranium mining technologies as well as new environmental clean-up technologies for closed uranium mines. That, Mr. Chairman, is responsible stewardship.

Nuclear power is here to stay, and we need to support a strong domestic uranium industry. This legislation does that, and it is environmentally sensible.

Mr. Chairman, the Udall amendment to strike this provision from the bill could simply be characterized as an anti-nuclear amendment. But we live in a unique time. We are at a point in our Nation's history where we cannot afford to turn our back on any reasonable power source to meet our Nation's energy needs.

Mr. Chairman, I am against the Udall amendment; and I encourage my colleagues to vote against it as well.

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume to close debate on my side.

Mr. Chairman, this amendment can prevent potential damage from this provision that inflicts enormous, enormous, damage on the health of thousands of Native Americans. But this provision has implications far wider than just my district. It has implications in any district that has uranium and where uranium is mined.

The potential long-term damage this section could inflict on the environment is immeasurable. I ask my colleagues to take a close look at this and consider whether or not they might want this dangerous type of mining occurring in neighborhoods of their constituents.

I would also ask that they take a look at the fiscal responsibility here. This is an industry which has received $60 billion in subsidies. This is an industry right now where there is a huge glut on the market of uranium, and we are talking once again about throwing $30 million at the industry and propping it up. It does not make a lot of sense, especially in this competitive environment.

I would urge my colleagues to look at the groups that are supporting my amendment. We have the Taxpayers for Common Sense, who believe that this is a very serious corporate giveaway. That is one end of the spectrum. And we have most major environmental groups that are supporting this amendment. The leaders of the Navajo Nation for the last two terms have supported this amendment and are against this type of mining on the Navajo Reservation.

□ 2045

The Navajos are the largest tribe in the Nation, and the Union of Concerned Scientists is against this amendment.

So with that, I would ask all of my colleagues to vote for the Udall amendment.

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

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

Mr. Chairman, this amendment strikes money that is designed to help improve technologies for mining in an environmentally safe way. It strikes money that is designed to help improve technologies for cleaning up the uranium mines once they are shut down.

Now, if one is against nuclear energy and if one is against mining, why would one be against helping to make sure that technologies for mining were at least done in an environmentally sound way? Why would you be against mining to make sure that technologies were developed to clean up abandoned mines once they have finished their life cycle?

It seems to me that this kind of an amendment is just designed to say you are against nuclear energy, and I understand that, as some of my colleagues are.

Mr. UDALL of New Mexico. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Chairman, the gentleman from Louisiana says that this is an amendment against the nuclear industry. I am not offering this with that motivation. This is an amendment to protect the environment, and it is to protect the taxpayers' pocketbook.

Mr. TAUZIN. Mr. Chairman, reclaiming my time, I accept my friend's explanation, but my point is, if we are talking about doing what we always do in government, and that is to assist technologies to help improve the environment in this case, to make sure that when mining occurs, it is done in an environmentally sensitive way; to make sure that when mines are closed, they are closed in an environmentally sensitive way, if that is what we are doing in this case, it seems to me whether you are pro- or antinuclear, one would be for doing this. I cannot imagine why one would be against doing this, unless one just does not like

nuclear energy, and I know a lot of people do not.

I accept the gentleman's statement that that is not why he is doing it; I just find it hard to believe that all of the groups the gentleman has aligned with him are not antinuclear activists, because I have seen the list.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment offered by the gentleman from New Mexico (Mr. UDALL).

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

Mr. UDALL of New Mexico. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Mexico (Mr. UDALL) will be postponed.

It is now in order to consider Amendment No. 11 printed in House report 108–69.

AMENDMENT NO. 11 OFFERED BY MR. NADLER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. NADLER:

In division A, section 14032, in the proposed section 307(d)—

(1) strike ''and'' at the end of paragraph (6);

(2) strike the period, close quotation mark, and period at the end of paragraph (7) and insert ''; and''; and

(3) add at the end the following new paragraph:

''(8) accelerating the purchase of excess weapons grade plutonium and uranium from Russia to reduce the likelihood that such plutonium and uranium could be stolen or sold to terrorists.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Chairman, this amendment would add to the Highly Enriched Uranium Divergent Study Threat Report, already required by the bill, a new section mandating that the study examine the options of weapons accelerating the purchase of excess weapons grade plutonium and uranium from Russia to reduce the likelihood that such plutonium and uranium could be stolen or sold to terrorists.

The report already requires that seven items be considered by the Secretary, and this amendment would add an eighth item.

Mr. Chairman, the greatest threat the United States faces is that a terrorist group like al Qaeda may obtain nuclear weapons. Even a small nuclear bomb exploded in the United States would kill hundreds of thousands of people and cause more than $1 trillion in economic damage. The threat of nuclear proliferation is at the heart of our confrontations with Iraq and North Korea, yet we are not adequately addressing the most likely source of this threat.

It is relatively easy to make atomic bombs if you have weapons-grade material. Enough excess weapons-grade plutonium and uranium to build 20,000 nuclear bombs is stored in the former Soviet Union, in facilities of doubtful security, guarded by low-paid personnel who may be tempted by black-market cash. The possibility of al Qaeda or another such terrorist group buying or stealing enough for a few nuclear devices is disturbingly high.

The United States has agreed to buy or help convert the Russian nuclear materials into a nonthreatening form, but this will take decades, up to 30 years, in fact.

Now, I had originally wanted to offer an amendment that would add $30 billion in funding to enable us to quickly purchase and secure all of the excess Russian plutonium and highly enriched uranium. That amendment was based on the recommendations of a report issued in January of 2001 by a commission headed by Howard Baker, Lloyd Cutler, Gary Hart, Sam Nunn, Susan Eisenhower, and Robert Hanfling. Their report, entitled ''A Report Card on the Department of Energy's Nonproliferation Programs With Russia,'' should have served as a wake-up call to the Nation. Unfortunately, we are still asleep when it comes to this issue.

That report writes, ''The most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons of usable material in Russia could be stolen and sold to terrorists or hostile nations and used against American troops abroad or citizens at home. This threat is a clear and present danger to the international community as well as to American lives and liberties.''

I agree. Unfortunately, my amendment, based on their recommendations, was not made in order. But this amendment, simply to study the pros and cons of accelerating the purchase of this dangerous nuclear material, may result in our taking real action a year or two from now.

We need to increase substantially the funding to purchase excess Russian plutonium so that we can immobilize it; to purchase the highly enriched Russian uranium in order to downblend it; and to make a series of improvements to the security of nuclear material while it is still in Russia, including training of operators and managers, computerizing inventory systems, and making upgrades to security during transport. At the very least, it is time for the Secretary of Energy to consider carefully proposals that would accelerate the purchase of this excess weapons-grade plutonium and uranium. Whatever it would cost would be a small price to pay to keep al Qaeda from obtaining nuclear bombs.

I hope my colleagues will support this amendment.

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

Mr. NADLER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to thank the gentleman for yielding, and I want to announce that we support the gentleman's amendment.

And if I might have time of the gentleman to explain why, we think this amendment improves on the amendment that we supported in committee offered by the gentleman from Florida (Mr. DEUTSCH) earlier. The underlying provision requires the Department of Energy to provide Congress with a report of recommendations on how we can reduce the threat of theft or diversion of highly enriched uranium; and the Nadler amendment, as I understand it, requires the Secretary to include in this report any recommendations to accelerate the purchase of excess weapons-grade uranium and plutonium from Russia to reduce the likelihood of these materials being stolen or falling into the hands of terrorists.

My understanding is, the Department of Energy has already negotiated several agreements with Russia to purchase highly enriched uranium and weapons-grade plutonium, for that matter. This amendment would require the Department to study ways to build off those successful agreements, and determine whether accelerating the programs would be feasible.

The Subcommittee on Oversight of the Committee on Energy and Commerce has held numerous hearings to review physical security of nuclear power plants, security of Department of Energy facilities, and the risk of nuclear smuggling at our ports. The nuclear title, in fact, of our bill before us today has numerous provisions to improve the security of nuclear materials in our country.

The Nadler amendment, as I understand it, builds upon our strong efforts already in the bill to ensure that nuclear materials are protected and do not fall into the hands of terrorists. So I think the gentleman is doing this country and this Congress a favor with his amendment.

I rise in support of it, and I ask my colleagues to vote in favor of the provision.

Mr. NADLER. Mr. Chairman, reclaiming my time, I appreciate the support of the distinguished chairman.

The CHAIRMAN pro tempore. Does anyone rise in opposition to this amendment?

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

The CHAIRMAN pro tempore. The gentleman's time has expired. The gentleman from New York must seek unanimous consent for additional time since his time has expired.

Mr. NADLER. Mr. Chairman, I ask unanimous consent for an additional 5 minutes, which I will not use.

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

There was no objection.

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

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

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

Mr. Chairman, the gentleman from Florida (Mr. DEUTSCH) and I introduced legislation to deal with the issue of highly enriched uranium that is of U.S. origin that should be secured no matter where it is, here or around the world, so that we can preclude that material's being used for nuclear weapons.

The gentleman from New York (Mr. NADLER) improves upon it. He wants it out of an even more dangerous area, and that is the former Soviet Union, all the loose nuclear material; and the opportunity that the United States has to play a lead role in taking that nuclear material, bringing it to the United States, getting it out of harm's way. And I am glad that the gentleman from Louisiana and the Republican leadership is accepting this amendment because, in the long run, there may be no more important amendment that we consider.

Mr. NADLER. Mr. Chairman, reclaiming my time, I thank the gentleman for his support. I thank the distinguished chairman for his support.

Mr. Chairman, knowing that I am ahead, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 12 printed in House report 108–69.

AMENDMENT NO. 12 OFFERED BY MR. REYNOLDS

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. REYNOLDS:

At the end of subtitle B of title IV of division A, insert the following new section:

SEC. 14036. TRANSFER.

Not later than December 31, 2003, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

The CHAIRMAN pro tempore. Pursuant to House Resolution 108–69, the gentleman from New York (Mr. REYNOLDS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. REYNOLDS).

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

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

Mr. Chairman, I would like to open by noting that I am before my colleagues today not only on my behalf, but on behalf of my colleague and neighbor, the gentleman from New York (Mr. HOUGHTON). The gentleman from New York (Mr. HOUGHTON) had planned to offer this amendment on West Valley, which is in his district, but his mother, Laura Houghton, passed away yesterday at the age of 102 years. So he had to go to return to his district and he asked that I introduce this amendment on his behalf. And I am also joined by the gentleman from New York (Mr. QUINN), who is also a neighbor.

Mr. Chairman, this amendment addresses an issue that hits very close to home. The West Valley Nuclear Service Center in West Valley, New York, neighbors my hometown of Springville, New York, the very town where I grew up. The facility is the only commercial reprocessor of spent nuclear fuels in the United States. Although commercially operated in the late 1960s and early 1970s, the Federal Government provided all of the reprocessing technology, and the vast majority of reprocessed fuel came directly from the Federal Government's nuclear weapons reactors.

Over 20 years ago, at the direction of Congress and at the urging of the residents of western New York, New York State and the Department of Energy became partners to clean up this site. They were to work cooperatively in cleaning up the site and in deciding its future. New York State even agreed to pay for a portion of the cleanup. To this day, New York State is the only State to contribute to the cleanup of high-level nuclear waste. In fact, New York State has contributed over $250 million to the waste cleanup since its inception.

The cleanup of this site has proceeded smoothly and safely for many years.

Over the past 3 years, the Department of Energy and New York State have been meeting to plan the future of the West Valley site after the bulk of high-level waste solidification is completed.

Unfortunately, this partnership has become strained in recent years, as the Department of Energy has distanced itself from their cleanup responsibilities. New York's repeated attempts to reach an agreement over the future of the site have been rejected or ignored.

□ 2100

Mr. Chairman, this amendment does not change existing law; rather, it directs the Department of Energy to once again work cooperatively with New York State at the West Valley site. The amendment provides guidance to the Department of Energy to develop a proposal for the future of the site and report that plan back to Congress.

Finally, the amendment seeks to ensure that the Department of Energy fully recognizes its responsibilities at the site for the vast amount of Federal high-level waste at the site and directs the Department of Energy to consult with New York State on this proposal.

Mr. Chairman, I urge my colleagues to support this amendment.

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

Mr. TAUZIN. Mr. Chairman, I claim the time in opposition, although I am going to speak in support.

The CHAIRMAN pro tempore (Mr. SWEENEY). Does any other Member claim the time in opposition?

Hearing none, without objection, the gentleman from Louisiana (Mr. TAUZIN) is recognized.

There was no objection.

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

Mr. Chairman, I rise in support of the amendment offered by the gentlemen from New York (Mr. HOUGHTON and Mr. REYNOLDS), and I sympathize with our friend, who is going through a bad time.

Mr. Chairman, the amendment would require the Secretary of Energy to develop a plan to transfer to the DOE all clean-up responsibilities at the Western New York Service Center in western New York. The West Valley site was owned by the State of New York. The West Valley site was once a nuclear waste processing facility where DOE sent some of its spent nuclear fuel for processing.

In 1980, the Committee on Energy and Commerce helped pass the West Valley Demonstration Project Act. This act directed the Secretary of Energy to carry out a project to solidify and remove high-level radioactive waste from the West Valley site. Pursuant to that West Valley Demonstration Project Act, the State is required to pay a 10 percent share of the annual clean-up costs.

To date, the State has met this financial commitment. Over the past several years, DOE and the State of New York have attempted to negotiate a comprehensive agreement to resolve all remaining radioactive waste cleanup issues at the West Valley site. Regrettably, the parties, as the gentleman has indicated, have not yet come to agreement.

This amendment requires the Secretary to develop a plan to transfer clean-up responsibilities from the State of New York once and for all. In developing the plan, the DOE should consider any long-term stewardship issues, and DOE should work with the appropriate authorities in New York to determine what share of the total cleanup costs should be paid by the State.

This is an important issue to the committee. I hope this amendment will encourage the DOE and the State of New York to finalize a plan to address these important cleanup activities at West Valley.

So I rise, actually, in support of this amendment, Mr. Chairman. I encourage my colleagues to support it also.

Mr. REYNOLDS. Mr. Chairman, I thank the chairman for his support of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. QUINN), a neighbor of the gentleman from New York (Mr. HOUGHTON).

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

Mr. Chairman, I want to join the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from New York (Mr. REYNOLDS) in sending condolences to our neighbor and friend, the gentleman from New York (Mr. HOUGHTON), on his loss.

Over the past few years, all of the members of the western New York delegation, along with local leaders and members of the community and others, in an effort to see a resolution in the dispute between New York State and the Department of Energy, have all worked cooperatively together. The responsibility for long-term stewardship of this site and the transportation and removal of solidified waste must be established immediately. This amendment does just that.

The West Valley Demonstration Project was a creation of the Federal Government to deal with over 600,000 gallons of highly radioactive waste generated as a result of the nuclear fuel reprocessing effort, over two-thirds of which came from the Federal nuclear weapons facilities.

This amendment directs the Secretary of Energy to provide to Congress a plan to take over responsibility of this site. The Department of Energy and the State of New York have held talks for almost 4 years on this very issue, and these talks, as we have mentioned, have produced no results. Congress laid out the instructions in the 1980 West Valley Demonstration Project Act, and it is appropriate that we clarify today that the responsibility for the final phase of this project lies with the U.S. Department of Energy.

The western New York delegation has worked long and hard on this issue with the help of the West Valley Citizens Task Force, the Buffalo Niagara Partnership, local leaders, and the community at large. It is time for Congress to act and to move on this extraordinary undertaking and make it one step closer to completion.

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

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. REYNOLDS).

The amendment was agreed to.

Mr. TAUZIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. NUSSLE submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013:

(See text of the conference report on H. Con. Res. 95 on page H3194).

ENERGY POLICY ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 189 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 2105

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, with Mr. SWEENEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, amendment No. 12 printed in House Report 108–69 offered by the gentleman from New York (Mr. REYNOLDS) had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 5 offered by the gentleman from Massachusetts (Mr. MARKEY); amendment No. 7 offered by the gentleman from Virginia (Mr. TOM DAVIS); amendment No. 9 offered by the gentleman from Ohio (Mr. BROWN); amendment No. 10 offered by the gentleman from New Mexico (Mr. UDALL).

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

AMENDMENT NO. 5 OFFERED BY MR. MARKEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 228, not voting 9, as follows:

[Roll No. 135]

AYES—197

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Ballance
Bartlett (MD)
Bass
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Bradley (NH)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Dunn
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Gerlach
Gilchrest
Gonzalez
Gordon
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—228

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt

Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Edwards
Emerson
English
Everett
Feeney
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson, Sam
Jones (NC)
Kanjorski
Keller
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—9

Clay
Combest
Gephardt
Houghton
McCarthy (MO)
Moran (VA)
Paul
Weldon (PA)
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY)(during the vote). The Chair would remind Members there are less than 2 minutes remaining on this vote.

□ 2127

Messrs. TURNER of Ohio, GUTKNECHT and MCKEON changed their vote from ''aye'' to ''no.''

Mr. DAVIS of Illinois changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. MORAN of Virginia. Mr. Chairman, on rollcall No. 135, dealing with Ms. MARKEY's amendment to prevent drilling in ANWR, I was unavoidably detained. Had I been present, I would have voted ''aye.''

Stated against:

Mr. YOUNG of Alaska. Mr. Chairman, on rollcall No. 135 I was unavoidably detained and missed the vote by one minute. Had I been present, I would have voted ''no.''

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 7 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 7 offered by the gentleman from Virginia (Mr. TOM DAVIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 415, noes 10, not voting 9, as follows:

[Roll No. 136]

AYES—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—10

Culberson
DeLay
Flake
Franks (AZ)
Musgrave
Pence
Sessions
Shadegg
Tancredo
Tiahrt

NOT VOTING—9

Clay
Combest
Gephardt
Houghton
McCarthy (MO)
Moran (VA)
Paul
Simmons
Weldon (PA)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). The Chair will remind Members there are 2 minutes remaining.

□ 2135

Mr. SHADEGG and Mr. PENCE changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. MORAN of Virginia. Mr. Chairman, on rollcall No. 136, the Davis amendment. I was unavoidably detained. Had I been present, I would have voted ''ayes.''

AMENDMENT NO. 9 OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 9 offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 173, noes 252, not voting 9, as follows:

[Roll No. 137]

AYES—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Carson (IN)
Case
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Green (TX)
Green (WI)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Maloney
Markey
Marshall
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—252

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Lynch
Majette
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Carter
Clay
Combest
Gephardt
Houghton
McCarthy (MO)
Paul
Simmons
Weldon (PA)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). The Chair will remind Members there are less than 2 minutes remaining in this vote.

□ 2144

Mr. SMITH of Michigan changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2145

AMENDMENT NO. 10 OFFERED BY MR. UDALL OF NEW MEXICO

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on amendment No. 10 offered by the gentleman from New Mexico (Mr. UDALL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 193, noes 231, not voting 10, as follows:

[Roll No. 138]

AYES—193

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clyburn
Conyers
Cooper
Costello
Crowley
Culberson
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gilchrest
Green (WI)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hefley
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski

LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Renzi
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu

NOES—231

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
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
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Cummings
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Clay
Combest
Gephardt
Harris
Hill
Houghton
McCarthy (MO)
Pascrell
Paul
Simmons

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). The Chair will remind Members there are less than 2 minutes remaining in this vote.

□ 2153

Mr. ROHRABACHER changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. HARRIS. Mr. Chairman, on rollcall No. 138 I was unavoidable detained. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 13 printed in House Report 108–69.

AMENDMENT NO. 13 OFFERED BY MR. BARRETT OF SOUTH CAROLINA

Mr. BARRETT of South Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. BARRETT of South Carolina:

At the end of subtitle B of title IV of division A, insert the following new section:

SEC. 14036. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including—

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from South Carolina (Mr. BARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise today and offer an amendment to H.R. 6, the Energy Policy Act of 2003. My amendment would require the Secretary of Energy to conduct a survey to determine the feasibility of developing commercial nuclear energy production facilities at the Department of Energy sites.

Mr. Chairman, this is identical to the language included in last year's budget, drafted by the gentleman from South Carolina (Mr. BROWN), which passed the House by a vote of 240 to 189, laying out the clear role that the U.S. Government should take to examine the Department of Energy sites and determine which are the best suited to enter into a public-private partnership with utility companies for construction and operation of new nuclear power production facilities.

I agree that we need to start now and take a bold step to help solve our growing energy crisis, and that is exactly what the administration's nuclear power 20–10 initiative is, a bold step. My amendment will only expand the options for this great initiative.

I urge my colleagues to vote ''yes'' on this amendment and help solve our energy crisis.

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

The CHAIRMAN pro tempore. Does any Member claim time in opposition to the amendment?

Mr. ALLEN. Mr. Chairman, I claim time in opposition.

The CHAIRMAN pro tempore. The gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Chairman, I yield myself such time as I may consume, and I rise to oppose the Barrett amendment.

Today is, in my opinion, the worst possible day to be considering this amendment. American troops are in Iraq, completing a war that was justified in part as necessary to prevent the proliferation of nuclear weapons. The Barrett amendment could facilitate the proliferation of nuclear weapons by blurring the long-standing, carefully drawn lines between civilian nuclear energy production and nuclear weapons production.

□ 2200

Since the dawn of the nuclear age, U.S. policies have drawn a bright line between civilian and military applications of nuclear power. There is a very good reason which remains valid today: we want to prevent legitimate civilian nuclear facilities from being used illicitly to produce nuclear weapons material.

Under U.S. leadership, international law requires separation of civilian and

military nuclear power. This obligation is part of the Nuclear Nonproliferation Treaty and is enforced by the International Atomic Energy Agency. This international law formed the basis for our finding Saddam Hussein in violation of nonnuclear pledges. This law is the way we hold Iran and North Korea accountable on nuclear weapons development.

We undermine our ability to prevent these nations from using peaceful nuclear reactors to make bombs if we pursue a policy that collocates civilian and military activities at the same site, as the Barrett amendment ultimately contemplates.

I am not aware of any recent congressional hearings held on this issue. This policy could have severe consequences for nuclear proliferation and should not be taken lightly. It should be reviewed by the relevant committees before being considered by the full House. I urge rejection of the Barrett proliferation amendment.

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

Mr. BARRETT of South Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, on behalf of myself and the gentleman from Louisiana (Mr. TAUZIN), the full committee chairman, we rise in strong support of the Barrett amendment. This amendment was included in the House-passed energy bill in the last Congress.

It would require the Secretary of Energy to study the feasibility of developing commercial nuclear energy production facilities at existing DOE sites. I and the gentleman from Louisiana (Chairman Tauzin) are strong advocates for nuclear power. The energy bill before us today includes a comprehensive 15-year reauthorization to the Price-Anderson Act, which would allow a new generation of nuclear power plants to be built in America.

We believe that the existing infrastructure in many Department of Energy sites may be ideal for the development of new nuclear power plants. In some cases, DOE sites have the space, the facilities, and the laboratory and engineering expertise and could be utilized to build a new plant. In any scenario where a new nuclear plant were to be built at a DOE site, we would expect that a substantial portion of the construction cost would be paid for by a commercial utility, which would greatly benefit from the DOE's infrastructure and expertise. We strongly support the amendment and urge Members to support it.

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

Mr. BARRETT of South Carolina. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, it was a great honor for me to serve with the gentleman from South Carolina (Mr. BARRETT) in the South Carolina General Assembly, and now I am honored to be serving with him in Congress.

I rise in support of the Barrett amendment to H.R. 6, which asks the Secretary of Energy to conduct a feasibility study to develop commercial nuclear energy facilities at Department of Energy sites. This is particularly important to the gentleman from South Carolina (Mr. BARRETT) and me because we both represent the Savannah River site in South Carolina.

Nuclear energy is our Nation's second largest source of power. Nuclear power plants have increased electricity production while reducing costs. In fact, these plants are so efficient that their production costs are among the lowest of any energy source.

This amendment was previously passed last year, and the initiator of that effort in a bipartisan effort was the gentleman from South Carolina (Mr. BROWN) of the first district of South Carolina. I urge Members to join me in supporting this amendment which will help solve our current energy crisis by producing more nuclear energy.

Mr. ALLEN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I rise in opposition to the amendment. The fundamental premise to this amendment is flawed. We have not successfully ordered a new nuclear reactor in this country for over 20 years. Why? Because Wall Street investment bankers have done the numbers and found that the life-cycle cost of a nuclear plant far exceeds the costs of a modern combined-cycle natural gas turbine, a coal plant, or even a wind generator. The free market has said no to new nuclear reactors, and the gentleman's amendment is an attempt to overturn the verdict of the free market with governmental intervention into private electricity generation markets.

I would suggest this is not the direction we should be moving in. We have deregulated electricity generation in many parts of the country. Why should we get the DOE into the business of generating electricity for the civilian power grid at a Federal facility?

This amendment is clearly bad energy policy, but it is also bad nuclear nonproliferation policy. This country has long had a strong policy of maintaining a clear distinction between the civilian and military uses of nuclear energy. Eight years ago, in 1995, the House voted to kill funding for the so-called ''triple play'' reactor being planned for the DOE Savannah River site. This reactor would have burned fuel fabricated from dismantled nuclear weapons, produced tritium for the existing nuclear weapons stockpile, and generated electricity for the civilian electricity grid. At that time, the House recognized the need to maintain the historic separation between atoms for peace and atoms for war. Now is not the time to reverse that policy.

We are nearing the end of a war whose principal objective has been to halt the proliferation of weapons of mass destruction, a war in which our Armed Forces destroyed bomb factories while leaving civilian power plants standing. Let us not undermine our credibility as a world leader on nonproliferation by moving towards blurring the distinction between civilian and military nuclear programs. To pass this amendment would be to breach the 57-year separation between atoms for peace and atoms for war. We cannot credibly preach nuclear temperance from a bar stool. If we are mixing our civilian and military nuclear programs in the United States, then the rest of the world will not pay much heed to our admonitions to refrain from using their civilian nuclear energy programs for military purposes. Please vote ''no'' on the Barrett amendment.

Mr. BARRETT of South Carolina. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I rise in support of this amendment and commend the gentleman from South Carolina (Mr. BARRETT) for his insight and initiative on this issue.

I support this amendment for three simple reasons. First, America already depends on nuclear energy. Even though it has been 2 decades since we built a new facility, nuclear power provides over 20 percent of the electricity in this country and over 55 percent of the electricity in South Carolina.

The second reason is nuclear power saves money. It is less expensive than coal, less expensive than oil, and a third less than natural gas.

The third reason is nuclear energy is good for the environment. Because it burns no fuel and emits no pollution, it is good for our environment and good to preserve our quality of life all across the country. Again I thank the gentleman from South Carolina (Mr. BARRETT) and urge all of my colleagues to support this amendment.

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

Mr. Chairman, first of all, it has been my understanding that when we look at the total cost of nuclear power, including dealing with the radioactive waste, we are not talking about a cheap source of power. We are talking about the most expensive source of power there is. I simply ask Members to think about North Korea. We want to make sure that North Korea does not use civilian reactors for military purposes. We should not be setting the example here doing what we are saying they should not do over there. This amendment should be rejected, and I urge Members to reject it.

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

Mr. BARRETT of South Carolina. Mr. Chairman, I yield myself the balance of my time.

In closing, in prepared remarks for the Global Nuclear Energy Summit on

February 14, Secretary Abraham wrote, ''We cannot ignore either the benefits nor the significant challenges posed by nuclear power. I believe that the U.S. Government has a clear role to help remove the barriers and to expand the role for nuclear power in this country.''

My amendment can only move the country forward when it comes to our energy needs, and I urge my colleagues to vote ''yes'' on the amendment.

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

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

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in House Report 108–69.

AMENDMENT NO. 14 OFFERED BY MR. BLUMENAUER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. BLUMENAUER:

At the end of subtitle D of title V of division A, insert the following new section:

SEC. 15050. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from Oregon (Mr. BLUMENAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

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

Mr. Chairman, we have had a range of interesting conversations in the course of debate so far this evening. I would like to advance something that is in the past an issue that we have had a lot of fun with. I am talking about cycling. We have organized a bicycle caucus of Members of Congress. We have had a lot of fun with some social events. Every Member I have met in Congress has some example where cycling has made a difference in their lives, but it is also serious business.

Mr. Chairman, we have an opportunity this evening to make an impact on millions of Americans who ride their bikes on a regular basis, or who might. Energy conservation does not have to be difficult. It can be as economic, healthy and environmentally friendly as a bike ride. Transportation is the number one use of energy in this country. Indeed, we use 10 percent of the world's supply of petroleum just to fuel our automobiles. The key is to give Americans more choices about how they move.

The bicycle is the most efficient form of urban transportation ever devised. America has over 100 million bicycles available to them. Unfortunately, too many of them spend time in garages, attics, and basements. At a time when we are concerned about the health of this country, and we have a terrific caucus that has been developed by our colleagues, the gentleman from Tennessee (Mr. WAMP) and the gentleman from Colorado (Mr. UDALL), to zero in on fitness, cycling is a key way to improve cardiovascular health and deal with the number one problem today, obesity.

We are all concerned about congestion. Many of us live in Washington, D.C., a third to half of our time. This is the second most congested area in America. A bicycle uses approximately one-tenth of the space on the roads to drive, and less than that to park.

We are concerned about air pollution, and cycling simply does not contribute to air pollution. Nationally, we have less than 1 percent of our trips now that are using cycling, but we have watched dramatic increases in cycling since we have had the ISTEA legislation and TEA–21. We have spent over a billion dollars on cycling, and we have seen some dramatic improvements; but we do not know exactly what difference it has made.

This amendment would establish to conserve by bicycling a pilot program in the Department of Transportation, oversee up to 10 geographically disbursed pilot projects across the country designed to conserve energy resources, provide education and marketing tools to help people convert auto trips to cycling. It will encourage key partnerships between the stakeholders in transportation, law enforcement, education, public health, environment and energy.

We have seen these partnerships work across the country, not just in bicycle towns that we would expect where there are large campus compositions such as in Davis, Boulder, and Eugene, but in larger cities like Chicago, and dare I say, Portland, Oregon.

□ 2215

This amendment would authorize $6.2 million for the pilot projects and the study to get the facts to formulate better policy. It is supported by a wide array of organizations: The League of American Cyclists; America Bikes; the Natural Resources Defense Council, Friends of the Earth; STPP, the Surface Transportation Policy Project; Smart Growth America; Bikes Belong. These are people who know that we can make real progress.

We have seen in Portland, Oregon, where the Members all know it rains all the time, that we have been able to more than double the national average of cycling. If we were able to have that level of participation across the country, we would save over two-thirds of a billion gallons of gasoline a year, over $5 billion in transportation costs.

Mr. Chairman, there is no single solution to our country's energy problems, but there is no solution that has more potential for improving our quality of life, our environment, our health and our transportation system while saving energy. I strongly urge the body to adopt the Conserve by Bike Energy amendment.

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

The CHAIRMAN. Who claims time in opposition?

Mr. BARTON of Texas. Mr. Chairman, I am not in opposition. I seek time only for purposes of controlling the time on this side.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. BARTON) is recognized.

There was no objection.

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

We are probike, and we rise in full support of this amendment. It passed the House in essentially the same form last year in H.R. 4. House and Senate conferees, however, did not reach resolution on this issue or other vehicle and Energy Policy Act issues.

In assessing the program outlined by this amendment, both myself and the gentleman from Louisiana (Mr. TAUZIN), the full committee chairman, would note that the Federal Government has already made a very substantial investment in bicycling and walking. According to a 1999 Department of Transportation report, Federal spending on such activities rose from $6 million in 1990 to $238 million in 1997.

I myself ride my bicycle back and forth to work in my hometown of Ennis, Texas, both to my congressional office and my campaign office. I would consider doing so here in Washington if we had a safe bicycle path between Arlington, Virginia, where I live, and the Nation's Capital.

So we are in very strong support of the gentleman's amendment and hope that we can pass it by unanimous consent.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in support of this amendment. It took me 5 years at one point in my life to try to help us in New York get some Federal funding to help us build some safe bikeways. We got that funding, and we have safe bikeways now in portions of New York, and people ride on them all of the time.

I see them in the rain. They even ride in the snow. But one of the joys I see is that I see people there, families, teaching their little ones how to ride a tricycle. Do the Members remember when they got on a bike and realized that they could actually ride a two-wheel bike? What a proud moment that is for children.

America likes to ride bikes and from the time we are young we get on these bikes and we ride. It is a terrific way of transportation. It is fun and it leads to a healthy life-style. Many gyms in America have set up spin classes, which is essentially bike riding, to help people stay fit.

We spend $1.2 billion annually on bike-related facilities like bike paths and other things, but there are really no useful studies on the effect of bike use in the United States. Biking is used as a primary way or an alternate way to get to work by many people around the world; unlike automobiles, a bike is emissions free and a healthy way to enjoy our beautiful country.

I urge my colleagues, Mr. Chairman, to support this amendment. I am glad it will be accepted by the committee.

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

I will quit while I am ahead. I appreciate the gentleman's kind words.

I do find it appalling that in our Nation's Capital, in surrounding environments which have potential for some of the most spectacular cycling anywhere in the country, that there are some areas where they are taking their life in their hands. We look forward in the reauthorization of the Surface Transportation Act to work with the gentleman and others to make sure that we have safe routes to school, to work; and I appreciate the gentleman's courtesy in support of this amendment.

Mr. BARTON of Texas. Mr. Chairman, we support it, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in House report 108–69.

AMENDMENT NO. 15 OFFERED BY MR. RYAN OF WISCONSIN

Mr. RYAN of Wisconsin. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. RYAN of Wisconsin:

In Division A, in title VII, subtitle A, after section 17107, insert the following new section and make the necessary conforming changes in the table of contents:

SEC. 17107A. REDUCING THE PROLIFERATION BOUTIQUE FUELS.

(a) EPA APPROVAL OF STATE PLANS WITH BOUTIQUE FUELS.—Section 211(c)(4) of the Clean Air Act (42 U.S.C. 7545(c)(4)) is amended by adding the following at the end thereof:

''(D) In the case of gasoline, after the enactment of this subparagraph, the Administrator shall give a preference to the approval of implementation plan provisions described in subparagraph (C) if the control or prohibition in such provisions requires the use of either of the following:

''(i) Federal clean burning fuel meeting the requirements of subsection (p)(1).

''(ii) Low RVP gasoline meeting the requirements of subsection (p)(2).''.

(b) PREFERRED GASOLINE OPTIONS.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

''(r) PREFERRED GASOLINE OPTIONS.—

''(1) FEDERAL CLEAN BURNING GASOLINE.—For purposes of this section, the term 'Federal clean burning gasoline' means reformulated gasoline as defined in subsection (k), the Reid Vapor Pressure of which is equal to 6.8 pounds per square inch (psi) for the high ozone season (as determined by the Administrator).

''(2) LOW RVP GASOLINE.—The Administrator shall promulgate regulations providing for a gasoline blend for the high ozone season (as determined by the Administrator) having a Reid Vapor Pressure of 7.8 pounds per square inch (psi).''.

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from Wisconsin (Mr. RYAN) and a Member opposed each will control 10 minutes.

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

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is fairly straightforward, but it may take me a second to explain. In the 1990 Clean Air Act, what we did in that law was, if an area went out of ozone nonattainment compliance, if an area was too dirty in the air, among the things that were required in that area were new cleaner blends of gasoline. So what occurred in the 1990 Clean Air Act was a new system of fuels whereby the local area that went out of compliance could adopt its own blend of fuels, and so where in 1990 we had three different blends of gasoline in America, we now have 14 different blends of gasoline each with three grades, giving us 45, essentially, different blends of gasoline.

What this map right here shows is all the different boutique fuel requirements across America, and what is interesting about this is they are not fungible with one another. So, for example, the gas we burn in the Milwaukee and Chicago region cannot be used in any other part of the country and we in that area cannot use other blends in our part of the country. So if we have a pipeline break, if we have a refinery fire or something happens to disrupt the refinery and pipeline system which is running at 98 percent capacity today, we have a huge shock or drop in the supply of that blend of gasoline, and consequently, we have sharp price spikes.

So looking at today's system, we could conceivably drive in from Green Bay, Wisconsin, just down to St. Louis, Illinois, fill the gas tank with four different blends of gasoline, northern or conventional gas in Green Bay, northern reformulated gas or ethanol in Kenosha, a southern reformulated gas in Illinois, and a different reformulated gas in St. Louis.

This is where we are today. This is because of all the areas that are out of compliance with the Clean Air Act.

But looking at what is to come tomorrow in the Clean Air Act is this: Right now, 136 counties in America are out of compliance with the Clean Air Act, and because of that, have to have a blend of reformulated gas. It is these other blends I just showed the Members, Mr. Chairman. But what is going to happen, when next year we move from the 1-hour ozone standard to the 8-hour nonattainment standard, is another 155 counties will be automatically out of attainment. They will have to have new blends of gasoline.

So if we look at the map here, the blue areas on my map are the current

nonattainment areas. The red areas on the map, which is most of the densely populated parts of America east of the Mississippi, will also go into nonattainment next year. And what this is going to cause is the proliferation of more boutique fuels. According to the nonpartisan Energy Information Association, this will bring our country from a boutique fuel system of 16 different boutique fuels to another 24 boutique fuels on top of that, giving us more than 100 different blends of gasoline.

So let me repeat that, Mr. Chairman. What we are going to, with the new 8-hour ozone attainment rules starting next year, is we are doubling the amount of areas in this country that will go out of attainment. We move from 16 different blends of gasoline to having another 24 different blends of gasoline on top of that system. That is where we are headed today.

It is an unsustainable position. And what happens is our supply of fuel gets tight. If the supply lines for any reason get disrupted, we have huge price spikes.

What my amendment does is very simple. It simply says for these new areas going into nonattainment, for the other areas who are already at nonattainment who want to change their gasoline, they now have a menu of two clean fuels that are preferred by Federal Government from which to choose, because, for now, what is going to happen when all these counties and all those States go into nonattainment, is up to them.

They are going to choose various different boutique fuels to meet their particular needs, and this proliferation of specific blends of gasoline will get out of control. We want to stop that from happening, and so we are simply offering a solution by having a Federal Government menu of two fuels for them to choose from before they try to go and have their other type of gasoline.

Mr. Chairman, we are going to have huge gasoline price spikes, as we have had in the upper Midwest lately, in the very near future if we do not fix this problem. The source of that problem is the proliferation of boutique gasoline fuels, and we have a solution in this amendment. It does not force the States to do it, it does not preempt States' rights. It simply says to the States, choose from this menu of clean fuels that the Federal Government offers before they want to go on their own and have a boutique fuel.

That is what this amendment does, Mr. Chairman.

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

The CHAIRMAN. Who claims time in opposition to the amendment?

Mr. ENGEL. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from New York (Mr. ENGEL) is recognized.

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

I rise in opposition to this amendment. Frankly, we have been spending a good part of the day trying to figure out what this amendment does, and it is very difficult really to figure out. We have had a lot of people going over it, and there have been a lot of questions.

I regret that the amendment was not vetted or did not come up for a vote with the Committee on Energy and Commerce. We did this chapter in this bill until late in the evening, early morning last week, and this amendment did not come forward; and we believe that the amendment appears to have drafting problems. It is not clear what the ultimate impact will be of this amendment, although it is debatable whether or not the amendment will achieve its goal of reducing the boutique fuel problem.

I am very disappointed, as well, that this is the only amendment made in order by the Committee on Rules on the renewable fuels standard. We have had a number of amendments in the committee that we wanted to bring to this floor, but we were not able to do it because the Committee on Rules, the Republican-controlled Committee on Rules, refused to let us have these votes on the House floor.

So I believe we have missed a great opportunity to include a renewable portfolio standard that would require the use of renewable energy by utilities in this bill. One might think that that is because the Republican majority is against mandates, yet they do not appear to be so antimandate when it comes to the fuels we use in our cars.

The renewable fuels standard will force the United States to accept an ethanol mandate that is entirely without justification for an industry that is concentrated in relatively few hands, while providing liability relief for MTBE producers that knowingly produce a defective product, as well as liability relief for ethanol and ETBE which could be a source of future groundwater contamination without banning the MTBE.

Despite failing to provide MTBE, the bill provides MTBE manufacturers with $750 million in transition assistance. This bill is antifree-market, antienvironmental in important respects, and makes relatively little common sense. It provides safe harbors and subsidies to those who create it or would worsen the MTBE problem and gives nothing back to those who suffer from its ill effects.

In this case, unfortunately, the legislative process has produced a bill, in my opinion, with almost nothing to recommend it save that it satisfies all of the competing claims of special interests: the MTBE makers, the oil companies, and the ethanol producers.

On Tuesday, the Energy Information Agency predicted that by the time ethanol was fully integrated in California, the price increase for reformulated gas would be 9 cents per gallon. For a State like New York, California, or Connecticut, which use a large amount of reformulated gasoline, this will represent an income shift of hundreds of millions of dollars from our citizens' pockets to those in ethanol-producing States. Furthermore, when the EPA implements its new 8-hour ozone rule, 155 new counties will have to use reformulated gasoline.

I hope my colleagues who represent these counties know that the ethanol mandate will increase their constituents' gas prices. Ethanol will also make it tougher to meet our air quality standards. While the supporters love to tell us that ethanol reduces carbon monoxide, they fail to tell us that ethanol use results in higher nitrogen oxide emissions, which contribute to ozone. In fact, ethanol has to get a waiver from the Clean Air Act to be used in the summertime because of its ozone-forming qualities.

Ethanol proponents also claim that ethanol will reduce our demand for foreign oil, but a 2002 study published by the Encyclopedia of Physical Sciences and Technology concluded that it takes more energy to produce a gallon of ethanol than that gallon yields.

□ 2230

Additionally, since ethanol has less energy contents than conventional gasoline, it takes more ethanol blend gasoline to travel the same distance. On average, the loss is a 3 percent decrease in miles per gallon vehicle fuel economy. Thus, if Americans continue to drive the same number of miles under the ethanol mandate as they did without it, more oil will be needed to be imported to compensate for the lost fuel economy.

Although some argue ethanol use leads to greater energy independence, this is not the case. Fuel ethanol only accounts for about 1.2 percent of the gasoline consumption in the U.S. volume. Moreover, given that America's ethanol supply is heavily dependent on one crop, corn, any supply shortages or price increases relating to the crop could negatively affect the supply and cost of ethanol and, thus, gasoline. This happened when high corn prices caused by strong export demand in 1995 contributed to an 18 percent decline in ethanol production between 1995 and 1996. In other words, an ethanol mandate will increase our gasoline prices and harm our air and water quality.

Rather than allowing an amendment that would phase out MTBE over the next 4 years to come to the floor, we are debating an amendment that I believe does nothing to improve the RFS.

If we want to talk about clean fuels, why are we not debating the amendment I cosponsored with the gentleman from California (Mr. OSE) that would have allowed a credit against the ethanol mandate for any refiner that produces clean burning gasoline?

This is the direction our Nation's fuel policy should take. Instead of mandating inputs into gasoline, we should set high environmental standards and let oil refiners and automakers meet those standards.

While I applaud the intent of the Ryan amendment to reduce boutique

fuels, I do not believe this is the way to do it. The amendment could exacerbate, I believe, the boutique fuel problem because it merely expresses a ''preference'' for two types of fuels, but does not require refiners to use certain fuels. As a result, Wisconsin might adopt the gentleman from Wisconsin's preferred fuel, and Illinois might keep RFG. Such a standard will significantly constrain the refiner's ability to produce and supply two different fuels, clean burning gasoline and RFG.

EPA believes that the provision could act to slightly reduce the number of fuels. However, they believe more strongly that the removal of the oxygenate requirement will have a much greater effect on the boutique fuel problems than the Ryan amendment.

I also believe this amendment is unnecessary because the bill requires EPA to conduct a study of boutique fuels. This amendment would take effect before the study is completed.

This whole provision makes the phrase ''politics makes strange bedfellows'' truer than ever. The National Petrochemical and Refiners Association has worked with me in opposition to this amendment, believing that it will unnecessarily complicate the already complicated fuels requirement picture. NPRA believes that further action on boutique fuels should await the results of the study already called for by the bill.

Finally, I would like to mention that just a few hours ago I got this back from the New York State Department of Environmental Conservation, which opposes the amendment. This is what they say:

''However, if the stated intent is to reduce the number of boutique fuels by permitting States to select from only two when drafting the clean air State implementation plans, then New York State is opposed to this amendment and would encourage New York Members to vote against it. This requirement would tie the hands of State air regulators by requiring the clean air standards be met, but at the same time take away the tools needed to meet these standards.''

Mr. Chairman, I urge my colleagues to vote against the amendment.

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

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think there is a misunderstanding by the gentleman from New York (Mr. ENGEL).

Number one, a lot of people are saying we need to study this some more and that there is a study in this bill. We have had a very exhaustive study, last year by its EPA, followed up by numerous studies by the EIA, along with the study from the Federal Trade Commission; so we have had a lot of studies on this. All of them conclude with, we have to get our hands around this boutique fuel problem and consolidate the amount of boutique fuels.

Now, how the amendment works is this: The preference will not exacerbate the boutique fuel problem; it will simply streamline the boutique fuels, so that States and counties who now have this ozone attainment standard they have to meet will go to the federally preferred fuel blends, instead of to different kinds of blends that are boutique and that exacerbate this problem.

The State of New York will not be affected by this amendment.

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

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, our full committee chairman has been referred to on the floor this evening as the Energy Bunny. He certainly is that for his extreme support for the bill. We would have to refer to our gentleman from Wisconsin, the supporter of this amendment, as the Energy Badger, coming from the Badger State of Wisconsin, because he has badgered myself and the full committee chairman for the last 3 months in a very positive way on this amendment. So we do rise in support of the amendment.

We have one concern about it. The gentleman's amendment, as it is currently written, has a requirement for specific vapor pressures. The gentleman knows that when we get to conference, myself and the full committee chairman reserve the right to modify the technical side of this amendment to make sure that it is actually implementable in the marketplace.

Mr. RYAN of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Chairman, I agree with the idea and the need to modify the revapor pressure levels. I do not think that in any way hurts the spirit or intent of this amendment.

The intent of this amendment is to first have States go to the preferred fuel and then have to prove that they cannot use that fuel and they have to go to some other kind of fuel, so that we bring them toward a preferred fuel. What that fuel is is clearly something we all should discuss, and there is not one great answer to that question.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, we understand that vulcanized fuels hurt consumers, and we support the gentleman's concept of going towards more uniform fuels that still meet the requirements of the Clean Air Act.

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

Mr. Chairman, I am wondering if the gentleman would answer a couple of questions.

In view of what the chairman, the gentleman from Texas, just said, could the gentleman please tell me why you chose these numbers?

Mr. RYAN of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Chairman, 6.8 and 7.8, those are from the EPA study conducted last year which recommended a three-fuel menu, 9.0 RVP, which is what we call conventional gas; 7.8 RVP, which is sort of a midlevel clean-burning gas that 20 percent of the country uses; and 6.8 RVP, which is reformulated gas. That is the revapor level equivalent of formulated gas. Those are recommended to us by the Environmental Protection Agency.

Mr. ENGEL. Mr. Chairman, I would ask the gentleman, there are many other fuel blends, are there not?

Mr. RYAN of Wisconsin. If the gentleman will yield further, there are 45 different fuel blends in existence today. According to the EIA, Energy Information Agency, there will be 69 different fuel blends with the new 8-hour ozone attainment if we do not do something to reduce the number of these blends.

Mr. ENGEL. Mr. Chairman, let me ask the gentleman also, the existing statutory standard for approval of a plan containing a gasoline requirement is that ''other control measures are unreasonable or impractical.'' Would this amendment alter that standard in any way?

Mr. RYAN of Wisconsin. No, it still keeps the SIP process, the State Implementation Plan process. It simply says, we want you to go look at these blends. We prefer these blends. You can satisfy your SIP process with these blends, and if you cannot use these blends, you have to prove that you cannot use these blends and then prove that this will satisfy the Clean Air Act requirements, if you choose not to use these blends. These blends are already cleared under the Clean Air Act today.

Mr. ENGEL. Let me finally ask, can the gentleman explain, because I am still a bit confused, what the meaning of ''preference'' is and how it would be implemented by the EPA?

Mr. RYAN of Wisconsin. Because we did not want to preempt States' rights, because we did not want to force each locality as to what blend they would use, we wanted to make it so that they can have an easier path towards satisfying their Clean Air Act requirements by going to these blends first, knowing that they will satisfy the Clean Air Act if they adopt these blends. By having more and more areas adopt these blends, they will be in more supply, they will be cheaper in place, and there will be a greater incentive to adopt these standard blends from this Federal menu. But if they, for some reason, cannot do it, then they can go through the SIP process to get around it.

The CHAIRMAN. The time of the gentleman from New York has expired.

The gentleman from Wisconsin (Mr. RYAN) has 2½ minutes remaining.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am proud to rise in support of the Ryan amendment.

In the debate today we are talking about meeting our Nation's energy challenges. We are talking about how we need to produce more. Some of us are talking about how we need to conserve more. But we cannot meet our energy needs if we do not also talk about how to distribute fuel and energy more effectively, more efficiently, and that is what this amendment is all about.

I do not believe that we can get our arms around the problem of price stability unless we begin to deal with the problem of boutique fuels. This amendment does not go as far as I know the author would like to go, as legislation that he and I have coauthored would go, but in terms of beginning to take us down the right path, I think it is an important step.

He would like to go further, I would certainly like to go further, but in terms of taking a first step on the issue of boutique fuels, I think it is a commendable first step. I congratulate the gentleman.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, I rise in support of this amendment, and along with chairman of the subcommittee, we are going to work to perfect it as we go to conference.

Let me point out that the problems Chicago and Milwaukee experience with boutique fuels could happen anywhere in America if you just had a few things happen simultaneously: a breakdown in a pipeline delivery of these boutique fuels; a problem of moving from one blend to another because you are going from winter to summer grade; a problem with just a little shortage, and all of a sudden the name-brand stations get their fuel and the independents do not, they start bidding against each other, and a small shortage exacerbates a rise in prices the likes of which drive consumers crazy.

That is the problem the gentleman from Wisconsin (Mr. RYAN) is going after, and while it is not yet perfect, I want him to know we are going to keep working with him until we get it perfect.

But he is on the right track. This is the right thing to do to streamline this process, isolate it, until we have fewer, not more, different blends and varieties of boutique fuels, and we will have a much better regional market to deal in.

Consumers benefit in the end as long as we do this in a way that keeps to the Clean Air Standards and requirements of the Clean Air Act.

Mr. Chairman, I congratulate the gentleman on his persistence, and we will keep working with him until we get the job done.

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

Mr. Chairman, I just want to conclude by thanking the chairman for working with us. This is an issue that has plagued motorists in Wisconsin for a few years in a row. It is plaguing all motorists east of the Mississippi, and it is spreading to the rest of the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. RYAN).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 16 printed in House Report 108–69.

AMENDMENT NO. 16 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Ms. SCHAKOWSKY:

In division B, at the end of title II, insert the following new section:

SEC. 22003. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the Secretary of Energy should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department of Energy; and

(2) the Department's Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

The CHAIRMAN. Pursuant to House Resolution 189, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Mr. Chairman, my amendment addresses a serious problem that exists at several U.S. Government agencies, including the Department of Energy. It seeks to put Congress on record in support of strengthened protections against waste, fraud and abuse of taxpayer funds at the Department of Energy.

The amendment expresses the sense of Congress that:

(1) the Secretary of Energy should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud and abuse of taxpayer funds by employees and contractors of the Department of Energy; and

(2) the Department's Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

□ 2245

Since 1998, the Inspector General at the Department of Energy has conducted 20 reviews at 11 different sites. As a result of the reviews, it was found that the Department of Energy employees illegally misused government purchase cards to acquire such unofficial items as home improvement products, hunting equipment, electronics, lawn equipment, and power tools, all for personal, not official, use.

The DOE Inspector General has also reported that Department of Energy employees have undertaken other complex and illegal schemes to acquire items for personal use, such as generating fraudulent invoices to mask making those purchases, providing kickbacks to suppliers who agreed to participate in quid pro quo schemes, circumventing Department policies and procedures by allowing employees to approve their own purchase card transactions, and acquiring goods for personal use that were delivered to nondepartment locations.

Such problems have led the General Accounting Office ''to designate DOE contract management, defined broadly to include both contract administration and management of the projects, as a high-risk area for fraud, waste, abuse, and mismanagement.''

The Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce held two hearings this year to review illegal procurement practices at the Los Alamos National Laboratories. Thanks to brave whistleblowers and the Inspector General, Los Alamos personnel were caught using thousands of taxpayer dollars to buy items like sunglasses, hunting knives and, get this, lock-picking sets, golf equipment, sleeping bags, and more. One employee even attempted to purchase a Ford Mustang using her Federal Government purchase card. Another employee used her government purchase card at local casinos.

While some of the more newsworthy examples are about the purchase card program, other problems exist with inventory and procurement control in general. The IG has also reported hundreds of thousands of dollars worth of ''unlocated, lost, or stolen'' items, including desktop computers, laptop computers, cameras, computer printers, radio transceivers, video recorders, and telephones.

These examples are just the tip of the iceberg.

Passage of this noncontroversial amendment will put us all on record in support of additional efforts to root out this kind of shameful abuse of taxpayer funds.

Mr. Chairman, I urge all Members to support the Schakowsky amendment.

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

Ms. SCHAKOWSKY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to advise the gentlewoman that we support her amendment. In fact, as she well knows, the Subcommittee on Oversight and Investigations chaired by the gentleman from Pennsylvania (Mr. GREENWOOD) has done some extraordinary work and uncovered some massive and seriously disturbing problems with inventory management and

theft of government property at Los Alamos. The efforts of the gentleman from Pennsylvania (Mr. GREENWOOD) already demonstrate very clearly why this amendment is such a good idea.

Our oversight has revealed the troublesome story of looting and the Subcommittee on Oversight and Investigations has revealed what appears to be a lack of interest by senior laboratory managers to do anything about the theft and the fraud that is going on right under their noses.

What we found most astonishing about the theft and fraud is that it took place at such a vital facility. Los Alamos is a facility that our Nation trusts with some of our most sensitive information. So we reviewed this abuse of purchase cards and found that DOE has been quick to distribute purchase cards to employees and contract workers, but very slow to implement management procedures to monitor and control abuse and to cut down on fraud.

So, Mr. Chairman, the Schakowsky amendment is a clear sense of Congress that DOE should get its act together with respect to procurement and inventory control. I am pleased and proud to support her amendment.

The CHAIRMAN. Does any Member claim time in opposition to the amendment?

Ms. JACKSON-LEE of Texas. Mr. Chairman, yes, although I am not in opposition.

The CHAIRMAN. Without objection, the gentlewoman from Texas will control the time in opposition.

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim the time in opposition, but I will not speak in opposition, and I yield myself such time as I may consume.

What I would like to indicate, Mr. Chairman, is that when we began this debate on H.R. 6, this energy bill, I thought it was best, or I thought it was what we wanted to do, was to make the energy policy of this Nation better, both the systems and agencies that are engaged, and the Schakowsky amendment speaks to that question. It probes the Department of Energy, and it seeks to clean out the Department of Energy. It provides them with a guide and a model by which to provide for their procurement and also this unique question of an individual employee procurement card system which means that employees can utilize an independent credit card and purchase items without any supervision.

I believe the ANWR amendment sought to improve the bill, and I believe the Dingell amendment sought to improve the bill. I believe the Udall amendment sought to improve the bill, as did the Waxman amendment; and clearly, I believe that the gentlewoman from Illinois speaks to an issue that is extremely important.

There is another amendment coming up by the gentleman from Oregon (Mr. WU) that likewise will do the same. But I do want to implore the gentlewoman from Illinois on the fact that we need to save taxpayers' dollars and, more importantly, design an energy policy that will be more efficient, effective, and utilized by all of America. The Department of Energy can stand a worthy review. This amendment will allow the Department to develop and implement more stringent inventory and procurement controls and particularly put the sunlight on this whole idea of a purchase card program.

I know that this is not the Department that purchased $600 toilet seats, but I do believe that we can begin to look at the Department and make it a stronger Department by ensuring that we have an oversight that will be effective and helpful for all of us.

Mr. Chairman, I ask that my colleagues support the amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

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

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) will be postponed.

It is now in order to consider amendment No. 17 printed in House Report 108–69.

AMENDMENT NO. 17 OFFERED BY MR. WU

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. WU:

In division B, title II, at the end insert the following new section:

SEC. 22003. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than twelve months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at Department of Energy National laboratories. Such report shall include—

(1) a thorough review of each laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the laboratories;

(3) a description of how equal employment opportunity practices at the laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each laboratory;

(5) a summary of outreach efforts to attract women and minorities to the laboratories;

(6) a summary of efforts to retain women and minorities in the laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the laboratories.

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from Oregon (Mr. WU) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I yield myself such time as I may consume. I understand that the chairman is accepting this amendment. I thank the chairman.

At this time I will include some documents for the RECORD, including a General Accounting Office report on the subject.

To be able to serve our nation's energy and military research needs, the Department of Energy's national labs need to attract the best and the brightest. However, there are signs that the labs are experiencing challenges in recruiting and retaining talented scientists.

Results from an internal DOE survey, conducted by the DOE National Ombudsman's Office, indicated that 80 percent of African Americans, 62 percent of Hispanic Americans, 26 percent of Caucasians, and 74 percent of Asian Pacific Americans working at DOE labs agreed that there is racial profiling at the lab.

According to an April 2002 GAO report, many professional lab employees have significant concerns about their workplace. They are concerned about (1) recruiting efforts, (2) pay, (3) promotion, and (4) lab work environment. The concerns are especially acute among the labs' minority and female employees.

Whether these are real or perceived sentiments, it is a serious national issue that such a high percentage of lab employees have concerns about their work environment. Should this trend continue, the labs could cease to be an attractive workplace for American scientists. As a nation, we cannot afford to lose our best asset, our human resources.

This amendment is simple, and non-controversial. It requires the Secretary of Energy to make a biennial report to Congress on DOE labs' EEO practices. This amendment's reporting requirements mirror the April 2002 GAO report's recommendations and I believe it would help safeguard our national security and help maintain America's scientific edge.

HIGHLIGHTS OF GAO REPORT ON WEAPONS LABS, MAY 20, 2002

Lab employee concerns concentrate in four areas. They are (1) recruiting, (2) pay, (3) promotion, and lab work environment.

GAO sampled Weapons Labs 1995 and 2000 data on staff composition.

Questions the GAO asked were: (1) describe the composition of weapons laboratory staff by race/ethnicity, gender, and job category in 1995 and 2000 to determine how the composition of laboratory staff has changed in the 5-year period; (2) determine whether there are statistically significant differences in selected personnel actions for managers and professionals when comparing minority men and women and White women with White men in fiscal years 1998 through 2000, the most current reliable data available at the time of the GAO data request; (3) describe EEO concerns raised by lab staff; (4) identify, if appropriate, opportunities for improving DOE's and the Office of Federal Contract Compliance Programs (OFCCP).

The three labs experienced some increases in their overall minority population. Lawrence Livermore is at 19 percent, Sandia at 24 percent, and Los Alamos at 34 percent.

For fiscal years 1998 through 2000, GAO found statiscally significant differences in

certain personnel actions and not in others for minority men and women and White women in managerial and professional job categories compared with White men in these categories at the three laboratories. Most notably, with the exception of Asian men at Los Alamos and Sandia, and Hispanic men at Lawrence Livermore, the salaries for minority men and women and White women were lower than for White men.

GAO found statistically significant differences, with some exceptions, for disciplinary actions.

Minority staff attribute their low representation in certain jobs and management to recruiting strategies that do not extensively target colleges and universities with large minority populations.

Opportunities exist for DOE and OFCCP to work together to ensure that the labs meet EEO requirements. At the moment, DOE and OFFCP evaluations produced difference results. For example, in 1999, DOE rated Sandia as ''outstanding'' in human resources while the OFCCP cited Sandia for two affirmative action program violations. GAO recommends that the DOE and OFCCP coordinate their actions to support each other's efforts.

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

Mr. WU. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to thank the gentleman for his cooperation with us. I appreciate his amendment. It is well written and well done. We support it, and I thank the gentleman for offering it.

Mr. HONDA. Mr. Chairman, In May of 2002, the General Accounting Office released a report that revealed an alarming disparity in salaries and rates of promotion between minorities when compared to which males in the same jobs at the Department of Energy's National Laboratories.

GAO found that salaries for minority men and women and white women were lower than for white men, with the exceptions of Asian-American men at Los Alamos and Sandia and Hispanic men at Lawrence Livermore.

Comparing men and women of the same race/ethnicity, GAO found that White, Asian, and Hispanic women earned less than their male counterparts.

The report also found that there are further areas for investigation. For example, with over 300 Asian-American professional staff at Lawrence Livermore, not one was promoted to a managerial position between 1998 and 2000.

When the report was released, I called for congressional hearings to determine the cause of these inequities so that we may remedy them to ensure that the Department of Energy can recruit and retain the highest quality ethnically diverse work force.

Unfortunately, the Science Committee took no action on this issue. The Wu/Johnson amendment would finally bring about some congressional action, by requiring the Secretary of Energy to report to Congress on DOE labs' equal employment opportunity practices in promotion, pay raise, discipline, and recruitment and retention efforts. I urge my colleagues to support the amendment.

Mrs. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today in favor of the Wu amendment. this is a simple, noncontroversial amendment that requires the Secretary of Energy to make a biennial report to Congress on DOE labs' EEO practices.

Why is such a requirement needed? This amendment's reporting requirements mirror the April 2002 GAO report's recommendations and I believe it would help safeguard our national security and help maintain America's scientific edge.

A Department of Energy internal survey demonstrates the sentiments of many minorities at the department. According to the survey, many minorities feel there are racial problems in this department.

In fact 80 percent of African Americans, 62 percent of Hispanic Americans, 26 percent of Caucasians, and 74 percent of Asian Pacific Americans working at DOE labs agreed that there is racial profiling at the labs.

Whether these are real or perceived sentiments, it is problematic that such a high percentage of lab employees have concerns about their work environment. Should this trend continue, the labs would cease to be an attractive workplace for American scientists. As a nation, we cannot afford to lose our best asset, our human resources.

This report also analyzed pay level, promotions, and management composition by race and gender at three DOE facilities: Lawrence Livermore, Los Alamos, and Sandia National Laboratories. While the GAO did not prove or disprove actual discrimination, it found statistical differences in the way that minorities and women were paid, promoted, or rewarded over a 5-year period from 1995–2000. According to the report, salaries for minorities and women at these DOE facilities lagged behind the salaries for white males.

There were also discrepancies in the promotion rate of some minority groups, including a failure to promote any of the 300 Asian-American staff members at the Lawrence Livermore facility during a 2-year period. In addition, white males were found to hold a greater percentage of managerial and professional jobs, 64 percent, than their representation in the work force, about 54 percent.

The results of this report painted a disturbing picture of inconsistency in the way minorities and women are treated in certain personnel action in the national laboratories.

I have long held the belief that America's work force—at all levels and in all sectors—should reflect the faces of this Nation. This report reveals that we have much work to do to encourage diversity and equality at our Nation's weapons facilities, and I hope that, by taking a closer look at how we are treating women and people of color in the workplace, we have taken a step in the right direction. I am encouraged that DOE has pledged to address the discrepancies raised by this report, and we in Congress will continue to monitor their actions and hold them accountable.

That is why this amendment is so important. It is vital that mechanisms be put in place to hold laboratories accountable to their promises to the workplace environment for minorities. The reports provided by this amendment would aid the Office of Federal Contract Compliance Programs at the U.S. Department of Labor and strengthen its oversight of DOE's hiring and recruitment practices. Without these safeguards, our national labs could become hotbeds that foster an atmosphere of pervasive mistrust and fear. And this is in no one's best interest.

Mr. WU. Mr. Chairman, I thank the gentleman from Louisiana (Mr. TAUZIN) for his cooperation, and I yield back the balance of my time.

The CHAIRMAN. Does any Member claim time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Oregon (Mr. WU).

The amendment was agreed to.

Mr. TAUZIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWEENEY) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–72) on the resolution (H. Res. 191) waiving points of order against the conference report to accompany the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–73) on the resolution (H. Res. 192) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 190 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 190

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of April 10, 2003, providing for consideration or disposition of a conference report to accompany the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

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

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

Mr. Speaker, House Resolution 190 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules against certain resolutions reported from the Committee on Rules. The waiver authorized by this resolution applies to any special rule reported on the legislative day of April 10, 2003, providing for the consideration of or disposition of a conference report to accompany the concurrent resolution, H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004, and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

Mr. Speaker, I would advise my colleagues that adoption of this resolution is made necessary because the work of the conferees on the budget resolution has taken longer than anticipated. Fortunately, however, the conference has now completed its work, and it is imperative that the House consider the proposed conference report on the budget before beginning its April district work period.

So accordingly, Mr. Speaker, I urge my colleagues to support H. Res. 190.

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

Mr. MCGOVERN. Mr. Speaker, I yield myself 4 minutes. I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I rise to strongly oppose this undemocratic rule that will impose martial law on this House. Frankly, Mr. Speaker, this assault on regular order is appalling. The conference report was filed only a couple of hours ago, and here it is, hundreds of pages. Just a few minutes ago, the Committee on Rules met and reported the conference report to the floor.

I would only ask, have Members had the opportunity to read or review this conference report? Were Members briefed on the details of this conference report? How about an outline? Have they read the summary? The answer, sadly, is no.

I would say to my friends on the other side of the aisle, this is not the renaming of a post office we are working on tonight. This is not a Sense of Congress resolution commending a football team. This is the budget of the United States. This is a big deal, and we owe it to the American people to treat it that way.

I know there are even Members on the other side of the aisle who have grave concerns about hundreds of billions of dollars in tax cuts for the wealthy during a time of war, recession, and deficits. These are important issues, and they deserve to be debated fully.

For anyone who may have questions about what exactly is going on here, let me try to explain.

The majority has brought a rule before the House that forces Members to consider the conference report on the budget resolution on the same day as the report is filed. In other words, if this unfair rule is approved, Members will be voting on the conference report without having any chance to read and study the language.

□ 2300

Now, my friends on the other side of the aisle will undoubtedly say, ''This is basically the same budget we debated and voted on a few weeks ago. Trust us, you do not need to see all the details,'' they will tell us. I would only say to them that over the past few years I have seen too many bills rewritten behind closed doors, too many important issues decided by a handful of Members and their staffs, to take comfort in their assurances.

The Congressional Budget Act of 1974 mandates that a budget resolution be in place by April 15. Today is April 10. I would be delighted if someone could please tell me, what is the rush to complete the conference report tonight. We will be here in session tomorrow trying to finish the energy bill, as well as considering the conference report for the supplemental appropriations bill.

Why can we not wait at least 1 day before we consider this bill?

I would be more than happy to work through the weekend if necessary on a matter that is so important to our country's future. Even the distinguished Chair of the Committee on the Budget conceded during the Committee on Rules meeting just a few minutes ago that this process was indefensible.

Mr. Speaker, I fear that the leadership just wants to get this over with, to shove this mess through the House as quickly as possible before anyone has a chance to really study it.

If the majority has nothing to hide, then I urge every Member to oppose this rule. Let this House and the people we represent read the budget conference report. Let us study and understand it. Let us fulfill our responsibilities as Members of Congress. Let us do the job we were elected to do.

I would urge my colleagues to oppose this undemocratic rule. I would say to my friends on the other side of the aisle, out of respect for this House, both Democrats and Republicans, and out of respect for the American people, vote ''no'' on this rule.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, we have before us a conference report, but everyone should understand there has been no conference in which the House or Senate Democrats have had any role or any part whatsoever.

This conference report comes to the floor in the same spirit, under a cramdown rule. Take it or leave it, here it is, a conference report that will spend $2.2 trillion, one-fifth of our gross national product, which we have had less than 30 minutes to look over, 30 minutes to give the most cursory sort of examination to.

The rules of the House, Mr. Speaker, prohibit such unseemly haste when things are this important. The rules of the House require that a budget report of this kind lay over for at least 1 day before being called up. But our Republican colleagues, by this martial law rule, would take a chain saw to the rules of the House.

That is why this is called a martial law rule, it brooks no dissent. It mows right over the speed brakes we have set up to make sure that our decisions made here in the great House of Representatives of the United States are made carefully and deliberately and thoughtfully. This rule rips up those cautionary measures, those speed brakes, so that this budget resolution can be railroaded through this House.

Mr. Speaker, I choose my words carefully. That is what is happening here tonight in the cloak of darkness when this $2.2 trillion budget resolution is being brought up. This resolution shows a disdain, indeed a contempt, for the process of deliberative government which we are all sworn to defend. It says, essentially, the majority has made up its mind; the minority should get out of the way.

There is a reason for this unseemly haste. It is not that we are about to go on the Easter vacation and do not have enough time to get it done tomorrow. No, that is not the reason we are pushing this thing, railroading this budget through the House.

The real reason is that it will not bear scrutiny. Republicans do not want a lengthy debate because it would reveal that this budget will raise the national debt by $5 trillion, more than $5 trillion over the next 10 years. That is right, this budget will raise the national debt from $6 trillion to $11 trillion over the next 10 years.

Everybody who votes for it should understand that this budget entails deficits of that size, debt accumulation

of that amount. It raises the national debt of the United States from just over $5 trillion to over $11 trillion over the next 10 years. Those are the plain consequences of it. That is the arithmetic of this budget resolution. There is no way around it. That is why it is being railroaded through here.

There is another reason, I think, that our colleagues on the other side do not want this budget debated. This budget is their economic policy. Their economic policy will not stand scrutiny. The economy is sagging, the number of jobs is decreasing, and rather than propose a budget that deals with these problems, they are bending the rules, they are distorting the process, they are doing whatever it takes to pass another round of tax cuts almost as large as the last round, which will go primarily to the wealthy and will drive deficits out of sight.

The objective is obvious: it is to pass this budget as quickly as possible and cut off debate before people realize the contents and, even worse, the consequences.

When they adopt a rule like this, Mr. Speaker, they diminish the minority and the role we play as the loyal minority, adversaries, ferreting out problems, thoughtfully going through major decisions like this. They diminish our role.

When they diminish my role and my colleagues' role, they do not diminish us or our party, but they diminish this great institution called the House of Representatives. They take that well, which should be a forum for ideas, a crucible where we grind out great policies for the good of this country, and they stifle debate, they cut off debate, they truncate debate.

When they do that, they do not just cut us off, they stifle this institution, this great institution. They violate the Constitution of the United States.

Mr. Speaker, this resolution should be defeated by every thoughtful, respectful Member who respects the prerogatives of this House. We should not be taking this matter up in such haste and we should not be taking it up without an opportunity to see it. We should not be rushing this through, railroading it through to passage. This is the wrong way to deal with a matter of such gravity, a budget that will spend $2.2 trillion.

Some would say, spend it in such a fashion and provide for tax cuts that will leave us with deficits that are almost intractable for the foreseeable future, well into the future, and will accumulate nearly $6 trillion of debt over the next 10 years.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee on the Budget.

Mr. SCOTT of Virginia. Mr. Speaker, just about an hour before the Committee on Rules meeting, the Democratic side got one copy of the budget, so it is impossible to coherently discuss the budget. That is why this process is unfair.

Let us discuss the best way we can where we are and where we are going. This chart shows the deficit over the years showing Johnson, Nixon, Ford, Carter, Reagan. We went into a surplus under Clinton, and in 1 year under the Bush administration we are back into serious deficits. This does not include the war, so if Members actually wrote the amended numbers, it would be off the chart.

Let us see how we got in that mess. That is because we passed all these tax cuts. Who got them? The bottom 20 percent, 20 percent, the top 20 percent got the lion's share of the tax cuts. They call it a growth package. Give me a break. Private sector jobs created since World War II, we go over, administration by administration, the worst job creation since World War II, the worst economic growth in an administration, the worst economic growth since World War II. Do not tell me this is a growth package.

This has implications, because when we run up all that debt, we have to pay interest on the national debt. We are paying about $4,500 a year for a family of four's proportionate share, $4,500 interest on the national debt. That is going to go, under this budget, up to $8,500 each and every year, interest on the national debt. So every time they cut another tax they have to pay interest, and this number is going up.

They are also cutting spending. Education, up about 12 percent every year, the last 5 years. They are cutting education. They say it is waste, fraud and abuse. We are budgeting. We have to have a line item. We are cutting, in this budget, school lunches, school lunches, student loans. They are cutting the line item that says school lunches, student loans, veterans' benefits. They are cutting those line items in the budget.

The fact of the matter is that this is an irresponsible budget. This is caused by the tax cuts, and this is a bad process. It is a bad budget.

This rule, which requires us to take this budget up tonight in the middle of the night, after virtually no notice, we have gotten the budget here in the middle of the night, it is an impossible process.

I would hope that Members would defeat this resolution and take the bill up tomorrow, where we can discuss it and point out even more problems with the budget.

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

Mr. Speaker, I would ask, does the gentleman from Washington (Mr. HASTINGS) have any speakers who want to defend this indefensible rule?

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

I think this is a very fair rule because, as I pointed out right from the start, we have to comply with the law which says we have to have a resolution passed by both bodies by April 15.

We all know that the Easter break we have is always a week before and a week after Easter. I congratulate the conferees on both the House and Senate for getting a budget done this year.

I would remind the gentleman, if he recalls, last year we did not have a budget. We did have a budget in the House, we did not have a budget in the Senate. As a result, we had a very difficult time putting the appropriation bills together. So I think that the conferees have done an excellent job.

This rule simply provides for consideration of the budget today.

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

Mr. Speaker, I take the gentleman's comments to mean that he does not have any other speakers.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EMANUEL), a member of the committee.

Mr. EMANUEL. Mr. Speaker, Ronald Reagan once said: Facts are stubborn things. Since the economic management in the last 2 years, 2½ million Americans have lost their jobs; 5 million Americans are without health care who had health care before; $1 trillion worth of corporate assets, small and large, have been foreclosed on; and 2 million Americans have walked out of the middle class to poverty. Those are the facts of the economic performance of the Republican administration and the Republican Congress.

Tomorrow, we are going to be asked to vote for reconstruction for Iraq. They will be provided funds for 20,000 units of housing in Iraq. Yet in this budget, in this economic plan for America's, there are only enough dollars for 5,000 units of housing.

There will be 13 million Iraqis who will get universal health care in tomorrow's vote. In this, not a single dollar for the working uninsured in America. Twenty-five thousand schools in Iraq will be rebuilt; not a single dollar to modernize a single American school will be provided for in this budget.

There are 12,500 schools in Iraq that will get basic books and supplies. In this budget, we are asking teachers to take it out of their wages here in America. Four million Iraqi children will be given early childhood education; yet this budget, this economic plan, calls for 28,000 children to be cut from Head Start.

There will be 3,000 roads paved, enough to reach from New York to California, in the budget for Iraq. This budget cuts $6 billion from America's infrastructure.

A port in Iraq, the only deep port, will be rebuilt from beginning to end; yet this budget cuts 10 percent from our Corps of Engineers. Reconstruction for Iraq, rebuilding Iraq, we are asking our troops to come home to a diminished American dream, a smaller American dream.

We are providing for Iraq an economic plan that envisions a future. The future envisioned here in America is one with less education, one with less health care, one with less infrastructure, one with a less promising future.

When the fog of war is lifted, the facts on the ground will be 2½ million Americans without work, 5 million Americans without health care, $1 trillion worth of foreclosed corporate assets, and 2 million more Americans who walked out of the middle class into poverty. Those are the facts of this economic performance and economic mismanagement.

We can do better. Our troops expect more. They are coming home to a smaller American dream, a diminished American future. We are talking about reconstruction for Iraq, yet this deconstructs America's future. We can do better.

This budget, this economic plan, has resulted in a diminished future for our children; yet, we are asking our people to finance a bigger, stronger, and a fairer future for Iraq.

There should not be that disconnect between Iraq's future and the one here in America.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

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

I wish to ask the gentleman from Washington if he might respond. I want to ask the gentleman a question regarding this resolution.

As I understand it, this is the martial rule, and this is necessary in order to bring up the budget resolution that just came out of the Committee on Rules.

I would ask the gentleman, is that correct?

Mr. HASTINGS of Washington. Mr. Speaker, will the gentleman yield?

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

Mr. HASTINGS of Washington. Mr. Speaker, this is a rule to allow for same-day consideration of the budget resolution when the conferees finish their conference, which they did today. There is a layover of time from the time the conference was done until they reported it in the House, so we complied with the House rules.

Mr. STENHOLM. That is the point I want to clarify, following House rules.

□ 2315

Does this resolution follow rule 26 by increasing the debt ceiling every year for the next 10 years?

Mr. HASTINGS of Washington. My understanding of the provision in the rules of the House means that an adoption of this budget this year will raise the debt ceiling, which, of course, we are running deficits because of the war effort and the downturn of the economy for this year.

Mr. STENHOLM. But not for 10 years?

Mr. HASTINGS of Washington. No. However, if our rules continue to have the provision that allows a budget vote to raise the debt, then we will take this up next year. But my understanding is this is for this year.

Mr. STENHOLM. So we are not exactly following House rules. Let me ask then, is it true that this resolution that will follow this same-day rule that will follow the other rule will increase our national debt by approximately $900 billion in the next 12 months?

Mr. HASTINGS of Washington. That is correct.

Mr. STENHOLM. Nine hundred billion.

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

Mr. STENHOLM. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I believe the correct number is $984 billion over the next 12 months. And under rule 27, if it applied, the debt increase would go up every year, staircase for the next 10 years, and the public debt subject to statutory limitation would increase from just over $5 billion to a bit over $11 trillion in 10 years, if the fiscal policies implemented by this rule are actually passed and carried out.

Mr. STENHOLM. Reclaiming my time, I see several Members on the floor, including the chairman of the Committee on the Budget.

I think it is very critical for all Members to understand, when you vote for this rule you are setting in motion the passage of a budget that no one on this side of the aisle has read and I doubt very many on that side has read, and we are going to borrow 984 billion additional dollars. That is on top of $450 billion we have borrowed since we increased the debt ceiling 8 months ago. That is $1.430 trillion.

Now, Mr. Speaker, I arrived in this body in 1979. In 1981 I watched our debt ceiling for our country increase through the $1 trillion mark. We are about to borrow and spend $1.400 trillion more than we have got, and we are going to do that within a period of 1 year following the economic game plan that we cannot get a majority on this side of the aisle to say is not working.

Now, I respect the right of the majority, and I respect all of my colleagues on this side of the aisle that for whatever reason find it impossible to change a plan that was put into effect last year. But I honestly do not understand when so many of you privately are concerned about this but publicly feel like, at 11:20 at night, you have got to have a martial rule, jam it through, pass it, which is every right of the majority to do; but when you do, you are going to be voting to increase the debt ceiling by $1.400 trillion in less than a year's time.

Now, that used to bother folks on this side of the aisle and I used to vote with you. In fact, I have done it more times than I have the other way. But what has happened to you? Why is it tonight that you are not worried about borrowing and spending $1.400 trillion in a 1-year period of time? September 11, 2001. Changed a lot of things. It should change the economic game plan that we are under; but if you are bound and determined to do it, be my guest. But no one walk out of here tomorrow and complain that we could not do better. We could do better.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts (Mr. MCGOVERN), for yielding me time.

Mr. Speaker, this is ridiculous. We are here tonight to consider one of the most important resolutions that we will take up this year in Congress, the budget. This is the blueprint for everything we do. And we do not even get a chance to read it before we vote on it.

As a member of the Committee on the Budget, I have spent a lot of time addressing the concerns on this budget, and we spent an entire day from early morning until early the next morning on the budget process looking at amendments. We knew what we were voting on. We had a chance to debate it. Yet, tonight when we are voting on final passage of the budget of the United States, members of the Committee on the Budget and Members of the House have not had a chance to see the product they are voting on. This process is wrong.

Members deserve a chance to review this document before voting on it. If leadership is determined to consider this resolution before the approaching recess, that is fine. Give us a day, give us a half a day, give us some time to see what is in this budget. I have a responsibility to my constituents just like everyone does to consider measures carefully, to know what is in that measure before we vote on it. Yet, I cannot thoughtfully consider this legislation because I have not had a chance to review it.

This is an awful process. I urge my colleagues to defeat the martial law rule so we can have adequate time to review this budget.

Mr. MCGOVERN. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Massachusetts (Mr. MCGOVERN) has 9 minutes remaining. The gentleman from Washington (Mr. HASTINGS) has 28 minutes remaining.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, in listening to the debate of my good friend from Texas (Mr. STENHOLM), when he inquired why we were dealing under the martial law rules, why we could not have an extended period of time for debate to reasonably address this in front of the American people, the good news is that my constituents are still up because we are an hour behind Eastern standard time. Maybe they will be able to make some sense out of this debate calling for

martial law. Maybe they will understand that the reason why we are rushing is because there is some need to announce a big tax cut before April 15.

Let me tell you what Americans want. They do not want a tax cut. They want mutual sacrifice. While the young men and women are on the front lines sacrificing, we are presenting to them a Nation of deficits. We have got a reconciled tax cut of $550 billion, an unreconciled of $675 billion, making the total $1.225 trillion. We are spending billions of dollars for reconstruction of Iraq by ourselves with nobody else helping us. We are building thousands of schools in Iraq. We are taking thousands of American children off of Head Start. We are, in fact, losing 2.6 million private sector jobs. We have got so many people unemployed for 6 months that they are not even on the unemployment list and 4.6 trillion in loss in stock market wealth.

Where is the mutual sacrifice that this Nation is used to participating in in time of war? How can my friends in good conscience shackle us with $1.225 trillion in tax cuts and provide us with a 2.6 or $2 trillion deficit over a 10-year period when we just had a $5.6 trillion surplus just about 2 years ago?

I will tell you how they can do it. By passing this martial law in the dark of night, believing no one will see it, and then being able to announce around April 15 that you are going to get a tax cut.

I can tell you that my constituents and most Americans want investment in American jobs, want children to have Head Start, want the children's health insurance program to still be active, want to restore wealth to the stock market, and want to make sure that we do not have deficit spending.

Now, frankly, I believe that investing in Americans' interests may require some deficit spending, but this is an outrage. And this kind of tax cut is simply without substantiation. I would hope that we could go back to the table and begin to look at creating jobs, begin to look at investing in America, and responding to our young men and women when they come home that they will have institutions of higher learning, their families will be taken care of, and we will invest in them so they will be the best and the brightest of this new America.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. None of us are ecstatic about the fact that we are here, but we have a requirement that we complete this budget process. We have spent a great deal of time on it already this year. We have had a full and very vigorous debate on the budget, and we had a very close vote that took place here. And now we have gone through the conference process.

So as I listen to people say that they have had no chance to look at this whatsoever, it is very clear the Committee on the Budget did its job. And the conferees met, and they have come forward with this report.

Now, one of the things that we just discussed upstairs in the Committee on Rules is that, whether you like it or not, it is often a prerequisite to actually meet deadlines if we are going to get things done and have deadlines set. And everyone is enthused about the prospect of meeting our deadline to have this done by the 15th of April. Everyone is enthused about the prospect of our adjourning for the district work period that is upon us. And we want to deal with a couple of things.

We want to deal right now with completion of this budget conference report; and we also, when we pass another rule, look forward tomorrow to consideration before we leave of the supplemental appropriations bill which will pay for the war effort.

Now, I see my good friend from Texas (Mr. STENHOLM) here with whom I am very pleased to work on a wide range of issues, and we have just been working upstairs. And I wanted to clarify one issue, and that is rule XXVII clause 2 makes it very clear that there is not a 10-year requirement, but when specificity is designed as is outlined in this measure, a 1-year debt ceiling increase is in fact allowed under the rules of the House.

Now, let me say, Mr. Speaker, that we are all continually concerned about an increase in the national debt. We are concerned about increases in spending. And I think my friend was very correct in raising the fact that things changed on September 11 of 2001. And while he talked about the fact that he believed that the overall program for economic growth should change because of what took place on September 11 of 2001, we have found that it is absolutely essential for us to deal with things that did change on September 11.

We embarked on that day on a war on terrorism which has cost us over $100 billion just for the war on terrorism itself. We know that with the war that is, actually, we hope very much, coming to an end right now, that we will be able to realize what we have spent. Tomorrow we will be dealing with the spending of $74.7 billion, and so it is true that things have changed. But we feel very strongly that the most important thing for us to do is to put into place an economic growth plan that will generate the kind of revenues that we need to pay for the war on terrorism, to pay for this $74.7 billion in supplemental appropriations that will be necessary to deal with the expenses dealing with the war in Iraq in which we have all strongly supported our troops in a bipartisan way on that and had a great celebration of that today here in Statuary Hall.

So, Mr. Speaker, our plan is to try and get the economy growing. We all realize that during the 1990s, the latter part of the 1990s, we saw a strong, bold, dynamic economy. We saw rates of growth at 6 percent and even beyond that. We have seen this diminution, the flow of revenues to the Treasury, not only because of increases in spending, not only because of the war on terrorism, not only because of the war that we are dealing with in Iraq, but because we have seen a slowing in our economy.

We happen to believe that reducing the tax burden on working Americans, putting into place plans to have growth-oriented tax cuts will, in fact, generate the kind of revenues that we need to deal with this. And so I would say to my friends who are now talking about a level of fiscal irresponsibility, that what we are trying to do is we are trying to get the economy growing.

□ 2330

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding to me.

I think repetition is often relevant in this body; but when the gentleman talks about how we needed tax cuts, a significant amount, to get the economy growing, did he give the exact same speech that he gave in 2001 when we were told that large tax cuts would stimulate the economy?

Mr. DREIER. Reclaiming my time, Mr. Speaker, I am happy to say that virtually every economist, virtually every economist has acknowledged that had we not put into place the tax cuts, the economic growth plan that we did in 2001, that the slowing in the economy would have been even greater than what we have suffered in the past and the recession which began as we all know during the last two quarters of the year 2000 was, in fact, during those two quarters in 2001, in a position where we were in economic recession, but it is clear that the plan that we had did, in fact, diminish the slow down that we witnessed.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield?

Mr. DREIER. I am happy to yield to my friend.

Mr. FRANK of Massachusetts. Mr. Speaker, I know as you get old your memory goes, but I do not remember hearing that this is new. I remember rehearing that this will get the economy going. I do not remember the defense of the 2001 tax cut being this will prevent the economy from slowing down so rapidly. There was no acknowledgment that there was going to be a slow down; and I asked people to go back to 2001, and we heard in 2001 these same arguments.

Mr. DREIER. Reclaiming my time, Mr. Speaker, the gentleman said that

repetition is sometimes good, and so I guess I repeat once again.

He talked about the fact that we put into place what we considered to be an economic growth plan in 2001, and that economic growth plan was put into place before September 11, 2001. So I am repeating again what I said earlier, we have had to expend $100 billion-plus in the war on terrorism, and we know that September 11 played a big role in creating an economic slow down; and we also know that the cost of the war, which we have just gone through, has also played a role in slowing the economy, with increased oil prices and a wide range of other concerns.

We know that as we look at the challenge, Mr. Speaker, of trying to get this economy growing, doing things like reducing the top rate on capital gains for new investment, which is a measure that I have been pushing for a while, which would take the top rate and cut it from 20 down to 10 percent for new investment, if there were a 1-year holding period. I have talked to a wide ring of economists, Democrats and Republicans, and they believe that that would provide an incentive for new investment and could play a role in getting the economy growing.

So, Mr. Speaker, my point is that we need to have growth-oriented tax cuts. Our goal is to do just that, so that we will have the revenues that we need so that we will not have a further debt burden, so that we will not have the kinds of deficits that unfortunately we are going to have to deal with because of these economic challenges that we face for a while.

Mr. STENHOLM. Mr. Speaker, would the gentleman yield?

Mr. DREIER. Let me just say that I know that there is time on the other side of the aisle. I have enjoyed having this exchange with my colleagues and appreciate my friend for yielding me the time.

Mr. MCGOVERN. Mr. Speaker, we do not have a lot of time. I would have appreciated the distinguished chairman yielding to the gentleman from Texas (Mr. STENHOLM).

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. DREIER) does not have the floor.

The gentleman from Washington (Mr. HASTINGS) is recognized.

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding time to me, and I would be happy to yield to my friend from Texas.

Mr. STENHOLM. Mr. Speaker, I thank my friend for yielding to me, and I think the spirit of the debate, and precisely what you have been arguing is why I so strongly oppose what you are about to do tonight because the very economic game plan that you have once again articulated by your own scorekeepers, if it works exactly like you have got it planned, if all of the things happen that you believe will happen with it, we are going to owe almost $13 trillion at the end of the 10 years. We are going to owe another $3 trillion almost at the end of 5 years if we do it just like you are doing it.

That is why some of us are asking you respectfully, take a look at that rhetoric that you have been repeating since 2001 that you do again tonight. I know you believe it sincerely. I do not question that, but how can you continue to make that argument when the result of it in the budget that we are passing, we are going to have to borrow another trillion dollars almost in the next 12 months, and even if it works exactly like you have articulated so well, as you can do, tonight, we are still going to be borrowing that amount of money?

Mr. DREIER. Reclaiming my time, Mr. Speaker, I simply say that we believe that we have the potential to get back, if we can unleash this economy to the kind of bold, dynamic economic growth that we saw in the latter part of the 1990s, if we do that, if we do that, I am convinced that we will have a level of revenues that outpaces even the kinds of projections that are included in this budgeting process itself.

So I thank my friend. We have shared interests here. We have shared goals. I believe that Democrats and Republicans alike very sincerely want us to get this economy growing so that we can have the revenues that we need to balance the budget and to deal with our priorities. Along with homeland security, along with the war that we have dealt with in Iraq, we can deal with education, transportation, health care, a wide range of other concerns that are out there; and I thank my friend for his thoughts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would ask all Members, in the spirit of debate on this rule, to only address the Chair during the course of being yielded time by either the gentleman from Massachusetts (Mr. MCGOVERN) or the gentleman from Washington (Mr. HASTINGS).

Mr. MCGOVERN. Mr. Speaker, I want to thank the distinguished chairman of the Committee on Rules for agreeing to that dialogue.

Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, for the record and for clarity, we only got this document minutes before coming to the floor. It is hundreds of pages long; but if you turn to about page 70, you will see just for clarity our debt limit now is $6.4 trillion. Vote for this resolution and you will raise that to 7.384 trillion, 984 billion in 1 year. Over the next 10 years, the deficits entailed by this budget resolution will require the debt ceiling to be raised to $12.040 trillion. Those are your numbers in your resolution, and that is what you will be voting for if you vote to adopt this budget resolution.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

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

Mr. TANNER. Mr. Speaker, it is almost midnight here on the east coast, and I hope that whoever is up and watching will understand what I am about to say.

What we are witnessing here tonight is the largest, long-term, structural tax increase on the American people in the history of this Republic because every year we borrow money, we have to pay interest on it, a tax on the American people, the Blue Dogs call the debt tax, that cannot be repealed.

Mr. Speaker, you have heard under their budget resolution, if it works like they say, we are going to incur $1.2 trillion in additional debt in the next 12 months, in addition to what we have already done and seen the last eight. Mr. Speaker, at 4 percent interest that is $40 billion a year that the American taxpayers have to pay every year.

This is the largest, long-term structural tax increase in the history of this Republic, and nobody can doubt that. At 5 percent, it is over $50 billion a year in perpetuity.

If that is not bad enough, Mr. Speaker, what really is happening here is we have sent young men and women from this Nation to die for other people in the Middle East; and Mr. Speaker, what we are doing is saying we are going to take a tax cut while they go over there and die, and we are going to send the bill for this war and we are borrowing the money to fund and borrowing the money for the tax cut, we are going to send the bill to these young men and women in uniform, the only people who are being asked to sacrifice anything at all in this war, send it to them and their children; some of whom do not have a daddy now because they are dead in Iraq.

Mr. Speaker, where is the honor? Where is the sacrifice? Where is the honor of this House when we try to do something like this? That is exactly what is going on tonight.

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

Mr. HOYER. Mr. Speaker, the gentleman is correct, there is no honor in this. Think about what you are doing tonight. Your majority leader said, and I will read quickly, Between now and the next Presidential election, through the end of the fiscal year 1996, the public debt will increase by almost $1.3 trillion. During President Reagan's first term, the debt ceiling was increased from $935 billion to $1.8 trillion. That is an increase of $889 billion. It took us over 200 years to get to $1 trillion in debt, over 200 years, and in the last 10 years we have gone to over $4 trillion of debt.

All of that so-called stimulus package is deficit spending. None of that spending, none of it is paid for. All of it borrows money to pay for it. That is part of why we are raising the debt ceiling.

He was speaking in opposition to the kind of action you are taking tonight and then the gentleman from Indiana (Mr. BURTON) said this, ''We need to do other things to balance the budget. Let us do it. But first and foremost, we have to shoot straight with the American people, and hiding things like this debt ceiling increase is not the way to do that.''

How many of you campaigned and said you were against raising the debt limit? How many of you campaigned on the fact that you were going to balance the budget? I voted for the balanced budget amendment. I believe in balancing the budget; and very frankly, under the Clinton administration, we took the Reagan-Bush deficits into surplus for the first time for 4 years in a row, the first time in 80 years.

Do you have no honor? Are you not ashamed of the hypocrisy that this budget resolution that you bring before us represents? Is there no honor in this House? Is there no fiscal integrity? Is there no concern for generations yet unborn who, as the gentleman from Tennessee says, will have to pay this bill and the young men and women we have in Iraq today will have to return here to pay the bill? Can we not stand up as Americans, proud of our country, proud of our objectives and say to them, we will pay as you fight, and together, we will win this battle for a better America?

Mr. MCGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. SHERMAN).

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

I have been trying to figure out this process because normally an organization that works only 2 days a week should be able to get its work done without working till 3 in the morning, and so if the House was run competently we would not be here till 3 in the morning. So I thought it might be incompetence, and then I realized, this is chicanery masquerading as incompetence.

The reason we are here late at night is because what we are doing would not stand the light of day. We are creating a system where our friends on the other side of this building can say they are only voting for a $350 billion tax cut. We over here can say it is a $550 billion tax cut, but ultimately, the resolution tells us that we are on our way to a $1.2 trillion tax cut.

The plan is simple. They will pass the most obnoxious provisions of their $350 billion tax cut over there. It will go to conference. It will come back as 550. It will be passed on both sides by their majority vote, and that will be the portion of the tax cut loaded exclusively to the most wealthy.

Then, having cut the taxes in an unbalanced way, then another tax bill will be prepared, including the least egregious provisions, and they will be packaged in such a way that they can pass without a filibuster on the other side. If only the light of day would shine and the country knew what we were doing.

The SPEAKER pro tempore. All time controlled by the gentleman from Massachusetts (Mr. MCGOVERN) has expired.

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

This is a rule that allows us to consider the budget resolution that we have to get out by law so we can plan for the appropriation process, which I know will be difficult. So I urge my colleagues to support this resolution that allows us to consider a rule and ultimately the budget resolution.

□ 2345

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 203, not voting 8, as follows:

[Roll No. 139]

YEAS—223

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
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
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
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 (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
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)
Souder
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)

NAYS—203

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
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
Holt
Honda
Hooley (OR)
Hoyer
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
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
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 (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)

Snyder	Thompson (CA)	Waters
Solis	Thompson (MS)	Watson
Spratt	Tierney	Watt
Stark	Towns	Waxman
Stenholm	Turner (TX)	Weiner
Strickland	Udall (CO)	Wexler
Stupak	Udall (NM)	Woolsey
Tanner	Van Hollen	Wu
Tauscher	Velazquez	Wynn
Taylor (MS)	Visclosky	

NOT VOTING—8

Boucher	Gephardt	McCarthy (MO)
Combest	Houghton	Paul
Duncan	Hyde	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would advise all Members there are 2 minutes, approximately, remaining in this vote.

□ 0004

Messrs. RODRIGUEZ, PASCRELL and HALL changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 191 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 191

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

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

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

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 191 waives all points of order against the conference report to accompany H. Con. Res. 95 and against its consideration. The rule also provides that the conference report shall be considered as read. Finally, the rule provides 1 hour of debate in the House to be equally divided and controlled by the chairman and ranking minority member on the Committee on the Budget.

Mr. Speaker, the conference report we will shortly be asked to consider is absolutely essential to our efforts to stimulate economic growth and to simplify and reform our Federal tax system.

The agreement would produce steadily declining deficits, and would achieve a balanced budget by the year 2012. In addition, this agreement provides for the total supplemental appropriation necessary to fund the war in Iraq, and provides separate $400 billion reserve funds in the House and Senate for Medicare reform, including prescription drug coverage.

On taxes, the budget conference report provides for total tax relief of $1.226 trillion during the years 2003 to 2013. For fiscal year 2004, the conference agreement provides for discretionary spending of $400 billion for defense and nondefense discretionary spending of $384.4 billion. The budget also includes $26.7 billion for the Department of Homeland Security, a 35 percent increase over the current fiscal year, and provides additional homeland security-related funds for the Departments of Defense, Justice and Health and Human Services.

Of special note is a provision in the budget establishing a $5.6 billion reserve fund over a 10-year period for Bioshield, which will help protect the public from emerging threats of chemical, biological, or radiological agents. Finally, Mr. Speaker, I am pleased that the budget agreement directs all congressional committees to identify existing waste, fraud and abuse and report back to the Committee on the Budget, with an accompanying report by the nonpartisan General Accounting Office.

Mr. Speaker, we learned the hard way last year the consequences of proceeding with the appropriation process without a budget agreed upon by both Houses of Congress. It is a lesson that I believe once learned should never be repeated. We simply must complete our work in a responsible fashion. The American people expect and deserve no less. Accordingly, I urge my colleagues to adopt this rule and support the conference report on the budget for fiscal year 2004.

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

Mr. MCGOVERN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, since this mammoth budget was made available to Members of this House only a couple of hours ago, it is difficult to know exactly what goodies and gimmicks are hidden inside of it.

We know enough, however, to know that this Republican budget is bad for the economy, bad for American working families, and bad for the future of our country. In other words, we know enough to vote ''no.'' I have to give the majority credit, though; they have brought the term ''creative accounting'' to new heights. Never before have I seen a ''unified'' budget conference report with two different budgets in it. I guess this is what they mean by ''new math.''

Under this model of budgetary mischief, the House tax cut costs $550 billion, while the Senate tax cut costs $350 billion. It is extraordinary, it is dishonest, and it is shameful.

Why is the Republican majority trying to get away with this trick? Because despite all of their rhetoric last year, they cannot get their own membership to agree to a single tax cut figure. They are stymied by a few Members of the other body who believe that maybe, just maybe, it is not such a great idea to spend over half a trillion dollars in tax cuts for the wealthy while the deficits explodes, while we are fighting a war overseas with unknown costs, while the baby boom generation nears retirement, while millions of seniors cannot afford their prescription drugs, and while our States are facing their worst fiscal agencies, their priorities are crystal clear. Instead of deficit reduction, economic stimulus, and adequate funding for things like homeland security, health care, veterans, education and environmental cleanup, the Republicans prefer tax cuts for millionaires. No wonder they do not want Members to read this budget.

Now tomorrow, Mr. Speaker, we are told that we will vote on the supplemental. That bill contains nearly $2 billion to help rebuild Iraq. What is striking to many people is that Congress seems to understand, rightly, in my view, that health care is important for the people of Iraq, that education is important for the people of Iraq, that rebuilding roads and bridges is important for the people of Iraq. But when we look at this budget, it is clear that the majority does not understand that health care or education or transportation is important for the people of the United States, the people who are actually paying for the war.

Those people, the American people, they deserve a budget that reflects their priorities, not the priorities of a wealthy few. They deserve a budget that actually pays for its tax cuts, not one that uses so-called dynamic scoring to claim that one minus one equals three. They deserve a budget that is fiscally responsible, that does not leave future generations crushed by even more debt. They deserve a budget that helps make college more affordable, that helps pay for prescription drugs, that strengthens homeland security, and keeps our promises to our veterans.

In short, Mr. Speaker, the American people deserve a lot better than this. Mr. Speaker, I urge my colleagues to vote ''no'' on this rule and to vote ''no'' on the Republican budget.

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

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

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, let me put this budget in context. Two years ago we all hailed a projected $5.6 trillion surplus, and our colleagues on the other side of the aisle bet the budget on that surplus, that blue-sky forecast.

Two years later when the Office of Management and Budget sent us the budget for the next year, they acknowledged that was a vastly overstated estimate and that the surplus between 2002 and 2011 correctly estimated, accounting for the economy as we now see it, it is not $5.6 trillion, it is, according to the Office of Management and Budget, $2.4 trillion, and all of that has been committed.

□ 0015

Now, there is a serious consequence that flows from that finding. It is simply this: Everything that is done in the way of tax reduction or spending increases over and above current services goes straight to the bottom line. There is no surplus anymore to mitigate or cushion it. It goes straight to the bottom line and adds to the deficit.

Knowing this, knowing this, what do our Republican colleagues do? They call for $1.2 trillion in additional tax reduction, plus some big increases in defense and international affairs. What is the result? The result is that this year the deficit will be $347 billion. We will set a record. Back out Social Security, and the deficit is $512 billion.

Next year, in 2004, as a result of the policy choices about to be made in this budget resolution, the deficit will go to $385 billion. On-budget, excluding Social Security, it will be $558 billion.

Over the next 10 years, let me say it again, and, let me remind everybody, I am reading straight from your script, this is your budget, these are your numbers, over the next 10 years we will accumulate on-budget deficits of $4,006,130,000,000, your number.

The national debt, which today is $6.4 trillion, will increase over the next year by $984 billion. If you vote for this budget resolution, that is a direct consequence of it, using your arithmetic. Over the next 10 years, listen to this, the national debt ceiling will have to go to $12,040,000,000,000; from $6.4 trillion to 12,040,000,000,000 as a direct consequence of this budget resolution, according to your numbers.

You say we can grow out of it. We have to get this economy on its feet. Goodness knows, I agree, this wobbly economy needs help. But let me tell you, the underlying forecast upon which these numbers are based assumes that the economy will grow at 3.6 percent next year, real growth over and above inflation, and 3.2 percent over the next 10 years.

You have held out the prospect of dynamic scoring, saying these tax cuts could boost the economy and sort of replenish the revenues that they will be otherwise cutting out of the Treasury. CBO undertook to dynamically underscore the budget, and, guess what? Using nine economic models, in five out of nine, the deficit actually increases as a results of these tax cuts.

You say we have got to have spending cuts. Well, you have got them in this bill. This resolution would take domestic discretionary spending down by $168 billion below current services over the next 10 years. As for the other spending cuts, if that is what you say the prescription is and ought to be, where are they? Why not put them in your budget resolution?

What we have got here is a recipe for disaster, and I cannot overemphasize the results of this budget resolution using your own numbers. It takes us down a path of endless deficits and deeper and deeper into debt, so deep that this problem becomes almost intractable.

For those of us who were here in the 1980s and knew how long and hard and difficult it was to turn the budget around and put it into surplus again, we have an awfully forlorn, sinking feeling as we look at this budget, because we do not think, if you pass this budget resolution tonight, that we will be able to turn it around for a long time to come.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, as Thomas Jefferson notes in Jefferson's Manual, ''The minority in any legislative body looks to the rules of that body as its best and often only defense against the potential tyranny of the majority.''

Tonight, Republicans have corrupted this House with a process that in the darkness of night raises the national debt to nearly $12 trillion, ensures that every American family ends up with a debt tax of over $8,000, has a budget that bleeds red as far as the eye can see, and that budget that began bleeding red well before September 11, and ensures that their tax dollars go not to invest in our people and health care and education and taking care of our veterans, but, no, goes to pay interest on this debt that you continue to raise. That is the real waste, fraud and abuse that you should be talking about.

Imagine deciding on $2.2 trillion, when Members have been given only an hour before debate begins. Only in Washington would Republicans say to American families that this is prudent. What American family makes major financial decisions in their life in the middle of the night at midnight when their whole future is at stake?

This corrupt process that will cut $6.2 billion in veterans' health care over the next 10 years, is there no shame, as we have men and women halfway around the world fighting for us and for democracy, that in this hallowed hall of democracy a system is so corrupt that we are going to make major decisions about each and every American family for the rest of their lives.

Vote no against the rule. It is ultimately the opportunity to preserve America's future and the intergenerational responsibility that this Republican majority has forfeited for the next generation.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, this budget conference report is the most fiscally irresponsible budget ever proposed to this House. When the Bush administration came into office, there was a projected $5.6 trillion 10 year surplus. Under this budget conference report, the country will pile up $12 trillion in debt over the next decade.

We are doing it at the very time that we know that the next generation is going to be saddled with all of this mounting debt, because most of us are members of the baby-boom generation. We start retiring in 2008. We are going to double the number of people on the Social Security and Medicare trust funds, and yet we are going to borrow trillions of dollars from those trust funds to pay for these tax cuts.

This will be the third budget built on economic policies that have not worked since President Bush took office. All you have offered is tax cuts and promises of economic growth. But instead of growth, 2.6 million private sector jobs have been lost between President Bush's election and today, and, by your own estimate, this plan will generate over the next year only half the number of jobs that have been lost in just the last 2 months.

The market value of stocks has fallen by $5 trillion since President Bush took office and you started these budget plans. Consumer confidence has dropped to its lowest level in 9 years.

Now, in contrast, the House Democratic budget protected key services from cuts, we made focused investments in health care and other priorities and we boosted economic growth with an effective, fiscally responsible stimulus plan. We would have created six times the number of jobs that are contained in this plan, six times, when the country most needs those new jobs. We achieved budget balance within this decade. There was $1.3 trillion less accumulated debt.

In contrast, to pay for these oversized tax cuts, the Republican conference report runs deeper deficits, cuts key services to the people who are neediest, fails to make adequate investments in this Nation's priorities and omits any effective economic stimulus plan.

Vote against this embarrassment; if not for the sake of this body, do it for

the sake of your kids who are going to be stuck with the bill for it.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, every Republican in this House who votes on this bill tonight will have voted for the largest deficit in American history. Every Republican voting for this will have supported the largest single year deficit in American history, larger than every year during World War I, during World War II, the Great Depression and all other wars this country has fought.

I will be honest, if I had a budget proposal this fiscally irresponsible, this dangerous to America's future, I would want it to pass at 1 or 2 o'clock in the morning as well.

To be fair, I will admit with my Republican colleagues that I agree when they say this is a growth plan. It will grow the national debt ceiling by nearly $1 trillion in 1 year. Once the economy finally gets a little bit back on its feet, it will grow interest rates. Costs for buying a new home will go up, costs for buying new cars will go up and costs for our farmers and ranchers trying to save the family farm will go up because of their deficit spending. As we all know and as Alan Greenspan has confirmed, this will drive up interest rates.

And, yes, this is a growth plan. It will grow the debt tax on my two little children and their generation to a point where their future will be burdened severely by that level of taxation.

Now, where I disagree with their assertion that this is a growth plan is in terms of economic growth. The Congressional Budget Office, in a report organized by one of President Bush's former top economic advisers in the White House, recently said this growth plan will not have any appreciable economic growth, and actually it could slow down economic growth.

I hope, Mr. Speaker, that this is not the kind of democracy our country plans to implement in the Nation of Iraq. At 1 o'clock in the morning we will be voting on a plan that nobody knows about that will harm our children with the largest deficit in the history of America. Vote no.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I am struck by the unwillingness on the Republican side to speak out on this. I will give them credit; they know indefensibility when they have promulgated it, and this is indefensible.

For a while they were complaining that last year the parties were unable to produce a budget, so they have overcompensated. They have produced 2 budgets. Because this is 2 budgets where it counts. This is a budget for the House and a budget for the Senate, all in one.

Why do we have it here? We have it here to accommodate a large number of Republican Members in both bodies who want to say one thing in public and vote another way.

This budget has to be explained. The key part of the budget, a lot of it is purely notional, but the key part is the reconciliation instructions. It has, bizarrely, for the first time in history, contradictory reconciliation instructions for the House and the Senate. The House is reconciled to $550 billion in tax cuts. Now, in the Senate they are only reconciled to $350 billion. That is a critical difference, because that means you do not need 60 votes when you reconcile it in the Senate; that means you can do it with 51 votes.

The problem is that there are Senators who have said loudly, passionately, we will not vote for a tax cut of more than $350 billion. But we had a problem here in the House. I am told we had 29 Members who said they would not vote for less than $750 billion, and 15 that said they would not vote for more than $350 billion. That is 44 Members taking an irreconcilable position. Well, how do you get there? Thirty-five of them did not mean it, and this budget allows them to back away.

In particular what it does is this: This budget, by that dual reconciliation, allows the Senators to claim that they are only voting for $350 billion.

□ 0030

But the Senate Parliamentarian has ruled that if a conference report goes back at more than $350 billion; namely, $550 billion, that will not be subject to the filibuster. In other words, the sole purpose of this dual reconciliation gimmick is to allow some Senators to pretend to be firmly committed to a $350 billion figure and vote for a bill that they know will allow them to facilitate $550 billion.

I am reminded here of one of the great figures from literature, Big Daddy, from ''Cat on a Hot Tin Roof,'' because he would have hated this budget. My colleagues will remember how much he hated mendacity. And this is a monument to mendacity. This enables mendacity. The sole purpose of this is to allow Senators to claim they are for $350 billion, but vote for something that they know will accommodate $550 billion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members that it is not appropriate to characterize the actions or inactions of Members of the other body.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Is it appropriate for the Senators to lie by voting for this budget?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry and is not in order.

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

Mr. BAIRD. Mr. Speaker, my Republican colleagues have to go back home now to their districts and pass the commonsense test. They have to explain to their constituents how it is that they passed a $2.2 trillion budget that will increase the deficit in the next 10 years by $4 trillion; and they did it without sufficient time to even read it, they did it with inconsistent and dishonest manipulation of numbers, and they have to explain that to their constituents. The Democrats will not have to, because we will say we voted ''no.'' We will pass the commonsense test, and those who vote ''yes'' will fail the commonsense test.

My colleagues on the other side will also have to explain this: for the last several years they promised on television, in their mailers, in their speeches on this floor that they would put Social Security and Medicare in a lockbox. But when they talk about the deficit and they talk about their balanced budget, the fact is, you have raided the lockbox, you have broken your promises, you have broken your faith with the American people, and you will have to explain that. We will not, because we will vote ''no'' on this budget.

And those of you from States like Washington and Iowa and Wisconsin and Oregon who suffer from unequal and unfair imbalances in Medicare payments, you will have to explain to your constituents why this budget does nothing to correct the unjust and imbalanced Medicare payment structure.

In Washington State, 50 percent of physicians will not accept new Medicare patients. This week, I have had physicians in my office saying, I cannot afford to treat Medicare patients because the compensate rates in Washington are too low. We have an opportunity to fix that. This budget does not fix it, and you will have to explain that to your constituents over the next 2 weeks.

I would give one bit of counsel to those who vote ''yes'' on this budget resolution. Cancel all town halls. Those who vote ''no,'' I encourage you to have many town halls, and let the American people see just what this Congress is up to. It is not pretty.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, when I came here 20 years ago, I was told that this was the greatest deliberative body in this world; and here we are discussing this huge budget and what the

majority does is to reserve the balance of its time. Where is their argument? Where is their response? My Republican colleagues sit there like people of stone.

So let me sum up what the facts are as I see them. Here is what the Republicans are saying in their budget resolution. I have heard the gentleman from California say, get back to the growth of the late 1990s. They are doing it by adopting policies exactly the opposite of the 1990s. What my colleagues are saying is, if the hole is deep, dig it deeper. My colleagues try to show much in tax cuts, and now they are going to do it again. They have gone from a projected surplus, as we have said so many times, of $5.6 trillion to $2 trillion in deficits these next 10 years. What my Republican colleagues are saying is, when in debt, mortgage more and more.

My colleagues say they are meeting a deadline. They are doing it, I think, clearly by dealing death to fiscal responsibility. But I want to say in a few words, this is worse than fiscal irresponsibility. I say to my colleagues, this is fiscal madness.

Mr. MCGOVERN. Mr. Speaker, may I inquire of the gentleman from Washington how many speakers he has.

Mr. HASTINGS of Washington. Mr. Speaker, I am prepared to yield back if the gentleman from Massachusetts is.

Mr. MCGOVERN. No. We have every second claimed.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise in strong opposition to this unfair rule. Once again, the Republican Party is slamming their agenda through this Congress with little debate late at night.

Mr. Speaker, you can tell something about a country's priorities by how they spend their budget. As we can see from the Republican Party's budget, they do not see children, the poor, the hard-working people of this country, minorities, health care, education, or veterans as important. To begin with, our Nation's veterans, on the same day that this House voted to commend our troops in Iraq, the Republican leadership pushed through a budget that cut the VA budget by $30 billion.

Who else is the victim of this Republican budget?

This administration's tax-cutting plans have ruined our economy and have helped push African American unemployment up by 10.5 percent, and our country's poverty rate has gone up while the median income has gone down.

This budget is also bad for public housing. HUD is slated for a huge cut, including plans to slash section 8 vouchers that help millions of low-income residents to pay their rent. They plan to zero out HOPE VI. This list goes on and on and on.

I want to conclude by adding that it should not be a surprise to anyone that this administration has not fully funded election reform. Their proposal falls nearly $1 billion short from the amount authorized in the Help America Vote Act. In the end, the Republican Party does not want election reform. They are just fine with the 2000 election results since they came out on top, even though they did it by stealing with the help of colleagues from Florida. Wake up, America. Wake up. It does matter who is in charge.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, is anybody watching this evening? Is anyone watching? Talk about pulling a fast one on the American people in the dead of night. The Republicans are railroading their budget through the House late in the evening after denying Members a chance to closely review this budget.

What we know is that they lied to our veterans; they are cutting their health care and benefits. They lied to our constituents who are out of work due to no fault of their own. They will not be getting any additional assistance in this budget. They have lied to our children. This budget will saddle them with trillions of dollars in new debt for their future. And they do this in the dark of night, hoping that no one is watching.

They forget that 2.6 million new unemployed Americans know the true effects of this Republican economic plan, because they are watching this evening. They forget the 2 million Americans who are added to the rank of the newly poor were amongst the middle class just 2½ years ago. They know the true effects of this Republican economic plan because they are watching.

They forget the 800,000 veterans who were told that we could not afford their health care costs anymore and, all the while, this Congress can provide a massive dividend tax cut to the wealthiest and the richest in this country. They know the true effects of the Republican economic plan, because they are watching. They think the American people do not see this. But do not be fooled, they do, because they are watching. And they know the economic ruin the Republicans have caused this country in just 2½ short years.

Vote for our veterans, vote for our future, vote to keep our promises and be fiscally responsible. Vote against this Republican sham of a budget; and remember, the American people are watching.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, since you are on the floor, do you think it is a coincidence that no one is in the press gallery when you bring this bill up? Because I do not.

Those of you of my Republican friends, and I do consider you my friends, who ran on the basis of a balanced budget, if you vote for this budget, you lied.

Two years ago you came to the floor and said there was a surplus. We owed the Social Security trust fund over $1 trillion at that time. We owed our own Federal Government employees' retirement system over $500 billion at that time. We owed the Medicare trust fund over $200 billion at that time. And with a perfectly straight face you looked the American people in the eye and you talked about surpluses as far as the eye could see, and it was all a lie. I regret that I did not say it sooner.

So tonight I am going to give you one last chance to do the right thing. The guy sitting over there, the gentleman from Illinois (Mr. HASTERT), when he was just a Member he used to come to the floor and wax eloquently on the need for a balanced budget amendment. You have been Speaker now for 1,550 days, plus or minus; and yet you have never scheduled a vote on a balanced budget amendment, because you know it gets in the way of your tax cuts.

We are voting tonight to add another $800 billion, that is a thousand times a thousand times a thousand times a thousand times 800, in new debt in just 1 year, because you know your budget plan does not work.

So for just once, be honest with the American people. Quit lying to them, because you are lying to my kids; and I cannot tell you how mad that makes me. It is okay to lie to me, but do not lie to my kids. Do not lie to those kids in Bethesda tonight at Walter Reed; do not bring them cookies tomorrow and tell them how much you love them and you respect what they have done for our country, and then stick them with $800 billion worth of new debt in 1 year. Because you begged for the privilege of running this country, but you do not want to pay the bills of running this country. You ought to be ashamed. I want to tell you, I am ashamed of you.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, since 1980, over and over again, the Republicans have come to this House and this Congress and this Nation and promised that if we just cut taxes some more, everything will be wonderful.

Inscribed on the walls of the first floor of this wonderful building is a saying from Patrick Henry. It says: ''I have but one lamp by which my feet are guided. That is the lamp of experience.''

Experience tells us that this maddening, crazy, lunatic economic plan that we are being presented with tonight on this floor leads us down the path to enormous debt. And that is all it gets us. And we know that.

Mr. Speaker, I would associate myself with the remarks of the gentleman from Mississippi (Mr. TAYLOR). Where I come from, we teach our children that one can go to the bad place for lying

just like you can for stealing. Let us not steal the future from our children and grandchildren.

Mr. MCGOVERN. Mr. Speaker, I yield the remaining 2 minutes of our time to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

□ 0045

Mr. HOYER. Mr. Speaker, no poor Republican member of the Committee on Rules who was given this assignment has risen to defend this rule. Certainly the chairman of the Committee on the Budget has not.

This started out as a House joint concurrent resolution. ''Concurrent'' meant that it would be agreed upon by both sides. They have dropped the ''current'' and it is now just a ''con,'' a con on the American people, a con on this institution.

Tonight, they sound the death knell for the policy of fiscal discipline, and are poised to drive our Nation into spiralling and historic debt. They put us on the path to increased debt by more than $5.5 trillion, and then to $12 trillion.

Here is the real kicker: There will be no debate on this stealth action and there will be no vote; there will only be a swelling sea of debt that promises to drown our future prosperity.

Yes, it is a con job. Let us remember the unequivocal words of the majority leader, the gentleman from Texas (Mr. DELAY), which still reverberate throughout this Chamber. Ten years and 12 days ago, here is what he said: ''Here we are being asked to raise the debt ceiling so this government can go on borrowing money to take care of its spending habits. I think that is outrageous,'' said the gentleman from Texas (Mr. DELAY). ''I hope the Members of this House will vote against raising the debt ceiling,'' said the gentleman from Texas, ''and I hope the American people will contact the Members of this House, Mr. Speaker, and urge them to vote against raising the debt ceiling.''

Where is the gentleman from Texas (Mr. DELAY)? Where is he when we raise the debt by $860 billion this year and $5 trillion over the next 10? Where is the gentleman from Texas (Mr. DELAY)?

They claim this is an economic growth package. They claimed it in 2001. We lost 2.6 million private-sector jobs, 4 million more Americans without health care, real business investment has fallen by 5.7 percent, and 2 million Americans have moved from middle class to poverty. Where is the gentleman from Texas (Mr. DELAY)?

Have the integrity to stand up and vote for America's children and America's future. Vote down this rule. Vote down this budget.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members that their remarks should be directed to the Chair and not to other Members of the body.

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

Mr. Speaker, I would remind my colleagues, this is a rule to consider a conference report on the budget. This is a very difficult budget because we are in a war.

I might add, Mr. Speaker, that this is the first budget conference report in 2 years, because last year we did not have a budget because the other body did not adopt a budget; and we had to go through this process and ended up with an omnibus, which I think made everybody unhappy.

But we have completed our work this year. We are supposed to have a budget this time of the year. We knew we were going to break around Easter. The Committee on the Budget chairman, the gentleman from Iowa (Mr. NUSSLE), has done a terrific job. I commend him for the job that he has done. I think we will have a debate on the content of the budget when we adopt this rule so we can take up the conference report.

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 202, not voting 11, as follows:

[Roll No. 140]

YEAS—221

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
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
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (KY)
Linder
LoBiondo
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
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
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)
Souder
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)

NAYS—202

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
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
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
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
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 (GA)
Scott (VA)

Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
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

NOT VOTING—11

Boehner
Combest
Delahunt
Gephardt
Houghton
Hyde
Lewis (CA)
McCarthy (MO)
Paul
Radanovich
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair would advise all Members there are 2 minutes left in this vote.

□ 0106

Mr. BELL and Ms. MCCOLLUM changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 191, I call up the conference report on the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 191, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 95, the conference report considered this evening.

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

There was no objection.

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

Mr. Speaker, the conference report maintains the three principles of the budget resolution that was passed by the House of Representatives a few weeks back. We set forth three important principles that we felt were important as we considered the priorities for our Nation.

Number one was protecting America. We felt that that was a nonnegotiable item both in terms of homeland security and national defense. We felt that, as we considered the budget for next year, we needed to ensure that the President's requests were met in order to not only protect our country at home, but also deal with challenges abroad.

At the time we wrote the budget, we were not even sure exactly how the war against terrorism might be proceeding, let alone, at that time, the potential war against Iraq.

Tonight, we stand at the possible threshold of a victory that we all celebrate and honor. We appreciate the service of our troops. But as we discuss the budget, we know that we need resources in order to fuel their force and their might around the world. This budget accomplishes that feat.

The second principle was to strengthen the economy and great jobs. And I know there will be differences of opinion on this issue. Mr. Speaker, on the second principle of strengthening the economy and creating jobs, there is a difference of opinion, and that is very clear, between the minority and the majority.

What we believe our budget accomplishes is an economic growth package, yes, smaller than the one that was originally written. We definitely get the entire growth package within this negotiation that the President requested. Probably nobody in this budget got everything they wanted, I can attest to that, but I can tell you that it sets up a debate and a process for us to consider some important legislation on growth, on tax simplification, on tax reform, to get the economy going and growing again.

Now, we know from hearings and testimony of some very important and learned economists, including Alan Greenspan, it is going to take a little bit of push and shove from a fiscal standpoint in order to get the economy growing again. We accommodate this in the budget with an instruction to write a tax bill at $550 billion over the next 10 years.

But do not kid anybody. Within the scope of the tax bills that have been passed for this country in the past, this is not a large tax bill. And we will discuss the specific policy at another time when the Committee on Ways and Means, following that instruction, brings the tax bill forward.

The third important principle that we sought to achieve was fiscal responsibility, and in this regard what we tried to do is do two things. One is limit spending. The original bill, as Members will remember, that passed the House had what I would call some pretty bold attempts to not just go after the Committee on Appropriations and the appropriations bills that are on the floor for the next, hopefully, 3 months, 4 months, both in terms of the initial consideration, as well as their conference reports that we will haggle over, an amendment here and an amendment there, for a million here and a million there; and, yes, all of that does add up, while two-thirds of the budget in entitlement spending goes unchecked, unreformed, undiscussed in many respects, and, in fact, in many respects just added onto.

We set up a process. That process has been rejected. That is fine. We live to fight another day. But within this budget that we say is for fiscal responsibility, we need to start that process. It is not just the duty of the Committee on Appropriations to look for savings within the budget.

Friends from all of the authorizing committees, it is all of our duties to look for savings; waste, fraud and abuse are certainly part of it, but reforms to ensure that these entitlement programs work in the most beneficial and efficient way for the people that they are intended for.

□ 0115

While no one can come to the floor tonight, although I heard during the rule debate quite a discussion about cuts here and cuts there, I do not know what you are discussing because there are no cuts in this budget when it comes to those mandatory programs; but we do set up a process to get the committees of jurisdiction to begin looking for that waste, fraud and abuse and to report back to the Committee on the Budget their findings.

We also within here limit the growth of spending overall. Spending over the last 5 years in particular since we reached balance has been explosive, and even with that explosive spending, which has been added into the baseline, there are people who come here tonight who are suggesting we are not spending enough, and in fact, we may never ever spend enough.

In fact, the letters to the Committee on Appropriations are already piling up for requests for additional spending. There were amendments in our committee, and there will be amendments in more committees for more and more and more spending. You may not do that and come to the floor here tonight and tell us that it is wrong for us to increase the debt ceiling.

PARLIAMENTARY INQUIRY

Mr. BERRY. Mr. Speaker, parliamentary inquiry. I believe the Chair has directed speaker after speaker this evening that we should address the Chair. I do not believe this is the way this is being done, Mr. Speaker.

The SPEAKER pro tempore (Mr. LATOURETTE). All Members should direct their remarks to the Chair. The Chair thanks the gentleman for his observation.

Mr. NUSSLE. Mr. Speaker, Member after Member has come to the floor, Mr. Speaker, and told us about the debt and explained to us how the debt is going to increase under just the Republican version of the budget. Let us take a look at the Democrat version of the budget.

Yes, it is true we increase the debt at a time when we are at war, at a time

when we are at an economic disadvantage, at a time when we have had a national emergency. Do we ask to increase the debt? Yes, we do. We ask to increase the debt a little over $880 billion. Shocking amount of money, is it not?

How much does the Democrats bill ask us, Mr. Speaker, to increase the debt? About the same amount of money. Oh, that is, of course, not going to be discussed here tonight because, of course, they only want to focus on the Republican plan.

Well, we have got a plan and it is a good plan, and it deals with the priorities of America, protecting America, being fiscally responsible and getting the economy going again in creating jobs. But do not come to the floor and tell us about our big debt increase when you ask for more money, when your letters pile up at the Committee on Appropriations, and when your alternative Democrat plan raised the debt ceiling as well.

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

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

Let me make it clear to the gentleman, my good friend, the chairman of the committee, in the budget resolution we presented to the House, at the end of the year 2013, which is the last year in the 10-year time frame, our budget produced $1.3 trillion less debt than theirs, $1.3 trillion less debt. We laid it before the House. We got to a balanced budget, a unified balance in 2010. You do not get to one in this budget until 2012, and then it is only $9 billion. Any kind of turbulence in the economy would undo that.

There is a drastic difference between the two, and that is one of the reasons we were proud to present our budget resolution, to show there is an alternative.

This is not a necessary course of action. This is self-inflicted pain by your insistence on doing $1.2 trillion in additional tax cuts when there is no more surplus and that automatically increases the debt by $1.2 trillion.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, this does not belong on the House floor tonight. This budget belongs on ''Laugh In.'' This is not a budget. It is two-headed tax cuts. It is a two-headed flim flam.

The economy is in crisis. The economy has lost 70,000 jobs per month every month of the Bush Presidency, and the Republican Congress tonight abdicates its responsibility to lead.

A few years ago, the Committee on the Budget Chair came to this House floor with a bag on his head. If I brought this budget to the floor tonight, I would ask where is that bag when I really need it?

This budget is a disgrace to this institution. It fails its responsibilities to this institution, to the country, and to every person who is out of a job looking for economic leadership to put this country back together again.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, it is approximately 1:20 a.m. in the morning here on the east coast; and pinch me if I am dreaming, but the Republican majority is about to pass a budget resolution that calls for an increase in our national debt by $984 billion in this next fiscal year and close to $6 trillion over the next 10 years, and this is using their own numbers. That is using their own scorekeepers.

This budget is disastrous for our economic future, but do not believe me. Believe a few reputable souls, namely, Bob Kerry, Sam Nunn, Pete Peterson, Bob Ruben, Warren Rudman and Paul Volker who wrote yesterday together, ''Congress cannot simply conclude that deficits don't matter. They raise interest rates higher than they would be otherwise. They raise interest payments on the national debt. They reduce the fiscal flexibility to deal with unexpected developments. If we forget these economic consequences we risk creating an insupportable tax burden for the next generation.''

Mr. Speaker, I am the father of two little boys. I did not come to this Congress to leave a tremendous legacy of debt for them and their generation. This is morally irresponsible. I encourage my colleagues to vote ''no.''

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY).

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

After all the words that have been spoken tonight about this budget, it really comes down to one fundamental issue: Do we want to lay on our children a higher national debt carried by our country or do we want a responsible budget? This budget authorizes immediately $984 billion, nearly $1 trillion in higher borrowing authority. You have got to figure something is wrong with the plan if right out of the gate you have got to borrow $1 trillion to make it work; but that is just a start because over the next 10 years the borrowing doubles, nearly doubling the national debt, just before the baby boomers move into retirement drawing on Social Security, drawing on Medicare.

There is not a family we represent who prepares for retirement by roaring up the debt on their credit cards, blowing everything they have got, just letting the kids provide. So what in the world are we doing tonight, representing all the Nation's families to put our Nation on exactly that course? Growing the dough, borrowing the money, letting our kids straighten this out?

This is wrong. We must reject this totally fiscally irresponsible approach to our national budget.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. OBERSTAR).

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

Mr. Speaker, a close read of this conference report provides for transportation infrastructure programs, little more than the status quo, $41.7 billion for the coming fiscal year. If that is what the majority is presenting to us, this report does nothing to begin to address the needs of highway and transit systems at a time when we have huge unmet safety and security needs, congestion is crippling our city, the economy has lost 2.5 million jobs.

On a closer reading, though, there is a curious anomaly in the budget resolution's contingency procedure for surface transportation. Section 411 of this conference report provides contract authority for TEA–21 reauthorization for each of fiscal years 2004 through 2009. For amounts above the levels specified for those years, Congress must pass legislation to increase receipts to the highway trust fund such as increasing the purchasing power of the user fee.

If we pass such a highway user fee increase, the Committee on the Budget chairman, according to the language I have read, may increase the budget allocation to our committee. However, under the conference report before us, the chairman can increase that allocation only for years 2004 through 2008. No increase for 2009, even if we increase the user fee to provide for that additional infrastructure investment. That means you get no benefit from the increase in funding that our committee might enact.

I do not think that that is what the Republican majority intended, Mr. Speaker; and I hope you are not going to vote for it.

Mr. NUSSLE. Mr. Speaker, I yield myself 15 seconds to just be able to respond and say we increase the transportation fund $30 billion. I cannot believe that the gentleman would suggest that that is a paltry sum, number one; and, number two, you better get with the other communicators, I would suggest, Mr. Speaker, because they are talking about not increasing the debt. Spending more money, seems to me we have got to increase that debt.

Mr. SPRATT. Mr. Speaker, this is why legislation of this consequence should not be brought up at 1:30 in the morning with no prior notice.

I yield 2 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

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

Mr. RANGEL. Mr. Speaker, no matter which way we voted on the war resolution, I think we all come together hoping that we have a package for those heroic people that fought the war in the Middle East, and that when they come home that we will be able to treat them as heroes and have a veterans package for them.

One would think, however, since we have not the slightest clue of how long

the occupation is going to take, where we will have to go next in the region, what the total price is going to be to have democracy installed in Iraq, that before we even think about borrowing money and having a tax cut, that we would wait and see in a rational way what would be the cost to the United States of America.

It is true we have no friends to go to to help pay for the cost of the war, and we do not even know how long this is going to continue, notwithstanding the fact that we call a victory; but I think that in the short run what we are talking about is that the majority in this House really does not want to see this great Republic provide any public service.

They have advocated eliminating corporate taxes altogether. They have advocated letting Medicare just turn softly, slowly in the wind. They have advocated privatizing Social Security; and at the end of the day, they will tell you that these would be the responsibilities of the State and local government. But ask the Governors and ask those in the States how they treated them in this budget. Ask the local community, the firemen and the policemen how are they treated.

They will do anything and say anything in order to say at the end of the day nobody pays taxes except the working people. They fight our wars, they pay our taxes; but the wealthy at the end of the day are the recipients. Is this what we call shared sacrifice? I think not.

Mr. NUSSLE. Mr. Speaker, I yield myself 10 seconds to just say the gentleman from New York has not referenced one provision within our budget.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding time to me.

First of all, I want to take a moment to thank the gentleman from Iowa (Mr. NUSSLE) and all those Members who supported our efforts to provide higher funding for veterans benefits and services. It is important to note that the Nussle budget reflects an agreement on veterans spending that was reached before the House voted on the budget last March 21.

Chairman NUSSLE honored his commitment, and he delivered. The budget includes new budget authority for veterans in fiscal year 2004 of $63.8 billion, a $6.2 billion increase in budget authority over 2003. Of that, $3.4 billion, or 12.9 percent, will be devoted to discretionary spending, the bulk of which is for medical care.

It is important to note that every penny of that increase is justified by the compelling needs, the medical needs of our veterans.

□ 0130

I would point out to my friend that, in a hearing I chaired earlier this year, Dr. Robert Roswell, who is the Under Secretary for Health, testified that we needed about 13 percent to take care of our core veteran population. This budget hits that number right on the mark. My colleagues can laugh all they want. It hits it right on the mark.

I am also happy to point out that this budget, pursuant to the agreement before we voted on March 21, requires no cuts whatsoever in mandatory spending. Let me just remind my colleagues that the budget offered by my good friend and colleague, the gentleman from South Carolina (Mr. SPRATT) was $1.6 billion less in budget authority than the budget being presented on this floor today.

So when I hear about veterans, I have been on that committee for 23 years, and this budget is good for veterans. And I would hope that Members would look at this and stop the rhetoric that is distortion and misrepresentation.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman.

First of all, when the budget resolution before us now left the committee, it provided for $30 billion in Veterans Administration cuts, as the gentleman well knows.

Let me have the time.

Thirty billion dollars. It was reduced to $28 billion when it left the floor. When it comes out of conference and comes to us tonight, it is $6.2 billion less than current services over the next 10 years. And I say to the gentleman from New Jersey that this is $8.2 billion lower than the amount that our budget resolution provided when we had it on the floor and offered it as an alternative, $8.2 billion lower in this resolution today, and $6.2 billion below current services. This is a cut.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

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

Mr. HOYER. Mr. Speaker, this is the dirty secret that Republicans do not want to admit. We did not control spending. That is Chairman NUSSLE, some 15 days ago. The Committee on the Budget says Republicans believe repaying the debt is the right thing to do. It says, in its report dated March 13, 2001, it is wrong for this generation to saddle future generations with debt.

It has taken them some less than 2 years to change that view and proceed to create gargantuan debt. And my colleagues, we considered this budget some days ago, and the sun did not set for six times until they came to this floor and for 40 minutes railed against the gentleman's motion to instruct, the motion of the gentleman from South Carolina (Mr. SPRATT). For 40 minutes the Republicans railed against it, and then they voted for it.

They voted for it because they knew the cuts that were proposed in that budget were not sustainable, were not supportable. Yet they all voted for it and they flip-flopped 6 days later. How short a memory my colleagues have.

My Republican colleagues say they are against debt. The chairman of the Committee on the Budget has gotten up on this floor time after time and said, we need to eliminate waste, fraud and abuse. Let me just say that the waste is the time and the paper we have used to consider this resolution, which sadly simply reflects a deep division within the Republican Party reflected by this fiscal irresponsibility.

This budget will not be followed. Hear me. My colleagues will not follow it any more than they followed the budget that the gentleman from Iowa (Mr. NUSSLE) offered last year and for which my colleagues voted last year. It was never adopted. Eleven appropriation bills sat in our committee. Why? Because Republicans could not get the votes on their side of the floor to pass them, consistent with their budget, because they were not real.

The fraud is on the American people. The fraud is on the young people of America. The fraud is on the veterans, I say to my friend from New Jersey. The fraud is in the rhetoric that Republicans have used seeking support from their constituents seeking fiscal responsibility.

And the abuse, my friends, of the fraud, waste and abuse, the abuse is the abuse of process which the consideration tonight of this budget with just hours' notice reflects. Yes, there is fraud, waste and abuse, and it is within this budget. Reject it. We can do better. We should do better. We must do better.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Speaker, I rise today in strong opposition to this fiscally irresponsible conference report. I believe in tax relief for all Americans, and I supported the President's tax relief package, but this budget comes to us late this evening and it contains a 10-year $1.2 trillion tax cut that we simply cannot afford.

It is particularly disturbing because of the war in Iraq, the global war on terror, and in the midst of a full-blown recession, all of which have very serious consequences on the financial solvency of our Nation for the next generation. This budget adds gasoline to the fiscal fire that is burning out of control with no end in sight.

Do not take my word for it, because more than 400 economists concur that this budget stifles economic growth and will cause greater deficits, increase job losses, and will make a harsh, harsh climate for businesses.

I strongly urge my colleagues to stand up for Americans and for our children who are sure to pay the tab laid before us this evening. Vote ''no'' on this conference report. Vote for something that is fiscally responsible, not this irresponsible garbage.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), a member of the committee.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, the budget that we have before us today is one that we should all be proud of. What we are doing is, we are keeping our promise on education aid. Education aid is up, over 6 percent over the 2003 level. Pell Grants are up 12 percent.

And, Mr. Speaker, particularly in my district, where I have a large number of veterans, it is very important that the veterans understand that we are $6.2 billion over the fiscal year 2003 figures. That is a 10.7 percent increase. And in discretionary spending, which is health care, where there is a long wait in my State on Priority 8, where veterans are having to wait up to 18 months for service; we are increasing that amount by 12.9 percent.

We are keeping our promise on education. We are able to provide the veterans benefits that are necessary, and we also are making sure that the uninsured at least have a start and a chance at having some insurance.

Children's health care, which is very important in every single State, whether it is called SCHIP in some States, or we called it KidCare, it is up by $14 billion, a 9 percent increase.

Sure, we had to postpone when we balanced the budget to 9 years, but we are at war, we have a downturn in the economy, and this budget answers what I believe the majority of the constituents in the State of Florida absolutely need. What it does is it also protects Medicare and puts additional funding into Medicare of 7.7 percent more.

That is a responsible budget, and that is one that I can go home very proudly and tell people that these are the figures that we have in our budget while still insisting that every agency go after fraud, waste and abuse. That is responsibility, my colleagues.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume to respond that if my colleague will read closely, she will see that there is a function called function 920, and in it she will see $128 billion in undistributed cuts. So all of these adds, all of these gains she is talking about, could very well be wiped out, and probably will be, once those cuts are distributed.

Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, on the very day that our young men and women in uniform saw the fruits of their sacrifices in the faces of cheering Iraqis, the majority party in this Congress will vote to saddle their generation with $4 trillion in debt. Tonight, my colleagues will charge these young patriots with the burden of paying for the war they so willingly and valiantly fought.

While America's finest risk their lives and sacrifice for our country, the Republican leadership tells the rest of America, your contribution to the call of duty will be to get $700 billion in tax cuts that will be paid for by the generation of young soldiers who fight in Iraq tonight.

Never in the history of this Nation have we been at war and refused to ask every American to join in the sacrifice. Instead, our Republican majority turns a blind eye to the $25 trillion unfunded liability in Social Security and Medicare, they turn a blind eye to future national and homeland security needs of this Nation, they weaken our ability to respond to future threats by disarming our fiscal strength, and they rush headlong down the path of higher interest rates, dwindling national savings, and burdensome debt.

Cast a vote tonight for the generation that has made us proud in Iraq today. Vote ''no'' on the Republican budget.

Mr. NUSSLE. Mr. Speaker, I yield myself 15 seconds just to say that if our budget is so irresponsible, why is it that the budget that the gentleman supported, the very distinguished gentleman who is a member of, I believe, the Blue Dog coalition, why did he support a budget that increased the national debt by almost a similar amount? I would suggest that he needs to look at his own budget before criticizing the budget in the conference report.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, this is the most irresponsible budget in our Nation's history. It adds almost $6 trillion to the public debt, with $1.2 trillion in tax cuts for the wealthiest Americans. It will do serious, long-term damage to our economy, compromising our ability to address the most serious challenges facing us.

For the third year running, the Republicans are proposing a budget that lays the groundwork for increasing the deficit while again failing to stimulate the economy. Time and again, Republican budgets offer tax cuts and promise economic growth, yet all we have to show for it is a net loss of 2.6 million jobs, a stock market that has fallen by $4.6 trillion, and consumer confidence that has dropped to its lowest level in nearly a decade.

A responsible budget provides hope, it lifts people up, it gives us a blueprint for our future, a view of our government's priorities. But this budget lets the people of this country down. The Republican leadership puts massive tax cuts ahead of the interests of the American people. This budget does not reflect our values, our priorities as a Nation, a Nation at war.

The Republicans pay for these tax cuts on the backs of disabled veterans, college students and children. It places massive unfunded mandates on our States at a time when our States are facing the worst fiscal crisis since World War II. This budget flies in the face of all that we believe, all that we ought to be dealing with as a Nation because budgets are about choices.

I believe that the current budget resolution does not deal with the issues that are a priority in this country. This Republican budget reflects the wrong values and the wrong priorities for America, and I urge my colleagues to vote against it.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY).

□ 0145

Mr. FEENEY. Mr. Speaker, I rise to congratulate the Committee on the Budget and the chairman for the fine work they have done during admittedly very difficult times, internationally and at home.

I must admit, I have spent the last 3 hours listening to some great debates, but I do not know exactly where they are coming from. I feel like I am getting economics lessons from the same folks that taught geography to the Flat Earth Society.

What I am hearing from the same folks is the same philosophy that for 3 or 4 decades now has taken the position that we can spend, spend, spend our way out of trouble, is that we ought to somehow shrink a deficit that has been created largely over 30 or 40 years of spending.

The truth of the matter is that there are two approaches being taken here tonight. One side is advocating that we can spend our way out of trouble. The other side is advocating that we can grow our way out of trouble. The economic stimulus package that we are talking about, in the Kennedyesque style of the early sixties and the Reaganesque style of the 1980s is such that it will produce the same amount of growth that those great Presidents produced when they took the position that we can grow our way out of tough economic times.

I would remind Members from both sides of the aisle that in the aftermath of the victory in World War II, we had deficits that were much higher as a percentage of gross domestic product. We are now winning the war. As Prime Minister Thatcher said, Reagan won the Cold War without firing a shot. Yes, we had deficits, but after that, because of the low marginal tax rates, we had the highest period of sustained economic growth in history. Yes, we are winning the war on terror; we are winning the war on Iraq; and with Members' help, we can win the war to stimulate our economy by supporting this budget.

Mr. SPRATT. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. STENHOLM) so he can set the record straight with respect to the Blue Dog budget, and I do not have enough time to correct all of that economic fiction.

Mr. STENHOLM. Mr. Speaker, I wish we could avoid speaking untruths on this floor.

As the gentleman from Iowa (Mr. NUSSLE) knows, the Blue Dog budget balanced without using Social Security in 2013. The budget you have on the floor tonight will not balance without

using Social Security by 2013. You will not come within $300 billion.

And to the last speaker from Florida, you cannot borrow and spend your way to prosperity, either. That rhetoric, that dog, will not hunt. You are going to borrow $984 billion. Under your budget, you are going to borrow more money in the last year than we borrowed in the first 205 years of this country. We cannot borrow and spend our way to prosperity, either.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair reminds all Members that remarks are to be directed to the Chair and not to other Members in the Chamber.

Mr. NUSSLE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, just to respond to the gentleman from Texas (Mr. STENHOLM), 2013, that seems like a long way away. Let us talk about next year and what the Blue Dog budget does next year. It increases the debt limit. That is interesting. There are lots of complaints about raising the debt limit; but both of the alternatives provided by the other party raise the debt limit in 2004. Spend a lot of money, even had a tax cut. All of these complaints seem to be very curious when they come to the floor and are complaining about raising the debt today. The debt limit increase was almost identical to the conference report that we are providing here tonight.

So it is fine that you can come here and wax philosophical about what is going to happen in 2013, but what happens next year, let us focus on that is what I would suggest. The two budgets that were presented by a majority of caucus from the Democratic side increased the debt limit. In addition, to that we have heard time and time again here tonight how we are not spending enough. I will guarantee Members that as we get into the appropriation season, we will hear speech after speech after speech telling us how we are not spending money for this and how we are not spending enough money for that, and how we have not made it a priority here and how we have not made it a priority there. And I would say to the whip who came and quoted me and said I had a dirty little secret about the Republican Party and the fact that we like to spend, I will tell Members, it is not a secret that the Democrats like to spend.

Mr. SPRATT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in opposition to this budget. This budget severely underfunds education and shortchanges our Nation's children. Here we are 2 years after Members from both sides of the aisle pledged to leave no child behind, and yet we are considering a budget that cuts billions from the No Child Left Behind Act. Instead, this budget produces huge deficits for our children to pay off, yet fails to provide them with the resources they need to drive the economy of tomorrow. This budget is not what our children need. This budget is not what America needs. I urge Members to vote ''no.''

Mr. SPRATT. Mr. Speaker, I yield 45 seconds to the gentleman from California (Mr. SHERMAN).

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

Mr. SHERMAN. Mr. Speaker, this budget resolution is designed to enrich the rich at the expense of economic growth for all Americans. It means larger budget deficits, higher interest rates, larger trade deficits. It will take capital away from business investment while underinvesting in education and infrastructure.

Senate tax cut, $350 billion. House tax cut, $550 billion. Ultimate tax cut, $1.2 trillion. Knowing you can pass the entire cost to future generations, priceless.

Allowing corporations to escape American taxes just by renting a hotel room in the Bahamas, $4 billion. Cutting veterans benefits, $6 billion. Cutting education, law enforcement, et cetera, $168 billion. Setting up a $1.2 trillion tax cut while allowing Senators to pretend it is only $350 billion, priceless. Republicard, and get the new Deficit Express Card with the $12 billion credit limit.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members that it is not appropriate to characterize the other body.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, we know that you know that this is not a budget you can be proud of because if you were proud of this budget, you would not be bringing it up between 1 and 2 a.m. in the morning when most of the American public is asleep.

I do not think that you are going to share with your children or grandchildren what you have done to them, creating $12 trillion of debt that they will have to pay back. You are not going to share with them the fact that you and your generation are going to be retiring, most Members over the next decade, doubling the number of people on the Social Security and Medicare rolls, at just the time when you are borrowing trillions of dollars from those trust funds in order to reward yourself and your supporters, your political supporters with deep tax cuts.

Here you tell us that there is a war on so we need to do this. There is not one dime in this budget for the war in Iraq, not one dime. Members know that is in the 2003 supplemental. That is not in this budget. This is a budget that needs to be defeated. Do it for our children.

Mr. NUSSLE. Mr. Speaker, I yield 15 seconds to myself.

Mr. Speaker, the war supplemental is in the budget that we are presenting.

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

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, over in Iraq the Air Force is preparing to deploy its newest bomb, the MOAB, the mother of all bombs, if needed, against the remaining Republican Guards.

Meanwhile, back in Washington, the House of Representatives Republican guard is now deploying its very own legislative MOAB, the mother of all budgets; and it is a mother. This Republican legislative MOAB blows a huge crater into our economy, irresponsibly piling up $1 trillion of new debt, increasing the debt limit by $860 billion.

The Republicans say Osama ate our budget homework. Saddam ate our surplus; it is not our fault. But it is their fault. I would say to those Members who would vote for this budget, they have the freedom to choose whether or not to cut taxes for the richest in our country at a time of war and national emergency, and they have made their decision to drop this legislative MOAB into the middle of our economy, and the collateral damage will hit the poorest in our society.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would ask Members on both sides of the aisle to respect the gavel and only speak for the time yielded to them by the managers of the bill.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH) and hope he can set the record straight.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding me this time, and I always appreciate the chance to come to the well of the House.

I listened with interest to the gentleman from Massachusetts (Mr. MARKEY). What passes for wit in the early morning on the east coast of the United States, and I know perhaps given the deliberations some are giddy, but I would just remind us that rhetorical flourishes about Saddam eating homework or Osama eating homework are not funny; they are tragic. Mr. Speaker, we are a Nation at war, we are a Nation at war, and to have this type of disrespect brought into this debate speaks volumes on the nature of the opposition this evening.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM) to straighten out the Blue Dog budget.

Mr. STENHOLM. Mr. Speaker, I would appreciate if the gentleman from Iowa (Mr. NUSSLE) would listen, and if the gentleman disagrees, to disagree with me again. If the gentleman looks at the Blue Dog budget, we would have $1.8 trillion less deficit over 10 years and $120 billion less deficit next year.

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

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

Mr. NUSSLE. Mr. Speaker, how much do you increase the debt limit for next year?

Mr. STENHOLM. The debt limit for next year, everybody increases the debt limit for next year. The reason we do it is because the budget you voted in place in 2001 and 2002 has dug us this hole. We are suggesting in the Blue Dog budget to stop digging the hole deeper. We have got to stop digging the hole deeper. You want to keep digging it deeper and deeper and deeper, but you misrepresent totally the Blue Dogs because we do not spend one dime more than you propose spending in your budget tonight. We also have $1.8 trillion less debt over the 10 years, and $120 billion next year. That is not small potatoes.

□ 0200

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I thought about characterizing the Republican budget as a bad budget, but that is not really right, because it is not a budget, it is a ''fudget.'' It fudges cuts in veterans affairs, it fudges the tax cut you cannot reconcile yourself to, and it fudges the biggest deficit in American history.

I thought about characterizing it as a budget fit for the Titanic, because we do have a disaster in the economy, a surplus turned into a deficit, the largest unemployment for years. But it is really not a Titanic budget, because the captain of the Titanic only rammed the iceberg once. You want to do these tax cuts twice in the hopes the iceberg will sink.

You made a mistake. You ought to face it. Let us defeat this budget.

Mr. NUSSLE. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), the distinguished vice chairman of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, in my 28 years experience being in politics, I do know that speaking at 2 in the morning is not wise, and I usually avoid doing that. It took me awhile to figure that out, because I always made enemies when I spoke late at night.

As I was listening to the dialogue of my colleagues discussing the rule, I heard a lot of passion, I heard a lot of anger. The difference is we actually have to pass a budget and you do not.

The best example to me is you are talking about your budget, the Blue Dog budget, that did not even get close to a majority of votes and did not even get all the votes on your side of the aisle. We can only afford to lose 11 votes on our side of the aisle, because we know that there is not one, Mr. Speaker, on that side of the aisle that will help us pass a budget. And that is the challenge.

When we passed our budget out of the Committee on the Budget, which I was proud of, and balanced the budget in 7 years, the amendments to that budget in that committee debate added up to $983 billion over the next 10 years.

We never had a debate with President Clinton where he said we spent too much. The only way we could get out of town was we had to spend more. That is a fact.

The problem is, even tonight, my colleagues, seriously, think about this: You say we are cutting. Only in Washington when you spend 9 percent more, or $14.6 billion more, would people call it a cut. That is what we add in Medicaid. Only in Washington when you spend $17.8 billion more, or 7.2 percent, would people call it a cut. Only in Washington when you spend $5.4 billion more in transportation, or an 8.4 percent increase, would people call it a cut. Only in Washington when you spend $6.2 billion more for veterans, a 10.7 percent increase, would people call it a cut.

So, Mr. Speaker, I know that you all do not like this budget, but I also know if you were in the majority, you would not be able to pass a budget, sadly. On this side of the aisle we have come together, we have done our best, and I am proud of it. And we scored our tax package. We have a tax package that we would, if we could, pass a $627 billion tax cut. We put it under reconciliation at $550. So there is $77 billion that is not going to be under reconciliation.

This is a good budget. It is a budget we know we can pass, and we are going to do it.

Mr. SPRATT. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, let me respond to my good friend the gentleman from Connecticut (Mr. SHAYS) by saying in 1990 when we did the budget summit with President Bush and passed it, do you recall who put the votes on the board to pass that? It was not your side. In the second vote, only 80 Republicans voted for President Bush's budget summit agreement. That laid the foundation for what happened in the 1990s.

In 1993 we put every vote on the board by one to pass the Clinton budget, and every year thereafter the budget deficit declined for 8 straight years, to the point where in 2000 the budget was in surplus by $236 billion.

We also came together in a bipartisan way on the balanced budget agreement of 1997, with President Clinton solidly supporting it. It never would have worked otherwise. So three times with tough votes we bellied up to this problem.

And we took the deficit of $290 billion the last full fiscal year of the Bush administration and turned it into a surplus of $236 billion. I would say to the gentleman from Connecticut (Mr. SHAYS), we put the votes on the board to make that happen. That is a fact, an undisputable fiscal fact.

Let me in closing say how far we have come in the wrong direction in the last 2 years. We have got a chance tonight to turn this ship around by voting down this budget resolution.

Two years ago we were talking about paying off all the debt held by the public by the year 2008. Now we have raised the debt ceiling, with the passage of this resolution, twice since then. Vote for this resolution and you will vote to raise the debt ceiling $984 billion, and, between now and 2013, to raise the debt ceiling to $12,040,000,000,000. That is a fact that comes from your numbers. That is how far we have come, and that is where we are headed, unless you make a decision tonight to take a different course.

I would plead with you. I will say it again and again and again, what we are seeing here are decisions about to be made that will be awfully difficult to undo. Your own numbers forewarn you. They tell the tale. Your on-budget deficit will not get below $300 billion. It is as high as $500 billion. You accumulate $5 trillion to $6 trillion in debt and add it to the national debt over the next 10 years.

These are not my concoctions or fabrications. These are your own numbers that tell the tale of what is about to happen.

Two years ago you took a blue sky estimate and bet the budget on it. It turned out wrong. Unfortunately, you are not chastened by that experience. But I am willing to say you made a mistake, an honest mistake. But now you cannot claim that this is an honest mistake, because OMB and CBO both told you there is no more surplus, so any tax cut you pass tonight, and you are going for another $1.2 trillion, will go straight to the bottom line. It will add to the deficit.

Two years ago it was possibly negligence. Tonight, if you pass this budget resolution, it is willful, wanton and intentional. You are adding to the deficit by direct policy choice. This is your fiscal policy that leads us to the disastrous consequences that are set forth on page two of your tables and charts.

$12 trillion in national debt is where we are headed if we adopt this resolution tonight. Your numbers.

Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), our minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time, and I invite all of my colleagues to recognize the extraordinary leadership of the gentleman from South Carolina (Mr. SPRATT) for presenting a budget to this House that is a statement of our national values. I thank the gentleman.

Mr. Speaker, earlier today we gathered in Statuary Hall to honor our men and women in uniform and their families. In doing so, we were reminded of our own mission, to build a future for our country worthy of their sacrifice, to build a future for their children and all children worthy of those children.

To build a future worthy of them, we need a budget which is a statement of

our national values. Instead, tonight we have a budget before us which is a national disgrace.

We need a budget resolution which is a blueprint for investing in our children and for job creation. Instead, we have a road map to economic disaster. Instead of investing in our children, we are making them indebted. We are mortgaging their futures for a tax break which benefits those who need it least, the wealthiest in our country.

It is no wonder that the Republicans want to bring this budget to the floor in the dark of night. It is 2 o'clock in the morning, just 11 o'clock in California, so hopefully people there will hear about this budget, that the Republicans do not want the American people to know.

They do not want them to know, for example, that while we honor our men and women in uniform, we are also tonight cutting their benefits by $6.2 billion. They do not want the American people to see their charts, which will show, as the gentleman from South Carolina (Mr. SPRATT) indicated, that by the year 2013 they will double the national debt to $12 trillion.

This is at a time where the Bush economic failed policies have taken us to consumer confidence being very low, retail sales moving at the lowest rate in a decade, and factory orders and manufacturing are down. The economic indicators are dismal. And the reaction of the Republicans? They offer more of their warmed-over stew: Tax cuts which benefit the wealthy.

Under President Bush, our country has lost 2.5 million jobs, the worst record of job creation since the depression. Under President Clinton, 22 million jobs were created, largely because of the sound fiscal policy that the gentleman from South Carolina (Mr. SPRATT) referenced in the budget vote that only Democrats supported.

This Republican plan will cause more job loss. Job loss for American workers to give tax breaks to America's wealthiest. It simply is not fair.

Not only is the Republican budget not fair, it is fiscally irresponsible. I ask you, my colleagues, where have all the budget deficit hawks gone? I ask the gentleman from Florida (Mr. YOUNG), are they an endangered species? It seems they are. The tax cuts in this budget, again, will double the national debt in the life of this budget to $12 trillion.

It bears repetition. How old will your children be in 10 years? Do you want to weigh their futures down with huge debt?

The interest on the debt alone in the life of this budget, the interest on the debt alone in the out years will exceed all discretionary domestic spending. We will pay more interest on the debt to pay for this reckless tax cut than we will spend on investing in education, than we will invest in protecting the environment, transportation, infrastructure, which grows our economy and protects our environment, and housing. The list goes on and on. Head Start, investments in our children, all of that investment will be exceeded by interest on the national debt. What a tragedy.

Those big deficits will raise interest rates and have a negative impact on our economy. The President's and the Republican's tax plan irresponsibly piles up debt and makes a bad economy worse. But do not take my word for it. Federal Reserve Chairman Alan Greenspan has said recently that there is no question that as deficits go up, contrary to what has been said, it does affect long-term interest rates. It does have a negative impact on the economy. The Congressional Budget Office just last week said the overall macroeconomic effect of the proposals in the President's budget is not obvious.

□ 0215

The office went on to say that the downturn in investment that will result from this plan will be a drag on the economy.

More than 400 economists, including 10 Nobel Laureates said, ''Passing these tax cuts will worsen the long term budget outlook, adding to the Nation's projected chronic deficits.''

Finally, the report by the Committee for Economic Development, a blue-ribbon organization of corporate CEOs stated, ''The budget deficits, the President's plan, would be akin to 'arsenic poisoning' for the economy.'' A vote for this budget is a vote for arsenic poisoning for the economy.

If that would not be enough, just yesterday, the IMF sharply rebuked the Bush and Republican budget proposal. And they said, ''Suppose for a moment we were talking about a developing country with a gaping trade deficit year after year as far as the eye can see, a budget spinning from black into red, open-ended security costs, and an exchange rate that has been inflated by capital inflows. With all of that, the IMF said, I think it is fair to say we would be pretty concerned if it were a developing nation.''

''The United States,'' it went on to say, ''isn't a developing country but, nonetheless, for the global economy, the Bush tax cut is poor policy and ill-timed. Whether we are talking about job creation for America's families or lifting up the global economy, this is a very bad idea.''

Mr. Speaker, I urge my colleagues to reject the Republican's reckless, irresponsible budget, which explodes the deficit, does not create jobs, and dishonors our commitment to our children. Do the right thing. Vote no, no, no on the arsenic poisoning of our economy, the Republican budget.

The SPEAKER pro tempore (Mr. LATOURETTE). All time controlled by the gentleman from South Carolina (Mr. SPRATT) has expired.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I yield the balance of our time to our very distinguished Speaker of the House, the gentleman from Illinois (Mr. HASTERT).

Mr. HASTERT. Mr. Speaker, it has been an incredible debate. I sat and listened to the debate on both of the rules and then on the substance here, the substance of this budget debate tonight. I guess maybe the same IMF to whom we provide the funds that they can go and provide capital throughout the world may be critical of us, I do not know. And possibly, the gloom and doom that we heard here tonight, if we set that as our philosophy and what this Congress can achieve and what this country would achieve, we probably would not be able to achieve very much.

But I taught economics for a number of years, 16 years; and we taught about projections and how the economists put formulas together and how you can look out into the future. But not many of those projections can really look out into the future. I would say if you try to say what is going to happen in this country 10 years from now with the economy, it probably would go up and down and right to left three or four times before we ever get to that future.

What is important is now. And I have heard a lot of rhetoric tonight. But I know what this budget does. It lays down the blueprint for the future of this country this year. This Congress, who is charged with doing the things that our people, the people who elect us, our constituents want us to do, they want us to stimulate this economy. They want us to see this economy getting going again. We lost $250 billion in revenue last year, just in losses in capital gains. Now, we want to say the markets are not important, but the markets are important. We need to have stimulus. We need to have it going.

But I will tell my colleagues, in my district, we do not have a lot of markets, we have a lot of small business people. They provide 80 percent of the jobs in my district. That is fairly representative. Unless you are in the cities, that is fairly representative of around this country. Small business people say that they want to make an investment. They want to have some expensing. They want to have a job creation package that gets something done. And we can only do that, and we will have that debate on how that is put together, but we can only do that if we pass a budget to get the key in the door and open it up so that this Congress can do something.

I have great respect for the gentleman from Minnesota. He talked about a road program. But I say to my colleagues, we can only get a highway bill and work on an infrastructure if we pass this budget.

Tonight we debated an energy policy. This country needs an energy policy and how it gets put together, we will have that debate on it. But we will not have an energy policy unless we pass this budget.

There are 13 appropriations bills. We passed a budget last year. Our friends

in the Senate did not pass it, and we were talking about oranges and apples and we could not get the appropriation process done until February. We need to pass a budget; the Senate needs to pass a budget; we need to get the appropriation process done. We need to talk about education. We need to talk about health care. We cannot do it unless we pass this budget.

So I say to my colleagues, it is late. We have had a lot of debate. It is time to get to work. I will make a prediction. We will have a lot of people vote against it, and we will have a few more vote for it. Let us get to it.

The SPEAKER pro tempore. All time for debate has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 216, nays 211, not voting 8, as follows:

[Roll No. 141]

YEAS—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
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
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
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
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 (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
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)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—211

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
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Franks (AZ)
Frost
Garrett (NJ)
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
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
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
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 (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
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

NOT VOTING—8

Boehner
Combest
Gephardt
Houghton
McCarthy (MO)
Paul
Weldon (PA)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair will advise Members there are 2 minutes remaining in this vote.

□ 0239

So the conference report was agreed to.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 953

Mr. KENNEDY of Rhode Island. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from Washington (Mr. HASTINGS) as a cosponsor of H.R. 953, the Paul Wellstone Mental Health Equitable Treatment Act.

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

There was no objection.

THANKING HOUSE AND COMMITTEE STAFF FOR HARD WORK ON HOUSE CONCURRENT RESOLUTION 95

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

Mr. NUSSLE. Mr. Speaker, there are obviously a number of people who have toiled here late tonight. We want to thank the House staff that have stayed with us here this evening, and the reporters and the Clerk's office. We appreciate their hard work and sticking with us through these things.

I would like to thank my staff of the Committee on the Budget on the majority side. Rich Meade is my chief of staff, and we have a number of very professional people who got us to this point in time.

The Members get to make the speeches and to cast the votes, but the staff do the hard work in getting us here. In both the House and in the other body, we have had a great working relationship with those professional staffs. We want to thank them and congratulate them for a job well done.

□ 0245

I would also like to thank the members of my committee who worked hard on this, as well as the members of my committee on the opposite side of the aisle.

I have no better competitor in this process and no one that I respect more than the gentleman from South Carolina (Mr. SPRATT); and while we have to differ so on substance tonight, we do share a love for the process and enjoyment in working through these issues even though we do not always get our way in the final analysis. But I want to congratulate the gentleman for his work. As I say, there is no one who knows this process and this budget issue better than my friend and colleague, the gentleman from South Carolina (Mr. SPRATT).

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

Mr. NUSSLE. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding, and I would say that on both sides of the aisle the staff are the unseen players in this process. They make an enormous effort, and we have a good working relationship on this committee, which we prize because we have mutual respect.

I would like to pay tribute to my staff who put a herculean effort to get this budget resolution on the floor through all the processes it has to go.

First, to my very able and loyal and energetic chief of staff, Tom Kahn; to Joe Minarik, who is our chief economist and is widely experienced; to Jim Klumpner, who is also an excellent economist on our staff; to Sheila McDowell; to Kimberly Overbeek, who is super with the numbers; to Andrea Weathers; to Linda Bywaters; to Arthur Burris, who is indefatigable; to Sarah Abernathy; and to Pepper Santalucia. I am looking at Antonio Santalucia and Pepper would not come to me. To some new additions to our staff: Mike McCord, who does defense work; Jennifer Friedman, who came over from OMB; Diana Meredith and Andy Smallian, a great group of people, a great team effort and very professional staff.

And last but not least, Lisa Venus, who has been with us for several years who is assistant counsel and a very, very able staff member who was here on the floor with us tonight.

Mr. Speaker, I appreciate the chairman allowing me the opportunity to pay tribute to my staff and to the effort they put in to making the budget process work this year.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 31. Concurrent resolution expressing the outrage of Congress at the treatment of certain American prisoners of war by the Government of Iraq; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 273. An act to provide for the eradication and control of nutria in Maryland and Louisiana.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 380. An act to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

ADJOURNMENT

Mr. NUSSLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 48 minutes a.m.), the House adjourned until today, Friday, April 11, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1753. A letter from the Under Secretary, Department of Defense, transmitting the National Defense Stockpile (NDS) Annual Materials Plan for FY 2004 along with revisions to the FY 03 Annual Materials Plan and AMPs for the succeeding four years, FY 05-08, pursuant to 50 U.S.C. 98h—5; to the Committee on Armed Services.

1754. A letter from the Assistant Secretary, Department of Defense, transmitting the Department's FY 2004 Summary of Amounts Report for Cooperative Threat Reduction (CTR) Programs in the former Soviet Union; to the Committee on Armed Services.

1755. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled, ''Distribution of DoD Depot Maintenance Workloads Fiscal Years 2001 and 2002''; to the Committee on Armed Services.

1756. A letter from the Assistant Secretary, Department of Defense, transmitting a report prescribed in Section 709 of the National Defense Authorization Act for Fiscal Year 2003; to the Committee on Armed Services.

1757. A letter from the Alternate Federal Register Liason Officer, Department of Defense, transmitting the Department's final rule — TRICARE Program; Eligibility and Payment Procedures for Civilian Health and Medical Program of the Uniformed Services Beneficiaries Age 65 and Over (RIN: 0720-AA66) received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1758. A letter from the President and Chairman, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the Kingdom of the Netherlands pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

1759. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's interim report entitled, ''Interim Evaluation Report: Congressionally Mandated Evaluation of the State Children's Health Insurance Program, pursuant to Public Law 105—33, section 4901 (111 Stat. 567); to the Committee on Energy and Commerce.

1760. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, State of West Virginia; Control of Emissions from Commercial and Industrial Solid Waste Incinerator Units [WV059-6027a; FRL-7479-9] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1761. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plan for Designated Facilities and Pollutants: Florida [FL-094-200316a; FRL-7481-8] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1762. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Emissions From New Nonroad Diesel Engines: Amendments to the Nonroad Engine Definition [AMS-FRL-7482-1] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1763. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Nebraska: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7480-9] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1764. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions [FRL-7479-1] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1765. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tennessee: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7478-5] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1766. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Text: Final Authorization of State Hazardous Waste Management Program Revisions [FRL-7482-3] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1767. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Utah: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7480-6] received April 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1768. A letter from the Legal Advisor, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 28000 kHz [ET Docket No. 02-16] received April 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1769. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting the Department's report entitled, ''Imposition of Foreign Policy Controls on Specially Designated Global Terrorists''; to the Committee on International Relations.

1770. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting the Department's report entitled, ''Expansion of Foreign Policy-Based Controls on Explosives Detection Equipment''; to the Committee on International Relations.

1771. A letter from the Staff Director, Commission On Civil Rights, transmitting the Commission's FY 2002 Government Performance and Results Act Report; to the Committee on Government Reform.

1772. A letter from the Secretary, Department of Labor, transmitting the FY 2002 Annual Report on Performance and Accountability; to the Committee on Government Reform.

1773. A letter from the Secretary, Department of State, transmitting the Department's Performance and Accountability Report for FY 2002; to the Committee on Government Reform.

1774. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Service Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-13; Introduction — received April 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1775. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Alabama Regulatory Program [AL-072-FOR] received April 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1776. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's biennial federal assistance report; to the Committee on Resources.

1777. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Tampa Bay, Port of Tampa, Port of Saint Petersburg, Port Manatee, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River, FL [COTP Tampa-03-006] (RIN: 1625-AA00) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1778. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Coronado Beach Bridge (SR 44), Intracoastal Waterway, New Smyrna Beach, Florida [CGD7-02-077] (RIN: 1625-AA09) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1779. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY [CGD01-03-024] received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1780. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operations Regulation; Nanticoke River, Seafood, DE [CGD05-02-020] (RIN: 1625-AA09) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1781. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area, Safety and Security Zones; Long Island Sound Marine Inspection and Captain of the Port Zone [CGD01-01-187] (RIN: 2115-AA00, AA11) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1782. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey [CGD01-03-017] (RIN: 1625-AA11) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1783. A letter from the Chairman, Office of the General Counsel, Surface Transportation Board, transmitting the Board's final rule — Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology (STB Ex Parte No. 638) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1784. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Announcement and Report Concerning Advance Pricing Agreements (Announcement 2003-19) received April 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1785. A letter from the Regulations Officer, SSA, Social Security Administration, transmitting the Administration's final rule — Federal Old-Age, Survivors and Disability Insurance; Repeal of the Facility-of-Payment Provision [Regulation No. 4] (RIN: 0960-AE02) received April 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1786. A letter from the Under Secretary, Department of Defense, transmitting the Department's plan to implement legislation concerning the transfer of Montgomery GI Bill entitlements to family members, pursuant to 38 U.S.C. 3020 Public Law 107—107, section 654; jointly to the Committees on Armed Services and Veterans' Affairs.

1787. A letter from the Assistant Secretary, Department of Defense, transmitting a report on Outreach to Gulf War Veterans Calendar Year 2002; jointly to the Committees on Armed Services and Veterans' Affairs.

1788. A letter from the Secretary, Department of Veterans Affairs, transmitting the Department's seventh report describing the administration of the Montgomery GI Bill educational assistance program; jointly to the Committees on Armed Services and Veterans' Affairs.

1789. A letter from the Secretaries, Departments of Defense and Veterans Affairs, transmitting a report on the implementation of the health resources sharing portion of the Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act, pursuant to 38 U.S.C. 8111(f); jointly to the Committees on Armed Services and Veterans' Affairs.

1790. A letter from the Chief Counsel for Advocacy, Small Business Administration, transmitting the Administration's annual report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act, Fiscal Year 2002, pursuant to 5 U.S.C. 612(a); jointly to the Committees on the Judiciary and Small Business.

1791. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''Evaluation Results for Two Demonstrations: The Social Health Maintenance Organization (S/HMO) II Demonstration and the End-Stage Renal Disease (ESRD) Managed Care Demonstration,'' pursuant to Public Law 98—369, section 2355(d)(1) and (2); jointly to the Committees on Ways and Means and Energy and Commerce.

1792. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Improvements to the MedicareChoice Appeal and Grievance Procedures [CMS-4024-FC] (RIN: 0938-AK48) received April 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

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. NUSSLE: Committee of Conference. Conference report on House Concurrent Resolution 95. Resolution establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108–71). Ordered to be printed.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 191. Resolution waiving points of order against the conference report to accompany the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108–72). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolutin 192. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–73). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. VISCLOSKY (for himself, Mr. LOBIONDO, Mr. MCINTYRE, Mr. GRIJALVA, Mr. HOLDEN, Mr. BISHOP of New York, Mr. FORD, Ms. HOOLEY of Oregon, Mr. LARSON of Connecticut, Ms. HARMAN, Mr. KILDEE, Mrs. MALONEY, Mr. MCDERMOTT, Mr. SERRANO, Mr. MCNULTY, Mr. MENENDEZ, Mr. MORAN of Virginia, Ms. BALDWIN, Mr. FRANK of Massachusetts, Mr. KENNEDY of Rhode Island, and Mr. KANJORSKI):

H.R. 1708. A bill to extend the authorization of the Bulletproof Vest Partnership Grant Program; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. ROHRABACHER, Mr. WAXMAN, and Mr. DINGELL):

H.R. 1709. A bill to restore standards to protect the privacy of individually identifiable health information that were weakened by the August 2002 modifications, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself and Mr. NEAL of Massachusetts):

H.R. 1710. A bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to Medicare beneficiaries, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (for himself, Mr. LOBIONDO, Mr. DEFAZIO, and Mr. QUINN):

H.R. 1711. A bill to amend title 49, United States Code, to ensure that functions relating to the air traffic control system are carried out directly by the United States Government; to the Committee on Transportation and Infrastructure.

By Mr. EVANS (for himself, Mr. FILNER, Mr. MICHAUD, and Ms. HOOLEY of Oregon):

H.R. 1712. A bill to amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes; to the Committee on Small Business.

By Mr. EVANS (for himself, Mr. DINGELL, Mr. FILNER, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, Mr. STRICKLAND, Mrs. DAVIS of California, Mr. RYAN of Ohio, Mr. WEINER, Mr. MCINTYRE, Mr. BROWN of Ohio, Mr. SERRANO, Mr. FROST, and Mr. SANDERS):

H.R. 1713. A bill to amend title 38, United States Code, to improve benefits under the Montgomery GI Bill by establishing an enhanced educational assistance program, by increasing the amount of basic educational assistance, by repealing the requirement for reduction in pay for participation in the program, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington:

H.R. 1714. A bill to amend the Immigration and Nationality Act relating to naturalization through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 1715. A bill to amend title 38, United States Code, to enhance the authority of the Department of Veterans Affairs to recover from third parties costs of medical care furnished to veterans and other persons by the Department; to the Committee on Veterans' Affairs.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, and Mr. MICHAUD):

H.R. 1716. A bill to amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR (for himself, Mr. ROHRABACHER, Ms. WOOLSEY, Mr. FRANK of Massachusetts, Ms. LEE, Mr. HONDA, Mr. MCDERMOTT, Mr. CASE, Mr. SANDERS, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. BERMAN, Mr. LANTOS, Mr. WEXLER, Mrs. TAUSCHER, Mr. HINCHEY, Mr. STARK, Mr. DEFAZIO, Ms. SCHAKOWSKY, Mr. PAUL, Mrs. CAPPS, Mr. NADLER, Ms. ESHOO, Ms. LINDA T. SANCHEZ of California, Ms. ROYBAL-ALLARD, Ms. WATSON, Mr. FILNER, and Mr. SCHIFF):

H.R. 1717. A bill to amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey:

H.R. 1718. A bill to amend title 38, United States Code, to repeal the four-year terms specified by law for certain officials of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WELDON of Pennsylvania (for himself, Mr. EDWARDS, Mr. MCHUGH, Mr. SPRATT, Mr. SOUDER, Mrs. TAUSCHER, Mr. SHAYS, Mr. ORTIZ, Mr. LEACH, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. WILSON of South Carolina, Mr. BEREUTER, Mr. REYES, Mr. CRAMER, Mr. ABERCROMBIE, Mr. TAYLOR of North Carolina, Mr. SMITH of Michigan, Mr. BARTLETT of Maryland, Mr. STEARNS, Mr. HOYER, Mr. SHERWOOD, Mr. COX, and Mr. FARR):

H.R. 1719. A bill to promote enhanced nonproliferation cooperation between the United States and the Russian Federation and foster various other actions that will increase the national security of the United States, and for other purposes; to the Committee on International Relations.

By Mr. SIMMONS (for himself and Mr. SMITH of New Jersey):

H.R. 1720. A bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

By Mr. KIRK (for himself, Mr. PORTMAN, Mr. LIPINSKI, Mr. GREENWOOD, Mr. CROWLEY, Mrs. JOHNSON of Connecticut, Mr. ACEVEDO-VILA, Mr. EHLERS, Mr. HASTINGS of Florida, Ms. BORDALLO, and Mr. BLUMENAUER):

H.R. 1721. A bill to amend the Foreign Assistance Act of 1961 to provide for debt relief to developing countries who take action to protect critical coral reef habitats; to the Committee on International Relations.

By Mr. HINOJOSA (for himself and Mr. DAVIS of Alabama):

H.R. 1722. A bill to promote the development of affordable, quality rental housing in rural areas for low-income households; to the Committee on Financial Services.

By Mr. ACEVEDO-VILA (for himself, Mr. RAHALL, Mr. GRIJALVA, Mr. PALLONE, Mr. CASE, Mr. RODRIGUEZ, Mr. GUTIERREZ, Mr. REYES, Mr. RANGEL, Mrs. CHRISTENSEN, Ms. BORDALLO, Mr. PAYNE, Mr. UDALL of Colorado, Mr. BECERRA, and Mrs. NAPOLITANO):

H.R. 1723. A bill to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Mr. ALEXANDER (for himself, Mr. FROST, Mr. BAKER, Mr. PLATTS, Mr. EVANS, Mr. RYAN of Ohio, Mr. BALLANCE, Mr. ROSS, and Mr. JOHN):

H.R. 1724. A bill to require institutions of higher education to make full refunds of tuitions and fees paid by members of the Armed Forces and National Guard called to active duty or active service during a war or national emergency; to the Committee on Education and the Workforce.

By Mr. BARTLETT of Maryland (for himself, Mr. GOODE, Mr. SMITH of Michigan, Mr. HOEKSTRA, Mr. TOOMEY, Mr. JONES of North Carolina, Mr. FLAKE, Mr. WILSON of South Carolina, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. PETRI, Mr. CHABOT, Mr. PITTS, Mr. SHADEGG, Mr. HEFLEY, Mr. KINGSTON, Mrs. MUSGRAVE, Mr. FRANKS of Arizona, Mr. CHOCOLA, and Mr. HAYES):

H.R. 1725. A bill to change the deadline for income tax returns for calendar year taxpayers from the 15th of April to the first Monday in November; to the Committee on Ways and Means.

By Mr. BROWN of South Carolina (for himself, Mr. ANDREWS, Mr. BARTLETT of Maryland, Mr. CARSON of Oklahoma, Ms. CARSON of Indiana, Mr. FILNER, Mr. FROST, Mr. GILLMOR, Mr. HEFLEY, Mr. LAHOOD, Ms. LEE, Mr. MCINTYRE, Mr. MILLER of Florida, Mr. MORAN of Virginia, Mr. PAUL, Mr. REYES, Mr. SANDLIN, and Mr. WILSON of South Carolina):

H.R. 1726. A bill to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation; to the Committee on Armed Services.

By Mr. CAMP (for himself and Mr. SANDLIN):

H.R. 1727. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 1728. A bill to amend title 37, United States Code, to ensure equal treatment for members of reserve components who perform inactive-duty training in determining their entitlement for aviation incentive pay and hazardous duty pay; to the Committee on Armed Services.

By Ms. CARSON of Indiana (for herself, Ms. NORTON, Mr. SANDERS, Mr. PLATTS, Mr. PETERSON of Minnesota, Mr. LIPINSKI, and Ms. JACKSON-LEE of Texas):

H.R. 1729. A bill to amend the Fair Credit Reporting Act to require consumer reporting agencies to notify consumers when negative information is added to the consumer's file at such agency, and for other purposes; to the Committee on Financial Services.

By Mr. GREENWOOD (for himself, Mr. DOYLE, Mr. DINGELL, Mr. ROGERS of Michigan, Mr. STRICKLAND, Mr. GERLACH, Mr. KILDEE, Mr. BUYER, Mr. LEVIN, Mr. EHLERS, Mr. HOLDEN, Mr. SMITH of Michigan, Mr. KANJORSKI, Mr. CAMP, Mr. BEREUTER, Mr. STUPAK, and Ms. SOLIS):

H.R. 1730. A bill to impose certain limitations on the receipt of out-of-State municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CARTER (for himself and Mr. SCHIFF):

H.R. 1731. A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

By Mr. CARTER (for himself and Mr. EDWARDS):

H.R. 1732. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes; to the Committee on Resources.

By Mr. CROWLEY (for himself, Mr. ALLEN, Ms. KAPTUR, Mr. KILDEE, Mr. SANDERS, Mr. MCNULTY, and Mr. FROST):

H.R. 1733. A bill to amend XVIII and XIX of the Social Security Act to provide for a voluntary Medicare prescription medicine benefit, to provide greater access to affordable pharmaceuticals, to provide for substantial reductions in the cost of prescription drugs made available to Medicare beneficiaries, to

amend the Internal Revenue Code of 1986 to disallow deductions for direct-to-consumer advertisement of prescription drugs, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmeceuticals and preserving access to safe affordable Canadian medicines, to amend the Federal Election Campaign Act of 1971 to prohibit campaign contributions by chief executive officers of pharmeceutical companies, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Veterans' Affairs, and House Administration, 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. CUNNINGHAM (for himself, Mrs. JOHNSON of Connecticut, Mr. HOLDEN, Mr. WILSON of South Carolina, Ms. KILPATRICK, Mr. FOSSELLA, Mr. MCINTYRE, Mr. SESSIONS, Mr. WYNN, Mr. ROGERS of Michigan, Mr. MORAN of Virginia, Mr. ISSA, Mr. MCNULTY, Mr. FRELINGHUYSEN, Mr. ISAKSON, Mr. WATT, Mr. MCDERMOTT, Mr. WHITFIELD, Mr. HOEFFEL, Mr. KING of New York, Mrs. MUSGRAVE, Mr. LOBIONDO, Mr. WELDON of Pennsylvania, Mr. HOLT, Mr. OWENS, Mr. MENENDEZ, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FOLEY, Mr. MCCOTTER, Mr. PLATTS, Mr. BRADY of Pennsylvania, Mr. CONYERS, Mr. PALLONE, Mr. DEAL of Georgia, Mr. FORD, Mr. NEY, Mrs. DAVIS of California, Mr. SAXTON, Mr. RANGEL, and Mr. STEARNS):

H.R. 1734. A bill to amend the Public Health Service Act to establish an Office of Men's Health; to the Committee on Energy and Commerce.

By Mrs. DAVIS of California (for herself, Mr. THOMPSON of California, Ms. CORRINE BROWN of Florida, Mr. EVANS, Mr. REYES, and Mr. MCGOVERN):

H.R. 1735. A bill to amend title 38, United States Code, to increase the maximum amount of a home loan guarantee available to a veteran; to the Committee on Veterans' Affairs.

By Mr. DAVIS of Illinois (for himself, Mr. BURR, Mr. SHIMKUS, and Mr. RUSH):

H.R. 1736. A bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOOLEY of California (for himself, Mr. MORAN of Virginia, Mr. SMITH of Washington, Mr. LARSON of Connecticut, Mr. DAVIS of Alabama, Mr. LARSEN of Washington, and Mr. STENHOLM):

H.R. 1737. A bill to provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes; to the Committee on the Judiciary.

By Mr. EMANUEL (for himself, Mr. DEFAZIO, Ms. DELAURO, Mr. DELAHUNT, Mr. RYAN of Ohio, Mr. FORD, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. LIPINSKI, Mr. HINCHEY, Mr. LARSON of Connecticut, Mr. DAVIS of Alabama, Mr. WEXLER, Mrs. MALONEY, Mr. MCGOVERN, Mr. ETHERIDGE, Ms. LEE, Mr. HASTINGS of Florida, Mr. ALLEN, Ms. SLAUGHTER, Mr. GRIJALVA, Mrs. CHRISTENSEN, Ms. LINDA T. SANCHEZ of California, Mr. SERRANO, Ms. WOOLSEY, Ms. SCHAKOWSKY, and Mr. BELL):

H.R. 1738. A bill to require payments to State and local governments for infrastructure and social services needs in the same amount as the amount of relief and reconstruction funds provided to Iraq; to the Committee on Government Reform.

By Mr. GREENWOOD (for himself, Mr. RANGEL, Mr. MCCRERY, Mr. CRANE, and Mr. GUTIERREZ):

H.R. 1739. A bill to amend title XVIII of the Social Security Act to increase payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. RODRIGUEZ, Mr. BELL, Mr. LAMPSON, Mr. HINOJOSA, Mr. EDWARDS, Mr. ORTIZ, Mr. DOGGETT, Ms. JACKSON-LEE of Texas, Mr. SANDLIN, Mr. CULBERSON, Mr. HALL, Mr. FROST, Mr. SESSIONS, Mr. SAM JOHNSON of Texas, Mr. BONILLA, Mr. DELAY, Mr. STENHOLM, Mr. PAUL, Mr. BURGESS, Ms. GRANGER, Mr. HENSARLING, Mr. CARTER, Mr. THORNBERRY, Mr. REYES, Mr. TURNER of Texas, Mr. BARTON of Texas, Mr. BRADY of Texas, Mr. SMITH of Texas, and Mr. COMBEST):

H.R. 1740. A bill to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the ''Dr. Caesar A.W. Clark, Sr. Post Office Building''; to the Committee on Government Reform.

By Mr. JONES of North Carolina (for himself, Mr. MURTHA, Mr. HOUGHTON, Mr. GILCHREST, Mr. KLINE, Mr. JANKLOW, Mr. GUTKNECHT, Mr. HUNTER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. KINGSTON, Mr. RAMSTAD, Mr. HAYWORTH, Mrs. MILLER of Michigan, Mr. WILSON of South Carolina, Mr. HEFLEY, Mr. HAYES, Mr. ABERCROMBIE, Mr. NORWOOD, Mr. WELDON of Pennsylvania, Mr. SAXTON, Mr. BARTLETT of Maryland, Mr. HOSTETTLER, Mr. AKIN, Mrs. WILSON of New Mexico, Mr. MILLER of Florida, Mr. WHITFIELD, Mr. COBLE, Mr. MEEHAN, Mr. MCINTYRE, Mr. FEENEY, Mr. GINGREY, Mr. GOODE, Mr. GIBBONS, Mr. LOBIONDO, Mr. ROHRABACHER, Mr. HOEFFEL, Mr. ISRAEL, Mr. ORTIZ, Mrs. TAUSCHER, and Mr. REYES):

H.R. 1741. A bill to redesignate the position of the Secretary of the Navy as the Secretary of the Navy and Marine Corps; to the Committee on Armed Services.

By Mr. KLECZKA (for himself, Mr. HERGER, Mr. BACA, Ms. BALDWIN, Mr. CALVERT, Mrs. CAPITO, Mrs. DAVIS of California, Mr. DEFAZIO, Mr. DOGGETT, Mr. DOOLITTLE, Mr. EVANS, Mr. FARR, Mr. FROST, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. LAMPSON, Mr. LANTOS, Mr. LEWIS of California, Mr. MATSUI, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Mr. OBEY, Mr. PAUL, Mr. PETRI, Mr. POMBO, Mr. RAHALL, Mr. RODRIGUEZ, Mr. SANDLIN, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. THOMPSON of California, Mr. TURNER of Texas, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Ms. WOOLSEY, and Mr. WU):

H.R. 1742. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes; to the Committee on Ways and Means.

By Mr. LEACH (for himself and Mr. LATHAM):

H.R. 1743. A bill to allow applications for the preferred provider organization (PPO) demonstration project under the MedicareChoice program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself and Mr. CASTLE):

H.R. 1744. A bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program; to the Committee on Energy and Commerce.

By Mr. LOBIONDO:

H.R. 1745. A bill to express the sense of the Congress that funding should be made available from the Highway Trust Fund to encourage States to require law enforcement officers to impound motor vehicles of those charged with driving while intoxicated, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY (for herself, Mrs. MYRICK, Ms. NORTON, Mr. LYNCH, Mr. KILDEE, Mrs. MCCARTHY of New York, Mr. MCNULTY, Ms. WOOLSEY, Mr. BROWN of Ohio, Mr. MCINTYRE, Mr. GUTIERREZ, Mr. HOLDEN, Mr. FRANK of Massachusetts, Mr. WILSON of South Carolina, Mr. FROST, Mr. WOLF, Mr. MCHUGH, Mr. TIERNEY, Mr. HOLT, Mr. MCDERMOTT, Mr. RODRIGUEZ, Ms. BORDALLO, Mr. GREEN of Texas, Mr. BAKER, Mr. SENSENBRENNER, Mr. GORDON, Ms. BERKLEY, Mr. ROTHMAN, Mr. DAVIS of Illinois, Mr. BERMAN, Mr. NADLER, Mr. OWENS, Mr. HINCHEY, Mr. RYAN of Ohio, Mr. SCHIFF, Mrs. CAPPS, Mr. OBERSTAR, Mr. BOSWELL, Mr. OSE, Ms. SCHAKOWSKY, Mr. SIMMONS, Ms. CARSON of Indiana, Mr. SANDERS, Mr. BISHOP of New York, Mr. REYES, Mr. STARK, Mr. ACKERMAN, Mrs. MUSGRAVE, Mr. UDALL of Colorado, Mr. MEEHAN, Mr. CLYBURN, Mr. GEORGE MILLER of California, Mr. DOYLE, Ms. MILLENDER-MCDONALD, Mr. WAXMAN, Mr. BASS, Mr. SHAYS, Mr. LEACH, Mr. EVANS, and Ms. DELAURO):

H.R. 1746. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself, Mr. LANTOS, Ms. BORDALLO, Ms. NORTON, Mr. BALLANCE, Ms. LEE, Mr. WAXMAN, Mr. OLVER, and Ms. SCHAKOWSKY):

H.R. 1747. A bill to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and for other purposes; to the Committee on Financial Services.

By Mr. MCGOVERN (for himself, Mr. UDALL of New Mexico, Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. FALEOMAVAEGA, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Mr. OWENS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, and Mr. GUTIERREZ):

H.R. 1748. A bill to amend the Equal Credit Opportunity Act to permit the collection of demographic information in connection with

small business loan applications with the applicant's consent, and for other purposes; to the Committee on Financial Services.

By Mr. MCINNIS (for himself, Mr. STRICKLAND, Mrs. JO ANN DAVIS of Virginia, Mr. STUPAK, Mr. MCCOTTER, Mr. SHIMKUS, Mr. BURGESS, Mr. GREEN of Wisconsin, Mr. ROGERS of Michigan, Mr. BARTLETT of Maryland, Ms. SCHAKOWSKY, Mr. UDALL of Colorado, Mr. SENSENBRENNER, Mr. RYAN of Ohio, Mr. HINCHEY, Mr. PETRI, Mr. GORDON, Mr. CALVERT, Mr. COSTELLO, Mr. KIND, Mr. KIRK, Mr. WALSH, Mr. FRANK of Massachusetts, Mr. PALLONE, Mr. RYAN of Wisconsin, Mr. HOLDEN, Mrs. MUSGRAVE, Mr. KLINE, Mr. RENZI, Mr. KENNEDY of Minnesota, Mr. GRAVES, Ms. CARSON of Indiana, Mrs. BONO, Mr. PLATTS, Mr. JOHNSON of Illinois, Mr. KILDEE, Mr. BOSWELL, Mr. DAVIS of Illinois, Mr. LIPINSKI, Mr. SANDERS, Mr. CAMP, Ms. BALDWIN, Mr. ABERCROMBIE, Mr. WELLER, Mrs. CAPITO, Mr. MCDERMOTT, Mr. LATHAM, Mr. RUSH, Mr. FORD, Mr. BEAUPREZ, and Mrs. JONES of Ohio):

H.R. 1749. A bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD (for himself, Mr. EVANS, Ms. CORRINE BROWN of Florida, Mr. MCINTYRE, Mr. SANDERS, Mr. RODRIGUEZ, Mr. SERRANO, Mr. FROST, Mr. SCHIFF, Mr. STRICKLAND, and Mr. RYAN of Ohio):

H.R. 1750. A bill to amend title 38, United States Code, to provide for an increase of $250 per month in the rate of monthly dependency and indemnity compensation (DIC) payable to a surviving spouse of a member of the Armed Forces who dies on active duty or as a result of a service-connected disability in any case in which there are dependent children; to the Committee on Veterans' Affairs.

By Mr. MOORE (for himself, Mr. FROST, Mr. FRANK of Massachusetts, Mr. DAVIS of Illinois, Mr. ENGEL, Mrs. DAVIS of California, Mr. RODRIGUEZ, Mr. KUCINICH, Mr. SERRANO, Mr. SANDLIN, Ms. MCCARTHY of Missouri, Mrs. JONES of Ohio, Mr. BOUCHER, Mr. MCGOVERN, Mr. DOYLE, Mr. DAVIS of Florida, Mr. STENHOLM, Ms. CARSON of Indiana, Mr. RANGEL, Mr. UDALL of Colorado, Mrs. MCCARTHY of New York, Mr. NADLER, Mr. ABERCROMBIE, Mr. ETHERIDGE, and Mr. ALLEN):

H.R. 1751. A bill to expand the teacher loan forgiveness programs under the Federal Family Education Loan and Federal Direct Loan programs; to the Committee on Education and the Workforce.

By Mr. NADLER:

H.R. 1752. A bill to provide for the purchase of textbooks and the establishment of the Textbook Recycling Program, and for other purposes; to the Committee on Education and the Workforce.

By Mr. NETHERCUTT (for himself and Mr. DICKS):

H.R. 1753. A bill to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Resources.

By Mr. PAUL (for himself, Mr. DUNCAN, Mr. GOODE, and Mr. OTTER):

H.R. 1754. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on the sale of animals which are raised and sold as part of an educational program; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. BUYER, Mr. CHABOT, Mr. POMBO, Mr. WALSH, Mr. SOUDER, Mr. CUNNINGHAM, Mr. TIAHRT, Mr. BRADY of Texas, Mr. GREEN of Wisconsin, Mr. LIPINSKI, Mr. JANKLOW, Mr. NEY, Mr. SMITH of Texas, Mr. LEWIS of Kentucky, Mr. BLUNT, Mrs. EMERSON, Mr. COLLINS, Mr. LINDER, Mrs. CUBIN, Mr. WILSON of South Carolina, Mr. RENZI, Mr. GOODLATTE, Mr. MCCRERY, Mrs. NORTHUP, Mr. PETERSON of Pennsylvania, Mr. FOSSELLA, Mr. KENNEDY of Minnesota, Mr. BERRY, Mr. DELAY, Mr. HYDE, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. SMITH of New Jersey, Mr. PITTS, Mrs. JO ANN DAVIS of Virginia, Mrs. BLACKBURN, Mrs. MILLER of Michigan, Ms. HART, Mrs. MUSGRAVE, Mr. AKIN, Mrs. MYRICK, Mr. WELDON of Florida, Mr. BARTON of Texas, Mr. SCHROCK, Mr. COSTELLO, Mr. TERRY, Mr. PORTMAN, Mr. KING of New York, Mr. GOODE, Mr. PUTNAM, Mr. MCINTYRE, Mr. BAKER, Mr. ADERHOLT, Mr. DEAL of Georgia, Mr. LATOURETTE, Mr. CANTOR, Mr. RYUN of Kansas, Mr. KING of Iowa, Mr. OBERSTAR, Mr. PENCE, Mr. PICKERING, Mr. HAYES, Mr. BARTLETT of Maryland, Mr. ROGERS of Michigan, Mr. TOOMEY, Mr. SULLIVAN, and Mr. BURTON of Indiana):

H.R. 1755. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. MARKEY, Mr. PETERSON of Minnesota, Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Mr. CARDOZA, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, Mr. KIND, Mr. DOOLEY of California, Mr. MOORE, Mr. OLVER, Mr. LANTOS, Mr. HONDA, Mr. CROWLEY, Mr. EMANUEL, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. HOLDEN, Mr. MURTHA, Mr. LARSON of Connecticut, Mr. DOYLE, and Mr. HOBSON):

H.R. 1756. A bill to amend the Internal Revenue Code of 1986 to require the abatement of interest on erroneous refund checks without regard to the size of the refund; to the Committee on Ways and Means.

By Ms. SCHAKOWSKY:

H.R. 1757. A bill to amend title XIX of the Social Security Act to increase the personal needs allowance applied to institutionalized individuals under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. STRICKLAND (for himself, Mr. WHITFIELD, Mr. HOLDEN, Mr. KANJORSKI, Ms. SLAUGHTER, Mr. GIBBONS, Mr. BROWN of Ohio, Mrs. TAUSCHER, Ms. DEGETTE, Mr. UDALL of Colorado, Mr. COOPER, Mr. BEAUPREZ, Mr. MCGOVERN, Mr. MURTHA, Mr. INSLEE, Mr. DAVIS of Tennessee, Mr. FROST, Ms. BERKLEY, and Mr. UDALL of New Mexico):

H.R. 1758. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to improve the program of benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals and illnesses, to establish an ombudsman, to make technical corrections, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAYLOR of North Carolina (for himself and Mr. BALLENGER):

H.R. 1759. A bill to establish the Blue Ridge National Heritage Area in the State of North Carolina, and for other purposes; to the Committee on Resources.

By Mr. THOMPSON of California (for himself, Mr. GEORGE MILLER of California, Mr. MATSUI, Mr. FARR, Mr. BLUMENAUER, Ms. SOLIS, Mrs. NAPOLITANO, Mr. BERMAN, Mr. HONDA, Ms. LEE, Ms. HARMAN, Mr. SCHIFF, Ms. WATSON, Ms. LOFGREN, Mr. LANTOS, Mrs. CAPPS, Ms. ESHOO, Mr. WAXMAN, Ms. WOOLSEY, Mr. SHERMAN, Mrs. DAVIS of California, and Mr. BACA):

H.R. 1760. A bill to establish water conservation and habitat restoration programs in the Klamath River basin and to provide emergency disaster assistance to fishermen, Indian tribes, small businesses, and others that suffer economic harm from the devastating effects of the Klamath River basin fish kill of 2002; to the Committee on Resources.

By Mr. TIAHRT:

H.R. 1761. A bill to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the ''Garner E. Shriver Post Office Building''; to the Committee on Government Reform.

By Mr. TURNER of Ohio:

H.R. 1762. A bill to amend title 38, United States Code, to provide for preservation and protection of historic buildings under the jurisdiction of the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs, 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. WEINER:

H.R. 1763. A bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WOLF:

H.R. 1764. A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service employees who perform essential services during severe weather events; to the Committee on Government Reform.

By Mr. WOLF (for himself and Mr. SCOTT of Virginia):

H.R. 1765. A bill to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape; to the Committee on the Judiciary.

By Mr. CHABOT (for himself, Mr. VITTER, Mr. SAXTON, Mr. KENNEDY of Minnesota, Ms. PRYCE of Ohio, Mr. GREEN of Wisconsin, Mr. SHAYS, Mr. RENZI, Mr. HAYWORTH, Mr. SHADEGG, Mr. BRADY of Texas, Mr. FOSSELLA, Mr. FLAKE, Mr. WALDEN of Oregon, Mr. ROYCE, and Mr. GALLEGLY):

H.J. Res. 48. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. GOODLATTE (for himself and Mr. STENHOLM):

H.J. Res. 49. A joint resolution recognizing the important service to the Nation provided by the Foreign Agricultural Service of the Department of Agriculture on the occasion of its 50th anniversary; to the Committee on Agriculture, and in addition to the Committee on International Relations, 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. SESSIONS (for himself, Mr. BARTON of Texas, Mr. CULBERSON, Mr. HALL, Mr. SHADEGG, Mr. ENGLISH, Mrs. MYRICK, Mr. SWEENEY, Mr. NORWOOD, Mr. MILLER of Florida, Mr. FOSSELLA, Mr. TOOMEY, Mr. BONILLA, Mr. FORBES, Mr. DOOLITTLE, Mr. PAUL, Mr. BARTLETT of Maryland, Mr. HEFLEY, Mr. MICA, Mr. CANNON, Mr. FOLEY, Mr. RYUN of Kansas, Mr. ISAKSON, Mrs. CUBIN, Mr. DEMINT, Mr. CASTLE, Mr. TAYLOR of North Carolina, Ms. GRANGER, Mr. TAUZIN, Mr. GREEN of Wisconsin, Mr. SHIMKUS, Mr. BOEHNER, Mr. GIBBONS, Mr. FLETCHER, Mr. PITTS, Mr. CAMP, Mr. BURTON of Indiana, Mr. FLAKE, Mr. HAYWORTH, Mr. GOODE, Mr. POMBO, Ms. GINNY BROWN-WAITE of Florida, Mr. KENNEDY of Minnesota, Mr. GARRETT of New Jersey, Mr. HASTINGS of Washington, Mr. RADANOVICH, Mr. JONES of North Carolina, Mr. HENSARLING, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Mr. FRELINGHUYSEN, Mr. BURR, Mr. SIMMONS, and Mr. NEY):

H.J. Res. 50. A joint resolution proposing a tax limitation amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mrs. KELLY:

H. Con. Res. 146. Concurrent resolution recognizing and supporting the efforts of the State of New York to develop the National Purple Heart Hall of Honor in New Windsor, New York, and for other purposes; to the Committee on Armed Services.

By Mr. FOLEY (for himself, Mr. WAXMAN, Mr. SHIMKUS, Mr. BROWN of Ohio, Mr. KOLBE, Ms. SLAUGHTER, Mr. HERGER, Mr. MCNULTY, Mr. PALLONE, Mr. GREEN of Texas, Mr. ALLEN, Mrs. CAPPS, Mr. LAHOOD, and Mr. ENGEL):

H. Con. Res. 147. Concurrent resolution commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders; to the Committee on Energy and Commerce.

By Mr. CARDIN:

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that America's public education system belongs to all Americans and should be celebrated for the role the system plays in strengthening American values and ensuring a brighter, stronger future for this Nation; to the Committee on Education and the Workforce.

By Mr. MARKEY (for himself, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. MEEHAN, Mr. DELAHUNT, Mr. MCGOVERN, Mr. TIERNEY, Mr. CAPUANO, and Mr. LYNCH):

H. Con. Res. 149. Concurrent resolution expressing support for the celebration of Patriot's Day on April 19th and honoring the Nation's first patriots; to the Committee on Government Reform.

By Mr. WILSON of South Carolina (for himself, Mrs. JO ANN DAVIS of Virginia, Mr. BLUNT, Mr. CANTOR, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. HALL, Mr. COBLE, Mr. BARTON of Texas, Mr. HEFLEY, Mr. HERGER, Mr. ROHRABACHER, Mr. MCCRERY, Mr. KINGSTON, Mr. BARTLETT of Maryland, Mr. MANZULLO, Mr. JONES of North Carolina, Mrs. MYRICK, Mr. RYUN of Kansas, Mr. GOODE, Mr. ADERHOLT, Mr. TANCREDO, Mr. TERRY, Mr. BROWN of South Carolina, Mr. MILLER of Florida, Mr. SULLIVAN, Mr. BARRETT of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. KING of Iowa, Mr. BURGESS, Mr. JANKLOW, Mr. CARTER, Mr. FRANKS of Arizona, and Mr. GARRETT of New Jersey):

H. Con. Res. 150. Concurrent resolution expressing the sense of Congress regarding the protection of religious sites and the freedom of access and worship; to the Committee on International Relations.

By Mr. RADANOVICH (for himself, Mr. SCHIFF, Mr. KNOLLENBERG, Mr. PALLONE, Mr. ACKERMAN, Mr. ANDREWS, Ms. BERKLEY, Mr. BERMAN, Mr. BILIRAKIS, Mr. BRADLEY of New Hampshire, Mr. CAPUANO, Mr. CARDOZA, Mr. COSTELLO, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DOGGETT, Mr. DOOLEY of California, Mr. DREIER, Mr. EMANUEL, Ms. ESHOO, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLDEN, Mr. HOLT, Mr. ISRAEL, Mr. KILDEE, Ms. KILPATRICK, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE, Mr. LEVIN, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. NORTON, Mr. NUNES, Mr. OLVER, Ms. PELOSI, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. SHAYS, Mr. SHERMAN, Mr. SMITH of New Jersey, Ms. SOLIS, Mr. SOUDER, Mr. STARK, Mr. SWEENEY, Mr. UPTON, Mr. VAN HOLLEN, Mr. VISCLOSKY, Ms. WATSON, and Mr. WEINER):

H. Res. 193. A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; to the Committee on the Judiciary.

By Mr. CAPUANO (for himself, Mr. PAYNE, Mr. WOLF, Mr. ABERCROMBIE, Mr. FRANK of Massachusetts, Mr. RANGEL, Mr. SMITH of New Jersey, and Mr. WEXLER):

H. Res. 194. A resolution regarding the importance of international efforts to abolish slavery and other human rights abuses in the Sudan; to the Committee on International Relations.

By Mr. GUTIERREZ (for himself, Ms. VELAZQUEZ, Mr. LIPINSKI, Mr. SERRANO, Ms. SOLIS, Mr. RODRIGUEZ, Mr. COSTELLO, Mr. MENENDEZ, Mr. DAVIS of Illinois, Mr. EMANUEL, Ms. SCHAKOWSKY, Mr. RUSH, and Mr. JACKSON of Illinois):

H. Res. 195. A resolution congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs; to the Committee on Government Reform.

By Mr. MEEKS of New York:

H. Res. 196. A resolution congratulating the Saint John's University men's basketball team for winning the 2003 National Invitation Tournament basketball championship; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

20. The SPEAKER presented a memorial of the Legislature of the State of Kansas, relative to Senate Concurrent Resolution No. 1604 memorializing the United States Congress to approve federal energy legislation that promotes and expands the use of ethanol and biodiesel in the nation's fuel supply; to the Committee on Energy and Commerce.

21. Also, a memorial of the House of Representatives of the State of Kansas, relative to House Resolution No. 6019 memorializing the United States Congress to urge the government to begin preparing now to address the health needs of veterans of Operation Iraqi Freedom; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Ms. HART and Mr. RYUN of Kansas.

H.R. 20: Ms. LOFGREN, Ms. ESHOO, Mr. RODRIGUEZ, Ms. CORRINE BROWN of Florida, and Mr. SANDLIN.

H.R. 25: Mr. AKIN.

H.R. 31: Mr. COLLINS.

H.R. 33: Mr. REHBERG.

H.R. 49: Mr. GOODE.

H.R. 100: Mr. COOPER.

H.R. 111: Mr. KNOLLENBERG.

H.R. 126: Mr. OWENS, Mr. MICHAUD, and Ms. BORDALLO.

H.R. 130: Mr. GRIJALVA, Mr. LATOURETTE, Ms. MCCOLLUM, Mr. PETERSON of Minnesota, and Mr. RYAN of Ohio.

H.R. 173: Mr. PETERSON of Pennsylvania, Ms. PRYCE of Ohio, Mr. KANJORSKI, Mr. CALVERT, and Mr. VISCLOSKY.

H.R. 199: Mr. SOUDER.

H.R. 290: Mrs. MCCARTHY of New York and Mr. LAHOOD.

H.R. 299: Mr. CROWLEY.

H.R. 302: Mr. DAVIS of Tennessee.

H.R. 303: Mr. DOOLITTLE and Mr. KUCINICH.

H.R. 348: Mr. SANDERS.

H.R. 356: Mr. REYES.

H.R. 369: Mr. COOPER.

H.R. 370: Mr. HINOJOSA.

H.R. 371: Mr. KILDEE, Mr. GRIJALVA, Mr. JEFFERSON, Mr. DOYLE, and Mr. NETHERCUTT.

H.R. 375: Mr. AKIN and Mr. ISRAEL.

H.R. 380: Mr. PEARCE.

H.R. 382: Mr. GREENWOOD.

H.R. 463: Mr. SHAYS, Mr. DREIER, and Mr. SHERMAN.

H.R. 498: Mr. AKIN.

H.R. 527: Mrs. MALONEY and Mr. COOPER.

H.R. 548: Mr. ORTIZ, Mr. BLUMENAUER, Mr. DOYLE, Mr. BURGESS, Mr. LUCAS of Oklahoma, Mr. DEAL of Georgia, Mr. VAN HOLLEN, Mr. TANNER, Mr. BLUNT, and Mr. ROGERS of Alabama.

H.R. 569: Mr. MCGOVERN.

H.R. 571: Mr. HALL and Mr. CHOCOLA.

H.R. 648: Mr. WELDON of Florida.

H.R. 664: Mr. STRICKLAND, Mr. CONYERS, and Mr. FRANKS of Arizona.

H.R. 677: Mr. STRICKLAND.

H.R. 728: Mr. MCHUGH and Mr. GOODLATTE.

H.R. 731: Mr. STUPAK, Mr. CARDOZA, Ms. LINDA T. SANCHEZ of California, Mr. BISHOP of New York, Mr. LEWIS of Georgia, and Mr. SERRANO.

H.R. 737: Mr. KUCINICH and Mrs. MALONEY.
H.R. 740: Ms. CARSON of Indiana.
H.R. 756: Mr. JANKLOW.
H.R. 803: Mr. RYUN of Kansas.
H.R. 814: Mr. SCHIFF, Mr. HOLT, Ms. LEE, and Mr. LUCAS of Kentucky.
H.R. 816: Mr. TIERNEY.
H.R. 871: Mr. CARDOZA and Mr. WALDEN of Oregon.
H.R. 876: Mr. BOSWELL and Mr. LATOURETTE.
H.R. 898: Mr. FILNER, Ms. ESHOO, Mr. SANDLIN, Mr. REYES, Mr. BROWN of Ohio, Mr. CROWLEY, Mr. LEWIS of Georgia, Mr. HASTINGS of Florida, Mr. EMANUEL, Ms. KILPATRICK, Mr. HOLT, Ms. MAJETTE, Mr. CASE, Mr. WEINER, Mr. SNYDER, Mr. SCOTT of Virginia, Mr. MORAN of Virginia, Ms. HOOLEY of Oregon, Mr. GREEN of Texas, Mr. MATSUI, Mr. HONDA, Ms. SCHAKOWSKY, Mr. MCDERMOTT, and Mr. MEEHAN.
H.R. 919: Mr. STRICKLAND, Mr. MORAN of Virginia, Mr. BROWN of Ohio, and Mr. MCDERMOTT.
H.R. 927: Mr. LAHOOD, Mr. LUCAS of Kentucky, Mr. BOSWELL, and Mr. AKIN.
H.R. 935: Mr. LEACH.
H.R. 936: Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, and Mr. PASTOR.
H.R. 970: Mr. COBLE, Mr. PAYNE, Mr. LANTOS, Mr. DAVIS of Alabama, Mr. SESSIONS, and Mr. HOUGHTON.
H.R. 977: Mr. DEFAZIO.
H.R. 980: Mr. CAMP.
H.R. 1002: Mr. REYNOLDS, Mr. NETHERCUTT, Mr. SULLIVAN, Mr. PRICE of North Carolina, Ms. SLAUGHTER, Mr. DUNCAN, and Mr. DAVIS of Tennessee.
H.R. 1031: Mr. DAVIS of Florida.
H.R. 1046: Mr. PETERSON of Minnesota, Mr. MILLER of North Carolina, Mr. CHOCOLA, and Mr. WALSH
H.R. 1070: Mr. PASTOR.
H.R. 1083: Mr. COOPER, Mr. DAVIS of Tennessee, and Mr. LAHOOD.
H.R. 1115: Mr. SCOTT of Georgia.
H.R. 1117: Mr. GRAVES and Mr. MCHUGH.
H.R. 1118: Ms. MCCOLLUM and Mr. TERRY.
H.R. 1120: Mr. COOPER.
H.R. 1157: Mr. HOLT and Mr. HOEFFEL.
H.R. 1162: Mr. BELL.
H.R. 1163: Mr. TERRY and Mr. FRANKS of Arizona.
H.R. 1170: Mrs. EMERSON.
H.R. 1175: Mr. MILLER of Florida.
H.R. 1222: Mr. BONILLA and Mr. TERRY.
H.R. 1225: Mr. JENKINS, Mr. BERRY, Mr. HOUGHTON, and Mr. DAVIS of Tennessee.
H.R. 1229: Mr. FRANKS of Arizona, Mr. MILLER of Florida, Mr. AKIN, Mr. LAHOOD, and Mr. BOOZMAN.
H.R. 1240: Mr. FATTAH.
H.R. 1241: Mr. DEUTSCH, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. SCHAKOWSKY.
H.R. 1242: Mr. OWENS, Ms. KAPTUR, Mr. COOPER, Mr. ALLEN, and Mr. EVANS.
H.R. 1258: Mr. WU, Mr. NADLER, Mr. HINOJOSA, Mr. DAVIS of Illinois, and Mr. TOWNS.
H.R. 1260: Mr. WHITFIELD, Mr. GILCHREST, and Mr. BOSWELL.
H.R. 1261: Mr. BALLENGER and Mr. COLE.
H.R. 1275: Mr. COOPER.
H.R. 1279: Mr. BLUNT, Mrs. BLACKBURN, Mr. PRICE of North Carolina, Mr. JONES of North Carolina, and Mr. TERRY
H.R. 1288: Mr. REYNOLDS, Mr. WILSON of South Carolina, Ms. KAPTUR, Mr. ISAKSON, Mr. MATHESON, Mr. FORD, Mr. HAYWORTH, Mr. STEARNS, Ms. KILPATRICK, Mr. RANGEL, Mr. MORAN of Virginia, and Mr. LAHOOD
H.R. 1323: Mr. HONDA and Ms. SCHAKOWSKY.
H.R. 1331: Mrs. CUBIN.
H.R. 1336: Mr. MCINNIS and Mr. RODRIGUEZ.
H.R. 1348: Mr. ISRAEL.
H.R. 1357: Mr. PAYNE, Mr. SANDERS, Mr. OWENS, Mr. GONZALEZ, Mr. FARR, Ms. SCHAKOWSKY, and Mr. ENGEL.
H.R. 1358: Mr. SHAYS.
H.R. 1377: Mr. DAVIS of Tennessee and Mr. JANKLOW.
H.R. 1397: Ms. WOOLSEY.
H.R. 1422: Mr. OWENS, Mr. SESSIONS, Mr. SCHIFF, Mr. KENNEDY of Rhode Island, and Mr. CRANE.
H.R. 1426: Mr. CAMP, Mr. MATSUI, and Mr. GRIJALVA.
H.R. 1429: Mr. WEXLER and Ms. WOOLSEY.
H.R. 1443: Mr. SAXTON.
H.R. 1445: Mr. LARSON of Connecticut and Mr. SIMMONS.
H.R. 1448: Mr. MCNULTY, Mr. HINCHEY, Mr. KILDEE, Ms. KAPTUR, Ms. WOOLSEY, and Ms. CARSON of Indiana.
H.R. 1470: Mr. COOPER and Mr. HOLDEN.
H.R. 1474: Mr. SHAYS, Mr. ALEXANDER, Mr. NEY, Ms. PRYCE of Ohio, Mr. SESSIONS, Mr. MOORE, Mr. CLAY, Ms. HARRIS, Mr. HENSARLING, and Mrs. MALONEY.
H.R. 1478: Mr. DUNCAN.
H.R. 1480: Mr. JACKSON of Illinois, Mr. MEEK of Florida, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. WEINER, Mr. CAPUANO, Mr. WU, Mr. MCGOVERN, Mr. SCOTT of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LARSON of Connecticut, Mr. DOYLE, and Mr. MCINTYRE.
H.R. 1508: Ms. LEE, Ms. NORTON, Mr. WYNN, Mr. CLAY, Ms. BALDWIN, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GRIJALVA.
H.R. 1510: Mr. DEUTSCH.
H.R. 1513: Mr. HAYWORTH and Mr. FOLEY.
H.R. 1530: Mr. BLUNT.
H.R. 1540: Mrs. JONES of Ohio.
H.R. 1545: Mr. GRAVES.
H.R. 1554: Mr. GRIJALVA, Mr. RODRIGUEZ, Mr. GUTIERREZ, and Mr. ACEVEDO-VILA.
H.R. 1568: Mr. ORTIZ.
H.R. 1582: Mr. GILLMOR.
H.R. 1586: Mr. BRADY of Texas, Mr. KIRK, Mrs. BLACKBURN, Mr. COLE, and Mr. TIBERI.
H.R. 1615: Mr. NEAL of Massachusetts and Mr. Payne.
H.R. 1627: Mr. MURTHA.
H.R. 1652: Mr. FRNAK of Massachusetts, Mr. ISRAEL, Mr. FROST, Ms. SOLIS, and Mr. WYNN.
H.R. 1661: Ms. KAPTUR and Mr. ISRAEL.
H.R. 1662: Mr. LINDER, Mr. GARY G. MILLER of California, Mr. AKIN, and Mr. SHADEGG.
H.R. 1674: Mr. HAYWORTH, Ms. DUNN, Mr. HERGER, and Mr. TANNER.
H.R. 1675: Mr. BEREUTER, Mr. MURTHA, Mr. NETHERCUTT, Mr. HAYES, and Mr. MARSHALL.
H.R. 1677: Mr. BRADY of Pennsylvania.
H.R. 1690: Mr. SANDERS.
H.R. 1692: Ms. BERKLEY.
H.R. 1693: Mr. WYNN.
H.R. 1698: Mr. FLAKE.
H.J. Res. 36: Mr. UPTON, Mr. GOODE, Mr. MCNULTY, and Mr. SANDERS.
H.J. Res. 37: Mr. QUINN.
H.J. Res. 40: Mr. GOODE.
H.J. Res. 46: Mr. STEARNS.
H. Con. Res. 6: Mr. MCNULTY.
H. Con. Res. 49: Mr. BURNS, Mr. SOUDER, Mr. KUCINICH, Mr. GUTIERREZ, Mr. ROTHMAN, and Ms. HARMAN.
H. Con. Res. 78: Ms. CORRINE BROWN of Florida.
H. Con. Res. 98: Ms. DUNN, Mr. LINDER, and Mr. WYNN.
H. Con. Res. 130: Ms. KILPATRICK, Mr. HASTINGS of Florida, Mr. FATTAH, Mr. CONYERS, Mr. DOOLEY of California, Ms. LINDA T. SANCHEZ of California, Mr. SCOTT of Georgia, Mr. JEFFERSON, Ms. MILLENDER-MCDONALD, Mr. SCOTT of Virginia, Mr. BECERRA, Mr. REYES, Mrs. NAPOLITANO, Ms. VELAZQUEZ, and Mr. RODRIGUEZ.
H. Res. 108: Mr. FRANK of Massachusetts.
H. Res. 118: Mr. BEREUTER.
H. Res. 129: Ms. BERKLEY.
H. Res. 136: Mr. SULLIVAN and Mr. STRICKLAND.
H. Res. 177: Mr. BEREUTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 953: Mr. HASTINGS of Washington.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

9. The SPEAKER presented a petition of the Legislature of Rockland County, New York, relative to Resolution No. 67 of 2003 petitioning the United States Congress to enact the Mentally Ill Offender Treatment and Crime Reduction Act of 2002; to the Committee on the Judiciary.

10. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 64 of 2003 petitioning the United States Congress to urge federal, state and railroad officials to support and assist Rockland County's effort to establish a quiet zone on the west shore (river) freight rail line within Rockland County; to the Committee on Transportation and Infrastructure.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

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Senate

AMBER LEGISLATION—

(Continued)

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts retains the floor.

Mr. KENNEDY. Mr. President, I am going to send to the desk the underlying legislation which also strikes the provisions in title IV. It will limit them to the serious crimes against children. This is what was basically agreed to in the conference report, the AMBER legislation, and the provisions in that Feeney amendment that apply to children as was, I think, represented by the chairman of the Judiciary Committee.

I send the legislation of the committee to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. Without objection, it is so ordered. The measure will be received and appropriately referred.

The Senator from Utah.

Mr. HATCH. Mr. President, I now renew any unanimous consent request, without losing my right to the floor, that we have 30 additional minutes of debate on the conference report, to be equally divided in the usual form, and that following that time, the Senate proceed to a vote on adoption of the conference report, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I would like to speak for a few minutes on this bill, if I might.

Mr. HATCH. If the Senator will withhold, I will yield a few minutes to the Senator, but I first want to do this unanimous consent request.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Would the Chair explain what the parliamentary order is.

The PRESIDING OFFICER. There will now be up to 30 minutes of debate, evenly divided, on the conference report. At the expiration of the time, a vote will occur on the report, without any intervening action or debate.

Mr. HATCH. With that understanding then, I yield to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I must say I really think this is unfortunate. When Senator HUTCHISON and I proposed the AMBER alert in the last session and when Senator LEAHY was good enough to see that it passed through the committee very rapidly, the Senate voted on it, the House did not. This year Senator HATCH was good enough, as chairman, to see that it passed through the Judiciary Committee very rapidly. The Senate passed the bill. It went to the House, and it became confused in what is a rather monumental discussion.

I want to make a couple of comments on the AMBER alert bill, and then I want to make a few comments on the remainder of the bill.

More than any other single law enforcement tool, I deeply believe, as does Senator HUTCHISON, that the AMBER alert can result in an abducted child being brought home safely. We know it works, and we know it is a program that should be nationwide.

To date, in 39 States and 49 local and regional jurisdictions, there is an AMBER alert. This is up from 16 States and 32 local and regional jurisdictions just last August. These alerts have been extremely successful. They have resulted in the return of 53 abducted children across the country. Hallelujah. That is 53 families who did not have to suffer the pain of losing a loved one, 53 families who did not have to live through the trauma of losing a child, and that is why this legislation is so important. That is why I am going to vote for this bill.

The first hours after a child is taken are critical. If the child is not found in those first few hours, chances increase dramatically that he or she will disappear forever, and this is the power of the AMBER alert. An alert can be issued within minutes of an abduction and disseminate key information.

Since the State of California first adopted the AMBER alert just 9 months ago, 25 AMBER alerts have been issued involving 31 victims. Each of these alerts ended with the child being united with their family. One cannot argue with results like that.

The provision included in the conference report has a number of key components. It would authorize $20 million for the Department of Transportation and $5 million to the Department of Justice for the development of AMBER alert systems in States where they do not exist; it would build upon the President's Executive order by authorizing a national coordinator; and it would reduce the number of false alerts.

The bill would provide a framework for the Justice Department to establish minimum standards for the regional coordination of AMBER alerts. It is a good bill. We need it.

The report also includes several provisions similar to legislation that I sponsored, with Senator HATCH, which would enhance national efforts to investigate, prosecute, and prevent crimes against children. I really regret that these provisions have become enmeshed with other concerns over the conference report.

I heard Senator KENNEDY speak in the Judiciary Committee this morning. I have heard him speak on the floor this afternoon. I understand his concerns. I do not believe judges should have to report their sentences on child crime to the Congress of the United States. I think that is a mistake. It should not happen.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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With respect to Koon v. the United States, I think it is a mistake to let appellate courts change the standard of review. I hope the Judiciary Committee will consider these things in the future.

Let me state what is in the report that I agree with. It mandates that sex offenders be supervised for a minimum of 5 years after they are released from prison. I agree.

It ensures that the murder of a child committed as part of a pattern of assaulting or torturing a child is considered first-degree murder. I agree.

It increases the maximum and minimum penalties for anyone who sexually exploits a child. For first conviction, a maximum penalty is 30 years, increased from 20 years. And the minimum sentence is 15 years, increased from 10 years. I happen to agree.

It creates a mandatory minimum penalty for kidnapping of not less than 20 years. Some do not agree with mandatories. I understand that. I respect that. But in the instance of a child, I agree with mandatories.

It creates a crime with a maximum penalty of 30 years for a U.S. citizen traveling within or outside the United States to engage in illegal sexual conduct with children. I agree.

It requires a person convicted a second time of a Federal sex offense involving children to receive a penalty of life imprisonment unless a death sentence is imposed.

Now, if a person is going to be convicted of sexually abusing children twice, the question comes, should there be a third time? I have to say there shouldn't be a third time. I support this provision.

It makes it a crime to attempt international parental kidnapping. Currently, only actual parental kidnapping is illegal. The attempt should be illegal, as well. I support that.

It removes the statute of limitations for child abduction and sex crimes. I agree with that.

It creates a Federal crime with a 2-year maximum penalty for creating a domain name with the intent to deceive a person into viewing obscene material on the Internet. The maximum penalty is 4 years if the intent is to deceive a minor. I agree.

It creates a rebuttal presumption against bail for a person accused of raping or kidnapping a victim who was under 18.

It expands reporting requirements for missing children from 18 to 21 years. Current law requires a host of Federal agencies to report a case of a child under 18 who is missing to the National Crime Information Center. In this case, the age of a missing child for reporting purposes is increased to 21.

It provides more funding for the National Center for Missing and Exploited Children, increasing funding by $10 million in both fiscal years 2004 and 2005.

I wish it did not have to happen this way. I would have felt much better if we had a chance in the Judiciary Committee to hold the requisite decisions and debate this more fully. I am very hopeful those things which are very controversial—and there are a few in this bill—we will have an opportunity to hear further and amend, if necessary.

What is important is to get the AMBER alert established nationally. If we had been at this for a month or two, I would not feel the way I do today. But we passed this bill in this body in the last Congress. Yet here we are today. I wish it could be a clean bill. I wish it could be just AMBER alert, but I am very pleased and will support the passage of this legislation.

I yield the floor.

Mr. LEAHY. Mr. President, I am pleased that today we will finally pass into law a very important bill designed to protect children.

As an original cosponsor of the National AMBER Alert Network Act, S. 121, I have worked with my Senate colleagues to do all that we possibly can to speedily pass it into law. Twice now we rapidly passed our bill through the Senate on unanimous, bipartisan votes—last fall and again in January. Both times House leaders chose not to pass it, instead delaying its assured passage into law by using the bill as a ''sweetener'' for a package of other controversial provisions that the Senate has not previously considered. The Smart family—who credit the AMBER Alert for the safe return of Elizabeth—has repeatedly joined us to urge House leaders to promptly take up and pass our Senate bill.

Had House leaders opted to stand up and do what is right from the beginning, we would already have a nationwide AMBER Alert system in place to save our children's lives when they are abducted. We will never know how many children could have been saved by a nationwide AMBER Plan—if the House had simply passed our bill when the Senate did, I daresay the number of children rescued from their abductors and death would be much higher. Efforts to protect our children do not deserve to be used as pawns by groups who play politics by attaching it to more controversial measures.

That being said, I am pleased that AMBER Alert legislation is included in the conference report, as it will aid states in their fight against the disturbingly increasing trend of child abductions and their often tragic ends. Our plan will enhance the AMBER Alert system created after the 1996 kidnapping and murder of 9-year-old Amber Hagerman of Arlington, TX. Since 1996, AMBER Alerts have helped rescue 53 children from their abductors nationwide by using broadcasters, law enforcement officials, road signs and a variety of other tools to instantly disseminate information about child abductions.

Today 39 States have statewide AMBER Alert plans. Our AMBER Alert legislation included in the conference report will create voluntary standards that would help States determine the criteria for AMBER Alerts and for quickly disseminating official information during AMBER Alerts. A newly appointed coordinator within the Justice Department will oversee the communication network for abducted children, working with states, broadcasters, and law enforcement agencies to set up and supplement AMBER plans and responses.

Our plan will give law enforcement agencies a powerful tool, while providing flexibility for states to implement the alert system. States also need financial help to create effective Amber Alert systems, and this conference report creates two Federal grant programs to help States establish AMBER plans. One, administered by the Department of Transportation, will give States assistance creating Statewide notification and communications systems, including message boards and road signs to help in the recovery of abducted children. The other, administered by the Justice Department, will help States create communications plans with law enforcement agencies and the communities they serve. My State of Vermont does not yet have an AMBER Alert system, and law enforcement officials in Vermont have begun laying the groundwork for a system there. They welcome the Federal help our bill will offer to get a system up and running.

As a father and grandfather I know that an abducted child is a family's worst nightmare, and one that happens far too often. The families of children taken by strangers need our help, and they will get it with the passage of the AMBER Alert legislation.

The conference report we consider today includes another very important piece of legislation this one designed to protect children from being exploited by child pornographers. I should know because I helped to write this bill in the Senate. Indeed, I am the lead cosponsor of the Senate bill, S.151, which we sent over to the House with a vote of 84–0.

Ironically, the House and the conference committee have added so many extra controversial provisions to the conference report bill that one of its core elements, and the element that gives the conference report its title—the PROTECT Act—is buried near the end in Title V. Title V is largely the bill that Senator HATCH and I jointly crafted, held hearings on, and moved through the Senate as the PROTECT Act. I would like to discuss both the content and history of the provisions in this title of the conference reported bill.

When Senator HATCH and I introduced S. 151 in January, I supported passing a bill that was identical to the measure that we worked so hard to craft in the last Congress. That bill had passed the Judiciary Committee and the Senate unanimously in the 107th Congress. It did not become law last year because, even though the Senate

was still meeting, considering and passing legislation, the House of Representatives had adjourned and would not return to take action on this measure, which had passed the Senate unanimously, or to work out our differences.

As I said when we introduced the Hatch-Leahy PROTECT Act and again as the Judiciary Committee considered this measure, although this bill is not perfect, it is a good faith effort to provide powerful tools for prosecutors to deal with the problem of child pornography within constitutional limits. We failed to do that in the 1996 Child Pornography Protection Act (″CPPA″), a significant portion of which the Supreme Court struck down last year. We must not make the same mistake again. The last thing we want to do is to create years of legal limbo for our nation's children, after which the courts strike down yet another law as unconstitutional.

I also said at our Judiciary Committee markup and again when the Senate passed this bill unanimously that I hoped we could pass the bill in the same form as it unanimously passed in the last Congress. Unfortunately, my colleagues on the other side of the aisle and in the House have jointly decided not to follow this route. Despite this fact, I have continued to work with Senator HATCH to craft the strongest bill possible that will produce convictions that will stick under the Constitution.

I was also glad to learn that, after we passed the bill unanimously, the administration ''strongly supported'' the Senate version of the bill. However, the House still chose not to enact the Senate bill, instead adding numerous controversial provisions to it. That is a shame, because it was no easy feat to move a bill fraught with such constitutional difficulties as the PROTECT Act to the point where not a single Senator voted against it.

I want to take a moment to speak again about the history of this important bill and the joint effort that it took to get to this point. In May of 2002, I came to the Senate floor and joined Senator HATCH in introducing the PROTECT Act , after the Supreme Court's decision in Ashcroft v. Free Speech Coalition (″Free Speech″). Although there were some others who raised constitutional concerns about specific provisions in that bill, I believed that unlike legislative language proposed by the administration in the last Congress, it was a good faith effort to work within the first amendment.

Everyone in the Senate agrees that we should do all we can to protect our children from being victimized by child pornography. That would be an easy debate and vote. The more difficult thing is to write a law that will both do that and will produce convictions that stick. In 1996, when we passed the CPPA many warned us that certain provisions of that Act violated the first amendment. The Supreme Court's decision last year in Free Speech has proven them correct.

I believed and continue to believe that we should not sit by and do nothing. It is important that we respond to the Supreme Court's decision. It is just as important, however, that we avoid repeating our past mistakes. Unlike the CPPA, this time we must respond with a law that passes constitutional muster. Our children deserve more than a press conference on this issue. They deserve a law that will last, rather than one that will be stricken from the law books.

It is important that we do all we can to end the victimization of real children by child pornographers, but it is also important that we pass a law that will withstand first amendment scrutiny. We need a law with real bite, not one with false teeth.

After joining Senator HATCH in introducing the PROTECT Act in the 107th Congress, as Chairman of the Judiciary Committee in the last Congress, I convened a hearing on October 2, 2002 on the legislation. We heard from the Administration, from the National Center for Missing and Exploited Children, NCMEC, and from experts who came and told us that our bill, as introduced, would pass constitutional muster, but the House-passed bill supported by the administration would not.

I then placed the Hatch-Leahy PROTECT Act on the Judiciary Committee's calendar for the October 8, 2002, business meeting. I continued to work with Senator HATCH to improve the bill so that it could be quickly enacted. Unfortunately the Judiciary Committee was unable to consider it because of procedural maneuvering by my colleagues that had nothing to do with this important legislation.

I still wanted to get this bill done. That is why, for a full week last October, I worked to clear and have the full Senate pass a substitute to the bill that tracked the Hatch-Leahy proposed committee substitute in nearly every area.

Indeed, the substitute I offered even adopted parts of the House bill which would help NCMEC work with local and State law enforcement on these cases. Twice, I spoke on the Senate floor imploring that we approve such legislation. As I stated then, every single Democratic Senator cleared that measure. I then urged Republicans to work on their side of the aisle to clear this measure which was substantially similar to the joint Hatch-Leahy substitute so that we could swiftly enact a law that would pass constitutional muster. Unfortunately, they did not. Facing the recess before the mid-term elections, we were stymied again.

Even after the last election, during our lameduck session, I continued to work with Senator HATCH to pass this legislation in the Senate. As I had stated I would do prior to the election, I called a meeting of the Judiciary Committee on November 14, 2002. In the last meeting of the Judiciary Committee under my Chairmanship in the 107th Congress, I placed S. 2520, the Hatch-Leahy PROTECT Act, on the agenda yet again. At that meeting the Judiciary Committee amended and approved this legislation. We agreed on a substitute and to improvements in the victim shield provision that I authored.

I did not agree with certain of Senator HATCH's committee amendments because I thought that they risked having the bill declared unconstitutional. I nevertheless both called for the committee to approve the bill and voted for the bill in its amended form. That is the legislative process and it was followed for this portion of the bill. We studied and argued the issues. I compromised on some issues, and Senator HATCH compromised on others. Even though the bill was not exactly as either of us would have wished, we both worked fervently to seek its passage.

The same day as the bill unanimously passed the Judiciary Committee, I sought to gain the unanimous consent of the full Senate to pass the Hatch-Leahy PROTECT Act as reported, and I worked with Senator HATCH to clear the bill on both sides of the aisle. I am pleased that the Senate did pass the bill by unanimous consent. I want to thank Senator HATCH for all he did to help clear the bill for passage in the 107th Congress. Unfortunately, the House failed to act on this measure last year and the administration decided not to push for passage. If they had, we could have passed a bill, sent it to the President, and had a new law to protect children on the books months ago.

Instead, we were forced to repeat the entire process again, and we did it. I am glad to have been able to work hand-in-hand with Senator HATCH on the real ''PROTECT Act''—now Title V of the massive bill we are considering—because, it is a bill that gives prosecutors and investigators the tools they need to combat child pornography. The Hatch-Leahy PROTECT Act strives to be a serious response to a serious problem. Let me outline some of the important provisions in Title 5 that I helped to write and move through the Senate.

I was glad that the House retained the Senate version of Section 503 of the bill, which created two new crimes aimed at people who distribute child pornography and those who use such material to entice children to do illegal acts. Each of these new crimes carries a 15-year maximum prison sentence for a first offense and double that term for repeat offenders. First, the bill criminalizes the pandering of child pornography, creating a new crime to respond to the Supreme Court's recent ruling striking down the CPPA's definition of pandering. This provision is narrower than the old pandering definition in at least one way that responds to a specific Court criticism. The new crime only applies to the people who actually pander the child pornography or solicit it, not to all those who possess the material ''downstream,'' and it

requires the government to demonstrate that the defendant acted with the specific intent that the material is believed to be child pornography.

The bill also contains a directive to the Sentencing Commission which asks it to distinguish between those who pander or distribute such material and those who only ''solicit'' the material. As with narcotics cases, distributors and producers are more culpable than users and should be more harshly punished for maximum deterrent effect. With the many problematic sentencing provisions that were included in the conference report, this provision that I crafted does it the correct way. It points out an important distinction between possessors and distributors but ultimately leaves it to the bipartisan commission to set the guidelines.

I would have liked for the pandering provision to be crafted more narrowly so that ''purported'' material was not included and so that all pandering prosecutions would be linked to ''obscenity'' doctrine. That is the way that Senator HATCH and I originally wrote and introduced this provision in the last Congress. Unfortunately, the Senate amendment process has resulted in some expansions to this once non-controversial provision that may subject it to a constitutional challenge. Thus, while it responds to some specific concerns raised by the Supreme Court, there are constitutional issues that the courts will have to seriously consider with respect to this provision. I will discuss these issues later.

Second, section 503 creates a new crime that I proposed to take direct aim at one of the chief evils of child pornography: namely, its use by sexual predators to entice minors either to engage in sexual activity or the production of more child pornography. This was one of the compelling arguments made by the government before the Supreme Court in support of the CPPA, but the Court rejected that argument as an insufficient basis to ban the production, distribution or possession of ''virtual'' child pornography. This bill addresses that same harm in a more targeted and narrowly tailored manner. It creates a new felony, which applies to both actual and virtual child pornography, for people who use such material to entice minors to participate in illegal activity. This will provide prosecutors a potent new tool to put away those who prey upon children using such pornography—whether the child pornography is virtual or not.

Next, this bill attempts to revamp the existing affirmative defense in child pornography cases both in response to criticisms of the Supreme Court and so that the defense does not erect unfair hurdles to the prosecution of cases involving real children. Responding directly to criticisms of the Court, the new affirmative defense applies equally to those who are charged with possessing child pornography and to those who actually produce it, a change from current law. It also allows, again responding to specific Supreme Court criticisms, for a defense that no actual children were used in the production of the child pornography—i.e. that it was made using computers.

The final bill includes the House provision on banning virtual and non-obscene child pornography, a provision that I have counseled against in both bills because it renders the bill weaker against constitutional attack. One addition to the bill that I helped to include is the inclusion of a definition of material as ''graphic'' in nature. Had that definition, which narrowed the field to hard core child pornography, been applied to the entire definition, the measure would have been much stronger against constitutional attack. By also including ''lascivious simulated'' material in the virtual porn definition, however, the conference report risks having the entire provision stricken.

At the same time, I was pleased the House agreed to accept the provision I authored that protects prosecutors from unfair surprise in the use of this affirmative defense by requiring that a defendant give advance notice of his intent to assert it, just as defendants are currently required to give if they plan to assert an alibi or insanity defense. As a former prosecutor I suggested this provision because it affects the real way that these important trials are conducted. With the provision, the government will have sufficient notice to marshal the expert testimony that may be needed to rebut this ''virtual porn'' defense in cases where real children were victimized.

This improved affirmative defense measure also provides important support for the constitutionality of much of this bill after the Free Speech decision. Even Justice Thomas specifically wrote that it would be a key factor for him. This is one reason for making the defense applicable to all non-obscene, child pornography, as defined in 18 U.S.C. 2256. In the bill's current form, however, the affirmative defense is not available in one of the new proposed classes of virtual child pornography, which would be found at 18 U.S.C. 2256(8)(C). This omission also may render that provision unconstitutional under the first amendment.

The bill also provides much needed assistance to prosecutors in rebutting a false ''virtual porn'' defense by removing a restriction on the use of records of performers portrayed in certain sexually explicit conduct that are required to be maintained under 18 U.S.C. 2257, and expanding such records to cover computer images. These records, which will be helpful in proving that the material in question is not ''virtual'' child pornography, may be used in federal child pornography and obscenity prosecutions under this act. The purpose of this provision is to protect real children from exploitation. It is important that prosecutors have access to this information in both child pornography and obscenity prosecutions, since the Supreme Court's recent decision has had the effect of narrowing the child pornography laws, making it more likely that the general obscenity statutes will be important tools in protecting children from exploitation. In addition, the Act raises the penalties for not keeping accurate records, further deterring the exploitation of minors and enhancing the reliability of the records.

Next, the Hatch-Leahy bill contains several provisions altering the definition of ''child pornography'' in response to the Free Speech case. One approach would have been simply to add an ''obscenity'' requirement to the child pornography definitions. Outlawing all obscene child pornography—real and virtual; minor and youthful-adult; simulated and real—would clearly pass a constitutional challenge because obscene speech enjoys no protection at all. Under the Miller obscenity test, such material—one, ''appeals to the prurient interest,'' two, is utterly ''offensive'' in any ''community,'' and three, has absolutely no serious ''literary, artistic or scientific value.''

Some new provisions of this bill do take this ''obscenity'' approach, like the new section 1466A, which I crafted with Senator HATCH. Other provisions, however, take a different approach. Specifically, the House virtual porn provision 2256(8) include persons who are ''indistinguishable'' from an actual minor. This adopts language from Justice O'Connor's concurrence in the Free Speech case. The problem with that is that Justice O'Connor was not the deciding vote in the Free Speech case, she was the seventh vote to strike down the law. Thus, while this language is defensible, I predict that this provision will be the center of much constitutional debate. Although I will explain in more detail later, these new definitional provisions risk crossing the constitutional line.

Title V, which was already in the unanimously passed Senate bill before the House saw fit to make the bill more controversial, itself contains a variety of other measures designed to increase jail sentences in cases where children are victimized by sexual predators. First, it enhances penalties for repeat offenders of child sex offenses by expanding the predicate crimes which trigger tough, mandatory minimum sentences. Second, the bill requires the U.S. Sentencing Commission to address a disturbing disparity in the current Sentencing Guidelines. The current sentences for a person who actually travels across State lines to have sex with a child are not as high as for child pornography. The commission needs to correct this oversight immediately, so that prosecutors can take these dangerous sexual predators off the street. These are all strong measures designed to protect children and increase prison sentences for child molesters and those who otherwise exploit children but—unlike the ill-considered Feeney and

Hatch-Sensenbrenner amendments—they are done the right way within the structure that Congress established under the Sentencing Reform Act of 1984.

Also retained from the original Hatch-Leahy PROTECT Act are several provisions designed to protect the children who are victims in these horrible cases. Privacy of the children must be paramount. It is important that they not be victimized yet again in the criminal process. This bill provides for the first time ever a provision that I suggested. It is an explicit shield law that prohibits the name or other nonphysical identifying information of the child victim, other than the age or approximate age, from being admitted at any child pornography trial. It is also intended that judges can and will take appropriate steps to ensure that such information as the child's name, address or other identifying information not be publicly disclosed during the pretrial phase of the case or at sentencing. The conference report also retained a Senate provision requiring the judge to instruct the jury, upon request of the government, that no inference should be drawn against the United States because of information inadmissible under the new shield law.

The conferees also voted to adopt a provision from the original Hatch-Leahy PROTECT Act that amended certain reporting provisions governing child pornography. Specifically, it allows Federal authorities to report information they receive from NCMEC to State and local police without a court order. In addition, the bill removes the restrictions under the Electronic Communications Privacy Act (ECPA) for reporting the contents of, and information pertaining to, a subscriber of stored electronic communications to NCMEC when a mandatory child porn report is filed with NCMEC pursuant to 42 U.S.C. 13032.

While this change may invite rogue Federal, State or local agents to try to circumvent all subpoena and court order requirements under ECPA and allow them to obtain subscriber emails and information by triggering the initial report to NCMEC themselves, it should be well understood that this is not the intention behind this provision. These important safeguards are not being altered in any way, and a deliberate use of the tip line by a government agent to circumvent the well established statutory requirements of these provisions would be a serious violation of the law. Nevertheless, we should still consider further clarification in the future to guard against subverting the safeguards in ECPA from government officials going on ''fishing expeditions'' for stored electronic communications under the rubric of child porn investigations.

As I made clear when the Senate bill was introduced and again when it passed the Senate, I continue to express my disappointment in the Department of Justice information sharing regulations related to NCMEC tip line. According to a recent Government Accounting Office (GAO) report, due to outdated turf mentalities, the Attorney General's regulations exclude both the United States Secret Service and the U.S. Postal Inspection Service from direct access to important tip line information. That is totally unacceptable, especially in the post 9–11 world, where the importance of information sharing is greater than ever. How can the Administration justify support of this provision, which allows state and local law enforcement officers such access, when they are simultaneously refusing to allow other federal law enforcement agencies access to the same information? I once more urge the Attorney General to end this unseemly turf battle and to issue regulations allowing both the Secret Service (now in the Department of Homeland Defense) and the Postal Inspection Service, both of whom perform valuable work in investigating these cases, to have access to this important information so that they can better protect our nation's children.

Section 506 of the conference report also adopted the Senate provision providing for extraterritorial jurisdiction where a defendant induces a child to engage in sexually explicit conduct outside the United States for the purposes of producing child pornography which they intend to transport to the United States. The provision is crafted to require the defendant to have the intent of actual transport of the material into the United States, unlike the House bill, which criminalized even an intent to make such material ''accessible.'' Under that overly broad wording, any material posted on a foreign web site could be covered, whether or not it was ever intended that the material be downloaded in the United States. Under the bill we consider today, however, proof of a specific intent to send such material to the United States is required.

Finally, Section 510 of the bill provides a new private right of action for the victims of child pornography that was part of the Senate bill. This provision has teeth, including injunctive relief and punitive damages that will help to put those who produce child pornography out of business for good. I commend Senator HATCH for his leadership on this provision and his recognition that such punitive damages provisions are important means of deterring misconduct. These provisions are important, practical tools to put child pornographers out of business for good and in jail where they belong. These are provisions that were in the Senate Hatch-Leahy bill and could have already been law had the House not chosen to hold them hostage to try to gain passage of the more controversial elements of the House package.

The committee process is there for a reason. It is there because it causes us to work together and improve bills as they go along. The Senate version of the PROTECT Act, much of which is included in the conference reported bill, is a prime example of the merits of that process. I only wish that other portions of this bill had been so considered. Let me explain.

As I mentioned previously, the Senate Hatch-Leahy PROTECT Act—most of which is now stuck in at the end of the bill—is a good faith effort to tackle the child pornography problem, and I have supported its passage from the outset. Until our conference, Senator HATCH and I worked closely together to make this bill as strong as possible. In fact, Senator HATCH and I were able to offer a joint amendment in the Judiciary Committee that strengthened the bill further against constitutional attack. Here are some of the improvements that we jointly made to the bill as introduced and which are in the final bill.

The Hatch-Leahy committee amendment created a new specific intent requirement in the pandering crime. The provision is now better focused on the true wrongdoers and requires that the government prove beyond a reasonable doubt that the defendant actually intended others to believe that the material in question is obscene child pornography. This is a positive step.

The Hatch-Leahy committee amendment narrowed the definition of ''sexually explicit conduct'' for prosecutions of computer created child pornography. Although I continue to have serious reservations about the constitutionality of prosecuting cases involving such ''virtual child pornography'' after the Supreme Court's decision in Free Speech Coalition v. Ashcroft, narrowing the definition of the conduct covered provides another argument that the provision is not as overbroad as the one in the CPPA. I had also proposed a change that contained an even better definition, in order to focus the provision to true ''hard core'' child pornography, and I was glad that this provision—relating to ''graphic'' pornography, was included in the final conference report.

The Hatch-Leahy committee amendment refined the definition of virtual child pornography in the provision that Senator HATCH and I worked together to craft last year, which will be a new 18 U.S.C. 1466A. These provisions rely to a large extent on obscenity doctrine, and thus are more rooted in the Constitution than other parts of the bill. I was pleased that the Hatch-Leahy amendments included a definition that the image be ''graphic''—that is, one where the genitalia are actually shown during the sex act—and that the House agreed to adopt this definition for the virtual porn provision as a whole for two reasons.

First, because the old law would have required proof of ''actual'' minors in cases with ''virtual'' pictures, I believe that this clarification will remove a potential contradiction from the new law which pornographers could have used to mount a defense.

Second, it will provide another argument supporting the law's constitutionality because the new provision is narrowly tailored to cover only the most ''hard core'' child pornography. If only we would have gone the extra step of requiring this level of obscenity for all virtual child pornography, I think the bill would be safe from constitutional challenge, instead of skating along the constitutional edge.

The Hatch-Leahy committee amendment also clarified that digital pictures are covered by the PROTECT Act, an important addition in today's world of digital cameras

and camcorders. I am glad that the final bill adopted that change.

These were important changes, and I was glad to work with Senator HATCH to craft them. It is unfortunate that this bipartisan cooperation did not extend to the controversial provisions that were added to the bill in the House and in the conference.

Even Title V of this law—the real PROTECT Act—is not perfect, however, and I would have liked to see some additional improvements to the bill. Let me outline some of them.

First, with regard to the tip line, I would have liked to further clarify that law enforcement agents may not and should not ''tickle the tip line'' to avoid the key protections of the Electronic Communications Privacy Act (ECPA). This might have included modifying 42 U.S.C. 13032 to clarify that the initial tip triggering the report may not be generated by the government's investigative agents themselves. A tip line to NCMEC is just that—a way for outsiders to report wrongdoing to NCMEC and the government, not for the government to generate a report to itself without following otherwise required lawful process. It was not the intent of any part of this bill to alter that purpose.

Second, regarding the affirmative defense, I would have liked to ensure that there is an affirmative defense for each new category of child pornography and for all cases where a defendant can prove in court that a specific, non-obscene image was made not using any child but only actual, identifiable adults. That will no doubt be a basis for attacking the constitutionality of this law. I specifically made this suggestion in conference negotiations but my Republican colleagues from both the House and the Senate refused to adopt a ''complete'' affirmative defense, instead leaving holes that will surely be raised in constitutional attacks on the bill.

As a general matter, it is worth repeating that we could have avoided all these problems were we to take the simple approach of outlawing ''obscene'' child pornography of all types, which we do in one new provision that I suggested and which is the new Section 1466A established in the conference report. That approach would produce a law beyond any possible challenge. This approach is also supported by NCMEC, which we all respect as the true expert in this field.

Following is an excerpt from NCMEC's answer to written questions submitted after our hearing, which I will place in the RECORD in its entirety:

Our view is that the vast majority (99–100%) of all child pornography would be found to be obscene by most judges and juries, even under a standard of beyond a reasonable doubt in criminal cases. Even within the reasonable person under community standards model, it is highly unlikely that any community would not find child pornography obscene. . . .

In the post Free Speech decision legal climate, the prosecution of child pornography under an obscenity approach is a reasonable strategy and sound policy.

Thus, according to NCMEC, the approach that is least likely to raise constitutional questions—using established obscenity law—is also an effective one. In short, the obscenity approach is the most narrowly tailored to prevent child pornography. New section 1466A adopts this obscenity approach, but because that is not the approach that other parts of the PROTECT Act uses, I recognize that it contains provisions about which some may have legitimate constitutional questions.

Specifically, in addition to the provisions that I have already discussed, there were two amendments adopted in the Judiciary Committee in the last Congress and one in this Congress to which I objected that are included in the bill as we consider it today. I felt and still feel that these alterations from the original language that Senator HATCH and I introduced needlessly risk a serious constitutional challenge to a bill that provided prosecutors the tools they needed to do their jobs. The bill would be even stronger than it is now were they changed. Let me discuss my opposition to these changes adopted by the Judiciary Committee in this Congress and the last.

Although I worked with Senator HATCH to write the new pandering provision in the PROTECT Act, I did not support two of Senator HATCH's amendments extending the provision to cover (1) ''purported'' material, and (2) material not linked to obscenity. Although our bill, unlike the House bill which had a pandering provision with no link to obscenity at all, had at least one provision which covered predominantly unprotected speech, it was needlessly altered in the legislative process and made vulnerable to attack.

First, during our markup in the last Congress I objected to an amendment from Senator HATCH to include ''purported'' material in the pandering provision. ''Purported'' material criminalizes speech even when there is no underlying material at all—whether obscene or non-obscene, virtual or real, child or adult. The pandering provision is an important tool for prosecutors to punish true child pornographers who for some technical reason are beyond the reach of the normal child porn distribution or production statutes. It is not meant to federally criminalize talking dirty over the internet or the telephone when the person never possesses any material at all. That is speech, and criminalizing it goes too far.

The original pandering provision in S. 2520 as introduced last Congress was quite broad, and some argued that it presented constitutional problems as written, but I thought that prosecutors needed a strong tool, so I supported Senator HATCH on that provision.

I was heartened that Professor Schauer of Harvard, a noted first amendment expert, testified at our hearing last year that he thought that the original provision was constitutional, barely. Unfortunately, Professor Schauer has since written to me stating that this new amendment to include ''purported'' material ''would push well over the constitutional edge a provision that is now up against the edge, but probably barely on the constitutional side of it.'' I placed his letter in the RECORD upon introduction of the bill in this Congress on January 13, 2003.

The second amendment to the pandering provision to which I objected expanded it to cover cases not linked in any way to obscenity. It would allow prosecution of anyone who ''presented'' a movie that was intended to cause another person to believe that it included a minor engaging in sexually explicit conduct, whether or not it was obscene and whether or not any real child was involved. Any person or movie theater that presented films like Traffic, Romeo and Juliet, and American Beauty would be guilty of a felony. The very point of these dramatic works is to cause a person to believe that something is true when in fact it is not. These were precisely the overbreadth concerns that led 7 justices of the Supreme Court to strike down parts of the 1996 Act. We do not want to put child porn convictions on hold while we wait another 6 years to see if the law will survive constitutional scrutiny.

Because these two changes endanger the entire pandering provision, because they are unwise, and because that section is already strong enough to prosecute those who peddle child pornography, I opposed those expansions of the provision which are in the bill we consider today. At least with those provisions, however, we debated and carefully considered alternatives. As I have said, with respect to other provisions in the bill the process has been fundamentally flawed.

Although I joined Senator HATCH in introducing this bill, even when it was introduced last year I expressed concern over certain provisions. One such provision was a new definition of ''identifiable minor.'' When the bill was introduced, I noted that this provision might both confuse the statute unnecessarily and endanger the already upheld ''morphing'' section of the CPPA. I said I was concerned that it could present both overbreadth and vagueness problems in a later constitutional challenge. Unfortunately, this provision remains problematic and susceptible to constitutional challenge. I was even more concerned with the House bill, which included 100 percent virtual child pornography from the start.

Unfortunately, as we consider the bill today, we have the House provision designed to cover ''virtual'' child pornography—that is, 100 percent computer generated pictures not involving any real children.

The ''identifiable minor'' provision in the current law may be used without

any link to obscenity doctrine. Therefore, what potentially saved the original version we introduced in the 107th Congress was that it applied to child porn made with real persons. The provision was designed to cover all sorts of images of real kids that are morphed or altered, but not something entirely made by computer, with no child involved.

The provision we now consider, however, dislodges, in my view, that sole constitutional anchor. The new provision could be read to include images that never involved real children at all but were 100 percent computer generated. That was not the original goal of the Senate provision.

There are other provisions in this bill that deal with obscene virtual child pornography that I support, such as those in new section 1466A, which are linked to obscenity doctrine. This provision, however, was intended to ease the prosecutor's burden in cases where images of real children were cleverly altered to avoid prosecution. By changing the Senate's identifiable minor provision into the House's virtual porn provision, the conference needlessly endangered its constitutionality.

For these reasons, I was glad to work in a bipartisan manner to shore up this provision in conference. Unfortunately, despite our best efforts, I fear we did not do everything possible to strengthen it against constitutional attack. Let me explain.

The new ''virtual'' porn provision in section 502 lumps together such truly ''hard core'' sexual activities such as intercourse, bestiality, and S&M with simple lascivious exhibition of the genitals and simulated intercourse where any part of a breast is shown. Equating such disparate types of conduct, however, does not mesh with community standards and is precisely the type of ''one size fits all'' approach that the Supreme Court rejected in the area of virtual pornography in the Free Speech case. The contrast between this broad definition and the tighter definition in new Section 1466A, crafted by Senator HATCH and myself, is striking. Although I was glad that we included the same definition of ''graphic'' conduct found in new section 502 as in Section 1466A, we have also left intact the less focused language that imperils the bill. The provision may be open to overbreadth attacks.

I am pleased that the conference addressed the vagueness concern in the new statute 2256(2) as it applies in virtual cases. By removing the requirement of ''actual'' conduct, we corrected the vagueness issue and have prevented clever defendants from seeking to argue that this new provision still requires proof ''actual'' sexual acts involving real children.

The Supreme Court made it clear that we can only outlaw child pornography in two situations: No. 1, where it is obscene, or No. 2, where it involves real kids. That is the law as stated by the Supreme Court, whether or not we agree with it.

Senator HATCH and I agree that legislation in this area is important. But regardless of our personal views, any law must be within constitutional limits or it does no good at all. Section 502, which would include most ''virtual'' child pornography in the definition of child pornography, in my view, crosses the constitutional line and needlessly risks protracted litigation that could assist child pornographers in escaping punishment.

I supported passage of the original PROTECT Act as Senator HATCH and I introduced it and as it passed the Senate unanimously in the last Congress. Even so, I was willing to work with him to further amend the bill in the Judiciary Committee. Some amendments that we considered in committee I supported because they improved the bill. Others went too far. I had hoped the House would simply adopt the unanimously passed Senate bill and we would have already had a law on the books. Unfortunately, the House chose to proceed otherwise. Nevertheless I continued to work side by side with Republicans in conference to work through a variety of controversial and largely unrelated provisions. I wish I could say that my efforts have been reciprocated. One wonders whether everyone is placing the interests of our children first.

A media report on this legislation at the end of the last Congress reported the wide consensus that the Hatch-Leahy bill was more likely than the House bill to withstand scrutiny, but quoted a Republican House member as stating: ''Even if it comes back to Congress three times we will have created better legislation.''

To me, that makes no sense. Why not create the ''better legislation'' right now for today's children, instead of inviting more years of litigation and putting at risk any convictions obtained in the interim period before the Supreme Court again reviews the constitutionality of Congress' effort to address this serious problem? That is what the Senate passed version of the PROTECT Act sought to accomplish.

As I have explained, I believe that this issue is so important that I have been willing to compromise and to support a measure even though I do not agree with each and every provision that it contains. That is how legislation is normally passed. I am disappointed that the Administration and the House decided to play politics with this issue and add controversial positions that could bog the bill down.

There are a few additional measures in the conference report that I want to mention. First, Section 604 of the conference report, which was proposed by Senator GRASSLEY, amends Section 170101(e) of the Violent Crime Control and Law Enforcement Act of 1994. That section would amend several provisions of the sexual registry established under that law. First, it would add additional crimes to those that are included in the registry. Second, it would require that such registries be made available over the Internet. Finally, and quite significantly, this provision would not only require a ''process'' be established for contesting the accuracy of any information on the registry, but would also require that the instructions for following that process be readily available on the Internet. For the first time, then, we are explicitly requiring that there is a mechanism for those who believe that information has been erroneously posted on the registry to challenge that information and seek to have it removed.

Second, I want to thank the conferees for supporting measures included in the Protecting Our Children First Act, S. 773, a bipartisan bill that I introduced in both this Congress and the last, joined by Senators HATCH, KENNEDY, DEWINE, BIDEN, SHELBY, LINCOLN, and REID, to reauthorize the National Center for Missing and Exploited Children. As the nation's top resource center for child protection, NCMEC spearheads national efforts to locate and recover missing children and raises public awareness about ways to prevent child abduction, molestation, and sexual exploitation. NCMEC works to make our children safer by being a national voice and advocate for those too young to vote or speak up for their own rights.

We had proposed reauthorization through 2007 but have at least achieved agreement to extend its activities through 2005. We were able to double the grants from $10 million to $20 million a year so that the National Center can help more children and families. We also authorize the U.S. Secret Service to provide forensic and investigative assistance to the National Center, and we strengthen NCMEC's Cyber Tipline to provide online users an effective means of reporting Internet-related child sexual exploitation in distribution of child pornography, online enticement of children for sexual acts, and child prostitution.

Third, I am pleased that conferees agreed to include in the conference report Leahy-Kennedy-Biden legislation that will establish a transitional housing grant program within the Department of Justice to provide to victims of domestic violence, stalking, or sexual assault the necessary means to escape the cycle of violence.

Today, more than 50 percent of homeless individuals are women and children fleeing domestic violence. They are homeless because, in their desperate attempt to leave their abusers, they find themselves with few, if any, funds to support themselves. Shelters offer a short-term solution, but are often overcrowded and unable to provide all of the support that is needed. Transitional housing allows women to bridge the gap between escaping from a domestic violence situation and becoming fully self-sufficient. Such assistance is limited, however, because no federal funds exist for transitional housing programs geared specifically

to victims of domestic violence. We last authorized such a transitional housing grant program as part of the reauthorization of the Violence Against Women Act in 2000. This program would have been administered through the Department of Health and Human Services and would have provided $25 million in fiscal year 2001. Unfortunately, funds were never appropriated for the program, and the authorization expired.

If we truly seek an end to domestic violence, then transitional housing must be available to all those fleeing their abusers. First of all, such housing provides women and children a stable, sustainable home base. Second, it gives these victims opportunity to participate in educational programs, to work full-time jobs, to learn new job skills, and to search for adequate child care in order to gain self-sufficiency. Without such resources, many women and children eventually return to situations where they are abused or even killed.

This conference report amends the Violence Against Women Act of 1994 to authorize $30 million for each of fiscal years 2004–2008 for the Attorney General to award grants to organizations, States, units of local government, and Indian tribes to help victims of domestic violence, stalking, or sexual assault who need transitional housing or related assistance as a result of fleeing their abusers, and for whom emergency shelter services or other crisis intervention services are unavailable or insufficient. Funds may be used for programs that provide short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses. The funds may also support services designed to help individuals locate and secure permanent housing. Lastly, these resources may be used to help integrate domestic violence victims into the community by providing services, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.

This new grant program will make a significant impact in many areas of the country, such as my State of Vermont, where the availability of affordable housing is at an all-time low. There are many dedicated people working to provide victims of domestic violence with resources, but they can not work alone. We must provide women and children who have endured domestic violence with a safe place to gain the skills and stability needed to make the transition to independence. I thank the conferees for adding this language to the conference report and recognizing that this is an important component of reducing and preventing crimes that take place in domestic situations. Together, we can help the victims of these crimes to move on with their lives.

Fourth, I am pleased that the conference report includes a provision that I introduced in the last Congress to clarify that an airplane is a vehicle for purposes of terrorist and other violent acts against mass transportation systems. A significant question about this point was raised in an important criminal case and deserves our prompt attention.

On June 11, 2002, a U.S. District Judge in Boston dismissed one of the nine charges against Richard Reid stemming from his alleged attempt to detonate an explosive device in his shoe while onboard an international flight from Paris to Miami on December 22, 2001. The dismissed count charged defendant Reid with violating section 1993 of title 18, United States Code, by attempting to ''wreck, set fire to, and disable a mass transportation vehicle.''

Section 1993 is a new criminal law that was added, as section 801, to the USA PATRIOT Act to punish terrorist attacks and other acts of violence against, inter alia, a ''mass transportation'' vehicle or ferry, or against a passenger or employee of a mass transportation provider. I had urged that this provision be included in the final anti-terrorism law considered by the Congress. A similar provision was originally part of S. 2783, the ''21st Century Law Enforcement and Public Safety Act,'' that I introduced in the 106th Congress at the request of the Clinton Administration.

The district court rejected defendant Reid's arguments to dismiss the section 1993 charge on grounds that one, the penalty provision does not apply to an ''attempt'' and two, an airplane is not engaged in ''mass transportation.'' ''Mass transportation'' is defined in section 1993 by reference to the ''the meaning given to that term in section 5302(a)(7) of title 49, U.S.C., except that the term shall include schoolbus, charter and sightseeing transportation.'' Section 5302(a)(7), in turn, provides the following definition: ''mass transportation'' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter or sightseeing transportation.'' The court explained that ''commercial aircraft transport large numbers of people every day'' and that the definition of ''mass transportation'' ''when read in an ordinary or natural way, encompasses aircraft of the kind at issue here.'' U.S. v. Reid, CR No. 02–10013, at p. 10, 12 (D. MA, June 11, 2002).

Defendant Reid also argued that the section 1993 charge should be dismissed because an airplane is not a ''vehicle.'' The court agreed, citing the fact that the term ''vehicle'' is not defined in section 1993 and that the Dictionary Act, 1 U.S.C. §4, narrowly defines ''vehicle'' to include ''every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land.'' Emphasis in original opinion. Notwithstanding common parlance and other court decisions that have interpreted this Dictionary Act definition to encompass aircraft, the district court relied on the narrow definition to conclude that an aircraft is not a ''vehicle'' within the meaning of section 1993.

The new section 1993 was intended to provide broad Federal criminal jurisdiction over terrorist and violent acts against all mass transportation systems, including bus services, airplanes, railroads and other forms of transportation available for public carriage. The more inclusive definition would also cover cruise ships. Unfortunately terrorist attacks against Americans is not a new threat. In 1985, four terrorists brutally attacked the *Achille Lauro* Cruise Ship. The wheelchair-bound Leon Klinghoffer, a stroke victim, was shot once in the head and once in the back by the terrorists who then pushed him over the side of the ship into the Mediterranean.

Section 609 of the conference report adds a definition of ''vehicle'' to 18 USC 1993 and clarifies the breadth of the meaning of this term both in common parlance and under this new criminal law to protect mass transportation systems. Specifically, it defines this term to mean ''any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air.''

Having reviewed all the positive elements of the conference report, I want to speak to the conference process itself. I am deeply disappointed by the process that characterized Tuesday's AMBER Alert and PROTECT Act conference. By taking bipartisan, noncontroversial bills and adding numerous controversial, unrelated measures, the Republicans have decided yet again to play games with important measures to protect our children. They are rolling the dice with the safety of America's children. I do not say this lightly, and I say it with a heavy heart, but House and Senate Republicans are now holding the passage of AMBER and the PROTECT Act hostage to these very troubling additions.

With respect to new matters never considered by this body, the conference committee in this matter tried no less a feat than to rewrite the criminal code on the back of an envelope. That type of effort is unwise and doomed to failure.

There are many things in this bill that I support—indeed as a former prosecutor I brought my personal experiences to bear and I wrote much of it. That is why even after the House Republicans loaded the bill with numerous controversial, unrelated provisions, I worked in good faith to come to agreement on many provisions. In fact, staff members of the conferees met all through the weekend and late into the early hours of Tuesday morning to find common ground. It is unfortunate that our good faith was repaid with attempts to add even more extraneous controversial provisions at the conference meeting.

Tuesday's conference, which was convened in the spirit of bipartisan cooperation, turned political, however,

when Republicans sprung a lengthy and complex amendment on the Democrats. This 9-page document was not a simple substitute for a portion of the bill. It was a highly complex amendment requiring careful consideration. The sponsors denied a request to break briefly in order to give conferees a moment to analyze the document. After meeting for three days in good faith, the Democratic conferees were effectively slapped in the face with a totally new proposal. Then, to add insult to injury, the sponsors of the amendment misrepresented its contents in the conference meeting and quickly forced a vote before the conferees had a chance to review or debate the amendment.

I was sorely disappointed by the way that this amendment was explained to the conferees. One sponsor said not once or twice, but three separate times: ''It's important to note that the compromise is limited to these serious crimes against children and sex crimes and does not broadly apply to other crimes.'' In fact, the amendment was not limited as he described, and did apply broadly to downward departures in sentencing for all Federal crimes.

After the conferees were forced to vote on the Hatch-Sensenbrenner amendment, Senator HATCH's office, at 2:00 a.m., substantially changed the text of his own amendment—the amendment that had already been voted upon in open conference. With no new meeting and no new vote of the conferees, the Republicans changed the conference report as it was voted on, and filed it in the House. The 2:00 a.m. text came closer to reflecting the original description of the amendment, but was still not limited, as was promised, to crimes against children.

The substance of the Hatch-Sensenbrenner amendment—whether in the form that was voted on in conference, or in the form that was circulated after the conference adjourned—is just as outrageous as the way in which it was adopted. This amendment modifies in very limited ways the Feeney amendment, which was added to the bill on the House floor after only 20 minutes of debate. This far-reaching proposal will undermine the Federal sentencing system and prevent judges from imposing just and responsible sentences. In short, it amounts to an attack on the Federal judiciary.

Speaking about the original Feeney amendment, Chief Justice Rehnquist wrote: ''this legislation, if enacted, would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences.'' In another bald mischaracterization of the Hatch-Sensenbrenner amendment, Senator HATCH claimed in the conference meeting that he had addressed the Chief Justice's concerns. He said, ''Chief Justice Rehnquist is worried about the breadth and scope of the Feeney Amendment. He's not worried about this [language]. I don't think any federal judge would worry about this language. They know this language is to protect our children in our society, and we're limiting it to that.'' In fact, the Hatch-Sensenbrenner amendment does not address the problems raised in Chief Justice Rehnquist's letter, which were directed at the assault on the sentencing structure that is retained in the amendment.

In addition to the Chief Justice of the United States, this is an issue on which we have heard from the Judicial Conference, other distinguished judges, the Sentencing Commission, the former chairmen of the Sentencing Commission, the American Bar Association, the Washington Legal Foundation, the Leadership Conference on Civil Rights, the Cato Institute, the National Petroleum Refiners Association and a number of other business associations, all of which opposed the House language.

Just this week, Justice Kennedy voiced grave concerns over the excessive application of mandatory minimum sentences. He said, ''When the guilt determination phase and the sentencing is over,'' Kennedy said, ''the legal system loses all interest in the prisoner. And this must change. Winston Churchill said a society is measured by how it treats the least deserving of its people. And two million people in prison in this country is just unacceptable.''

A number of the groups opposed to the original proposal have expressed continued opposition. Others have not had time to write about the new version because this proposal is being rushed through the legislative process.

The language that was adopted in the conference report establishes new and separate departure procedures for child-related and sex offenses. So, we will have one set of sentencing rules for pornographers and a more flexible set of sentencing rules for other Federal defendants, including terrorists, murderers, mobsters, civil rights violators, and white collar criminals. No one here believes that sex offenders deserve anything less than harsh sentences, but I cannot understand why we would treat the terrorists better.

The conference report also overturns a unanimous Supreme Court decision, Koon v. United States, by establishing a new standard of appellate review in all departure cases. This provision, like so many others, is not limited to cases involving children. The Court in Koon interpreted the departure standard in a way that limited departures but left some room for judicial discretion. By contrast, the new provision would appear to require appellate courts to consider the merits of a departure before it can decide what standard of review to apply to the merits. That is because, in order to determine which standard of review applies—''due deference'' or ''de novo''—the appellate court must first decide whether the departure advances the objectives of 18 USC 3553(a)(2) (incapacitation, deterrence, etc.) or is authorized under 18 USC 3553(b) (a mitigating circumstance of a kind, or to a degree, not adequately considered by the Sentencing Commission) or is justified by the facts of the case. This sloppily drafted, circular provision is likely to tie up the courts in endless litigation, draining already scarce judicial resources, and costing the taxpayers money.

The Republican supporters of this amendment seem to believe that our Federal judges cannot be trusted. I have always advocated doing a thorough review of our Federal judge nominees when they come before the Senate for lifetime appointments. Perhaps that is the difference between my view of Federal judges and those of my colleagues across the aisle who seem to believe they should rubber stamp the President's nominees to these lifetime positions. I believe we should pick our Federal judges carefully and them trust them once appointed, not rubber-stamp them and then feign disbelief when we are unhappy with their decisions.

The amendment effectively creates a judicial ''black list'' of judges that stray from the draconian mandates of this bill. The Hatch-Sensenbrenner language retains the Feeney amendment's attempt to intimidate Federal judges by compiling a ''hit list'' of all judges who impose sentences that the Justice Department does not like in any type of criminal case. It takes a sledge hammer to the concept of separation of powers.

In a further demonstration of hostility to our Federal judiciary as envisioned by our constitution, the Hatch-Sensenbrenner amendment removes almost all discretion for Federal judges to depart from the sentencing guidelines in some extraordinary cases.

At the conference's one meeting, during the brief period afforded for debate on the Hatch-Sensenbrenner amendment, I pointed out that the amendment retained language from the original Feeney amendment that eliminated the ability of Federal judges to depart and give lower sentences based upon extraordinary military service.

The sponsors of the amendment dismissed my concern. They said that I was wrong—that their amendment did not eliminate the departure for extraordinary military service. They were both quite certain on this point, even after I raised it a second time. One sponsor said, ''I don't know where you're getting your language from.'' Another assured us that ''this nine-page amendment has been very well drafted . . . It does exactly what we have said.''

After the conference had adjourned and they took the time to familiarize themselves with their own amendment, they discovered that I was correct. They were, in fact, eliminating the departure for extraordinary military service in all Federal criminal cases—for congressional medal of honor winners, for example, and veterans who

had been seriously wounded while defending their nation in battle. What is worse, they were doing this during a time of war, when future veterans are literally risking their lives for America. Realizing that this might not go down well on the floor of the United States Senate, they quietly dropped the provision from the final conference report.

I have discussed this issue at some length not to embarrass any member or his staff, but to make the point that Congress should spend more than a few minutes considering legislation with such far-reaching consequences. The conference report blithely overturns the basic structure of the carefully crafted guidelines system without any serious process in either the House or the Senate, and without any meaningful input from judges and practitioners.

With respect to the few parts of the Hatch-Sensenbrenner amendment that are limited to crimes against children, it may not be the end of the guidelines system, but it is very likely the beginning of the end. Once we prohibit judges from exercising discretion in one set of cases, we will have established a prototype for future attacks on the guidelines system—a form of ''mission creep'' in this uncompromising, anti-judge agenda. The same ''tough on crime'' political posturing that fuels the relentless drive for more mandatory minimums and death penalties will lead to future expansions of the Hatch-Sensenbrenner amendment to crimes having nothing to do with minors.

My Republican colleagues on the conference claim that there is a crisis on the Federal bench of downward departures in sentencing. In fact, downward departure rates are well below the range contemplated by Congress when it authorized the Sentencing Guidelines, except for departures requested by the government.

The overwhelming majority of downward departures are requested by Federal prosecutors to reward cooperation by defendants or to manage the high volume of immigration cases in certain border districts. When the government does not like a specific downward departure, it can appeal that decision, and it often wins—approximately 80 percent of such appeals are successful. This amendment is a solution in search of a problem.

Rather than rush to change the law with no factual basis for doing so, the Democrats in this conference asked for hearings on the topic. In fact, Senator GRAHAM, the new chairman of the newly constituted Crime, Corrections and Victims' Rights Subcommittee indicated that he planned to hold hearings on this topic very soon—that is, until the Feeney amendment and the subsequent Hatch-Sesenbrenner amendment overtook events. The Republican conferees now claim that no study is necessary. They believe that no hearings are necessary. They would rather significantly increase incarceration rates at taxpayer expense than take the time to determine whether such severe changes are necessary or appropriate.

The Hatch-Sensenbrenner amendment not only maintains the worst aspects of the controversial Feeney Amendment—provisions that have nothing to do with child protection—but also adds in new provisions that were not in the original Feeney amendment. For example, it limits the number of Federal judges who can serve on the Sentencing Commission because, as Chairman SENSENBRENNER explained, ''we don't want to have the Commission packed with Federal judges that have a genetic predisposition to hate any kind of sentencing guidelines.'' I, for one, believe that judges are extremely valuable members of the Commission. They bring years of highly relevant experience, not to mention reasoned judgment, to the table. The Republicans apparently believe that their knowledge is of limited value.

I find it ironic that the Republicans, in forcing through this measure, will undercut one of the signature achievements of Ronald Reagan's Presidency—a firm, tough, fair system of sentencing in the Federal criminal justice system. The Sentencing Reform Act of 1984 struck a balance between uniformity and judicial discretion and was enacted after years of study and consideration of the problems in the previous sentencing system. Congress understood that a guidelines system that encompasses every relevant sentencing factor is neither possible nor desirable. Departures, both upward and downward, are an integral and healthy part of the guideline system. They do not reflect an avoidance of the law by Federal judges but rather their conscientious compliance with the congressional mandate to impose a guideline sentence unless the court finds a circumstance not adequately considered by the Commission that warrants a departure.

Moving beyond the sentencing amendments offered at the conference, there are several provisions of the conference report that are equally problematic.

Section 106 of the conference report, entitled ''two strikes and you're out,'' is one of the many controversial provisions in the House-passed bill that have never been considered in the Senate. It mandates life imprisonment without parole for defendants who have twice been convicted of certain crimes against children.

Another section of the conference report creates several new mandatory minimum sentences, and raises some existing ones, for crimes involving child pornography and prostitution.

We can all agree that those who commit crimes against children should be severely punished. In fact, the bill that Senator HATCH and I authored—the real PROTECT Act, which is buried in title V of the conference report—contains a number of very strong sentencing provisions. But I believe we can accomplish our common goal of ensuring that those who prey on children receive tough punishment without further expanding the mandatory sentencing scheme that is gradually replacing the guidelines system.

The arguments against mandatory minimums are well known. The Chief Justice of the United States has observed that mandatory minimum sentences ''frustrate the careful calibration of sentences, from one end of the spectrum to the other, which the Sentencing Guidelines were intended to accomplish.'' Another conservative member of the Court, Justice Kennedy, testified before a House subcommittee in 1994 that mandatory minimums were ''imprudent, unwise, and often an unjust mechanism for sentencing.'' As I mentioned previously, Justice Kennedy reiterated that thought just this week, before another House committee. Justice Breyer, who served on the original Sentencing Commission, has written that mandatory minimums prevent the Commission from developing a rational, coherent, and fair set of punishments. Most judges in the Federal system, Republicans and Democrats alike, agree with these criticisms.

Senator HATCH has also expressed reservations about statutory mandatory sentences. In a 1993 law review article, Senator HATCH observed that mandatory minimums are fundamentally inconsistent with the guidelines system. He wrote:

> Whereas the guidelines permit a degree of individualization in determining the appropriate sentence, mandatory minimums employ a relatively narrow approach under which the same sentence may be mandated for widely divergent cases. Whereas the guidelines provide for graduated increases in sentence severity for additional wrongdoing or for prior convictions, mandatory minimums often result in sharp variations in sentences based on what are often only minimal differences in criminal conduct or prior record. Finally, whereas the guidelines incorporate a ''real offense'' approach to sentencing, mandatory minimums are basically a ''charge-specific'' approach wherein the sentence is triggered only if the prosecutor chooses to charge the defendant with a certain offense or to allege certain facts.

Senator HATCH concluded that Congress should make greater use of the various alternative sentencing methods proposed by the Commission, including increased statutory maximums.

I am disappointed that Congress is poised, once again, to demonstrate that we are ''tough on crime'' by enacting new mandatory minimum sentences. That being said, I am pleased that the conference accepted my proposals to modify the two strikes provision to eliminate its harshest and most disproportionate applications. Among other things, the conference clarified that the ''two strikes'' law would not apply to a defendant whose only prior sex conviction was a misdemeanor under state law. The conference also provided a limited affirmative defense for defendants convicted under certain Federal statutes that have less culpable applications. Congress provided a

similar defense in the three strikes law, and it is appropriate that we included one here as well.

We should also have included in the two strikes provision a carve-out for Indian country. Unfortunately, the conference refused in a party line vote to allow Indian nations to decide for themselves whether or not to be part of the new two strikes regime.

There is no question that the two strikes law will disproportionately affect Indian country. Sentencing Commission data indicates that approximately 75 percent of cases to which the two strikes provision will be applied will involve Native Americans on reservations. Thus, the two strikes provision will have the effect of singling out Native Americans for harsher treatment.

Congress has confronted this problem before, when passing various criminal laws with particularly harsh sentences. In those situations, we have allowed the tribes to decide whether they want to be covered. The amendment that I offered, and that the Republican conferees rejected, was identical to provisions for Indian Country in current criminal statutes such as the ''three strikes'' law, the juvenile delinquency statute, and the Federal death penalty statute. These provisions preserve the sovereignty of the Indian tribes by providing their governing bodies with authority to control the laws affecting their land and people. For Congress to treat the ''two strikes'' provision differently is simply wrong.

Another provision of the conference report dealing with statutes of limitations raises concerns about the message we are sending to law enforcement. Section 202 extends the statute of limitations for certain crimes against children. This provision is substantially narrower than the version passed by the House, which covered a laundry list of crimes having nothing at all to do with children.

The purpose of section 202 is to address the problem—highlighted in several recent cases—of child victims who fail to notify authorities that they have been victimized until years and even decades after the event. Current law deals with this problem by allowing prosecution of certain offenses involving the abuse of a child until the child turns 25. Section 202 goes further, extending the limitations period for the entire life of the child.

During the conference, I expressed concern that section 202's lifetime extension of the limitations period would reduce law enforcement's incentive to move quickly and aggressively to solve these very serious crimes. I therefore proposed a modification along the lines that Congress adopted last year in the context of corporate fraud. More specifically, I proposed that a 3 or 5 year limitations period should exist, and start to run, once the facts constituting the offense were known, or reasonably should have been known, by Federal law enforcement authorities. This modification would have benefitted victims by requiring authorities to focus on their case, and to take immediate steps to bring the perpetrator to justice, as soon as the crime was brought to their attention. Senate Republicans fought for similar language in the Sarbanes-Oxley bill. Their opposition to it outside the context of corporate crime suggests a troubling double standard.

A final point on section 202: I am pleased that the conference agreed to drop language from the original House-passed bill that would have extended the limitations period retroactively. That language, which would have revived the government's authority to prosecute crimes that were previously time-barred, is of doubtful constitutionality. We are already pushing the constitutional envelope with respect to several of the ''virtual porn'' provisions in this bill. I am pleased that we are not doing so in section 202 as well.

The next section of the conference report is another example of hastily drafted language that has not been vetted thoroughly by either house of Congress. Section 203 adds certain crimes against children to the list of offenses that carry a rebuttable presumption against pre-trial release. Like the other provisions in titles I and II, this section has never been considered by the Senate, and received only the most cursory consideration by the House.

I have two problems with this provision. First, as with sentencing determinations, I believe that judges, not Congress, should determine who gets bail. Clearly, judges are in the better position to determine whether, for public safety reasons, an accused offender should be detained.

Second, I am concerned that the complete absence of legislative findings supporting the new presumption could imperil its constitutionality under the Excessive Bail Clause. At a minimum, it could give defendants a good argument that the presumption should be overcome more easily than the authors of this provision perhaps intended. That is what happens when we do not take the time to do things the right way.

For the same reason, I am troubled by section 521 of the conference report, which makes it a crime to use a ''misleading'' domain name with the intent to deceive a person into viewing obscenity on the Internet, or with the intent to deceive a minor into viewing ''material that is harmful to minors'' on the Internet. This provision is similar to section 108 of the House-passed bill, which was added as a floor amendment with no prior consideration in either body.

I have serious doubts about whether section 521 will survive constitutional challenge. For one thing, its failure to define the term ''misleading'' may unduly chill constitutionally-protected speech. For example, it is unclear whether a website like ''northernlights.com'' would be considered ''misleading'' if it contains images of naked persons that are deemed harmful to minors.

Section 521 does create a ''safe harbor'' for those who include the word ''porn'' or ''sex'' in their Internet domain name. This form of mandatory labeling of the site of a mainstream business, which includes material constitutionally protected as to adults, but which may be deemed inappropriate for some level of minors, also raises constitutional concerns. In addition, labeling domain names in this manner could turn sites into attractive nuisances, drawing more childrens' eyes to the site and thus having the opposite of its intended effect.

My uncertainty about the constitutionality of this provision is, of course, compounded by the fact that there is virtually no legislative record on it. It has never been introduced in the Senate, and received a grand total of 10 minutes of debate before being passed as a floor amendment in the House. And in case any judge is reading this and wondering, there was no discussion of this provision during the one afternoon that the conference committee actually met.

In recent years, Congress's efforts to regulate protected speech on the Internet have not fared well in the Supreme Court, which takes its responsibility to uphold the first amendment a bit more seriously than some of my Republican colleagues. It would not surprise me if the Court was especially dismissive of this current effort.

I am also concerned about the inclusion of the Illicit Drug Anti-Proliferation Act in this conference report. This bill has drawn serious grass-roots opposition, and I know that I am not alone in hearing from many constituents about their serious and well-considered objections to it. Despite this opposition, and even though the Senate has never held a hearing on this bill, the conference committee agreed to include it in this hastily-assembled package.

I know that Senator BIDEN has made changes to the bill since the last Congress, beginning with its title, and I appreciate his flexibility. But these changes do not address some of the questions that have been raised about this legislation.

The bill's primary purpose is to expand the existing ''crack house statute,'' (21 USC 856) which makes it unlawful to knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance, or to make a place available to someone else for use for such purposes or for storing a controlled substance. The bill would expand the statute to include those who lease, rent, or use property, including temporary occupants, and would allow for civil suits against violators.

The crack house statute has been on the books for more than 15 years, and for most of its existence, Federal prosecutors have used it solely against

property owners who have been directly involved in committing drug offenses. The House Judiciary Committee, however, heard evidence last year that the Drug Enforcement Administration and prosecutors are now using the ''crack house statute'' to pursue even business owners who take serious precautions to avoid drug use at their events. Business owners have come to Congress and told us there are only so many steps they can take to prevent any of the thousands of people who may attend a concert or a rave from using drugs, and they are worried about being held personally accountable for the illegal acts of others. Those concerns may well be overstated, but they deserve a fuller hearing.

In addition, the provision allowing civil suits dramatically increases the potential liability of business owners. Of course, this is a good thing when applied against those who are knowingly profiting from illegal drug use. But we have been told that even conscientious promoters may think twice before holding large concerts or other events where some drug use may be inevitable despite their best efforts. I do not know enough to know whether that claim is exaggerated, but I think we would have been well-served by making a greater effort to find out.

Finally, I want to speak on a very important piece of legislation that I attempted to add in conference. I am deeply disappointed that the Republican House and Senate conferees refused to include in the conference agreement the ''Hometown Heroes Survivors Benefits Act of 2003,'' tri-partisan legislation that I introduced earlier this year with ten cosponsors, including the lead Republican cosponsor Senator GRAHAM of South Carolina, who served as a member of this conference. This legislation would improve the Department of Justice's Public Safety Officers' Benefits (PSOB) program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for Federal survivor benefits.

Every year, hundreds of public safety officers nationwide lose their lives and thousands more are injured while performing duties that subject them to great physical risks. While we know that PSOB benefits can never be a substitute for the loss of a loved one, the families of all our fallen heroes deserve our support for making the ultimate sacrifice.

The PSOB Program currently provides a one-time financial benefits payment to the families of law enforcement officers, firemen, emergency response squad members, and ambulance crew members who are killed in the line of duty. Unfortunately, PSOB guidelines do not allow survivors of public safety officer who die of a heart attack or stroke while acting in the line of duty to collect those benefits, ignoring the fact that service-connected heart conditions are silent killers of public safety officers nationwide.

I sought to include our tri-partisan bill in the conference report to fix the loophole in the PSOB program. This language would ensure that the survivors of public safety officers who die of heart attacks or strokes in the line of duty or within 24 hours of a triggering incident while on duty—regardless of whether a traumatic injury is present at the time of the heart attack or stroke—are eligible to receive financial assistance. Representative ETHERIDGE and I introduced identical versions of this legislation last Congress, and the House bill passed that body, but an anonymous Republican hold in the Senate killed it.

I am saddened that the House and Republican conferees voted to strike Hometown Heroes from consideration by the conference. They squandered a chance to pass legislation to support our first responders and their families by striking it in a strict party line vote.

Public safety is dangerous, exhausting, and stressful work. A first responder's chances of suffering a heart attack or stroke greatly increase when he or she puts on heavy equipment and rushes into a burning building to fight a fire and save lives. The families of these brave public servants deserve to participate in the PSOB Program if their loved ones die of a heart attack or other cardiac-related ailment while selflessly protecting us from harm.

It is time for both the Senate and House to show their support and appreciation for these extraordinarily brave and heroic public safety officers by passing the Hometown Heroes Survivors Benefit Act.

Mr. President, I would like to take a moment to thank my staff for all their hard work on these provisions to protect our nation's children. I want to recognize Julie Katzman, Steve Dettelbach, Tara Magner, Ed Pagano, Phil Toomijian, Jessica Berry, Tim Lynch and Marguererite McConihe for their dedication to these important measures. Their diligence and professionalism do credit to this body.

I also wish to recognize the staff of the other Senate conferees for their hard work, including Robin Toone, Neil MacBride, Tonya Robinson, Eric Rosen, Chad Groover, Mike Volkov, Reed O'Connor, Wan Kim, James Galyean, and William Smith.

Finally, I wish to thank the staffs of the Democratic House conferees, including Perry Apelbaum, Bobby Vassar, Greg Branes, Ted Kalo, as well as Chairman SENSENBRENNER's professional staff, especially Will Moschella, Phil Kiko, Beth Sokul, Sean McLaughlin and Jay Apperson.

Mr. GRASSLEY. Mr. President, I rise today in support of the conference report on the PROTECT Act, S. 151. As a conferee on that Conference Committee, I proudly support this important bill. It is undoubtedly, one of the most significant and comprehensive pieces of legislation ever drafted to protect children. By marrying the AMBER alert bill with the Senate's PROTECT Act, and the House's Child Abduction Prevention Act, we will be ensuring a greater measure of protection for our children and greatly impacting their safety.

I am proud to have been a cosponsor of the Senate's version of the PROTECT Act. This portion of the conference bill does many important things. Because of advances in modern technology, prosecutors and experts are finding it more and more difficult to determine which images of child pornography are of real children and which are computer generated. This makes it very difficult to prove that an image is of a real child in a criminal case. To solve this problem, the bill makes it illegal to possess any material that contains a visual image of a minor engaging in sexually explicit conduct. Because child pornography, including morphed child pornography, is used to seduce children, the bill also makes it illegal to try to induce a child, through any means, including by computer, to participate in any activity that is illegal. The bill also makes any identifying information of a child, with the exception of age, inadmissible evidence in a court of law. Finally, to combat a grave problem that is growing worse daily, the bill requires the Attorney General to appoint 25 additional trial attorneys that would focus on the investigating and prosecuting Federal child pornography and obscenity laws.

Another important inclusion in this bill is the Public Outreach Title, which deals with the AMBER alert and the National Center for Missing and Exploited Children. The Senate Judiciary Committee heard very poignant testimony about how the AMBER alert, had it been available, could have been used to save young children, like Polly Klaas. We also heard testimony of how the California AMBER alert was successfully used to find two Lancaster teenagers, last summer. That hearing built a good record for why we need a nationally coordinated AMBER alert communications network. Additionally, the Public Outreach Title increase the support for the National Center for Missing and Exploited Children; gives the US Secret Service the authority to render investigative and forensic support to missing children; and creates a cyber tipline. This title will greatly enhance the ability of law enforcement to find our Nation's missing children.

While the bill makes significant progress in strengthening Federal child pornography laws and in enhancing public outreach, so that missing and exploited children can be recovered, the bill also includes the Houses' tough on crime penalties for Federal sex offenses. The bill increases penalties for crimes like kidnaping, sex tourism, child abuse, and child torture. It also includes a ''two-strikes'' provision that would establish a mandatory life sentence for twice convicted sex offenders.

This one provision alone will help keep some of the worst violent child molesters off the streets and out of the exploitation business. The bill also includes new rules for supervised release of sex offenders, so that criminals with deep-seated aberrant sexual tendencies will not just be released to the public without some measure of protecting the public once the criminal is let out of prison. Additionally, the bill removes the statute of limitations for sex crimes against minors. This provision will be particularly helpful in cases where there is old DNA evidence, but still no suspect. It is my hope that these new sanctions will have a tremendous deterrent impact, and when taken all together they will provide for greater security for America's most precious resource—it's children.

Although the underlying bill is an exceptional piece of legislation, I felt that there were a few additional provisions that would make the bill even better. I appreciate the way some members of the conference worked with me to include these additional provisions on the bill. First, I was able to get accepted an amendment to include child pornography manufacturers and distributors in the Federal sex offender registry. Because child pornography is a gateway to child molestation, just as marijuana is a gateway to harder drugs, those who deal in this type of material should be included in the offender registry, so that the public is on notice of these criminals.

I was also able to get approved a technical amendment to the Communications Decency Act. This amendment would conform the language of the CDA to the Supreme Court's decision in Reno v. ACLU, 521 U.S. 844 (1997). The amendment strikes the indecency provisions, which the court ruled were unconstitutionally vague, and limits the scope of the CDA to obscenity and child pornography, which can be restricted since they do not benefit from first amendment protection.

The conference also accepted two sense-of-Congress provisions. The first provision expresses that it is the sense of the Congress that the Child Exploitation and Obscenity Section of the Department of Justice should focus its investigative and prosecutorial efforts on major producers, distributors, and sellers of obscene material and child pornography that use misleading methods to market their material to children. This provision was recommended in the 2000 report of the COPA Commission, a congressional commission tasked with studying how to protect children from pornography online. The second provision, which is also taken from the COPA Commission report, expresses that it is the sense of the Congress that the online commercial adult industry should voluntarily refrain from placing obscenity, child pornography, or harmful-to-minors material on the front pages of their Web sites. By taking this step, these Web sites will be helping to protect minors from material that may negatively impact their social, moral, and psychological development.

With improved child pornography laws, enhanced public outreach, and tougher sentences for sex offenders who victimize minors, this conference report will be essential to keeping our children safe from individuals who wish to do them harm. I urge my colleagues to vote for the conference report on S. 151, The PROTECT Act.

Mr. BIDEN. Mr. President, I am pleased the Senate is considering the conference report to accompany S. 151, the Protect Act. As a member of the conference committee tasked with reconciling the differences between the House and Senate bills, I am gratified to see action being taken on this measure today. The conference report before us addresses one of the most important issues in America—protecting our kids from sexual and physical abuse. Enactment of this measure could literally save lives.

This bill will expand the nationwide AMBER Alert System to ensure maximum coordination between state and local law enforcement in their efforts to catch predators that kidnap kids. ''Amber alerts''—typically distributed through radio and television broadcasts and electronic highway signs—gained prominence after last summer's unfortunate and high-profile child abduction cases. These bulletins proved invaluable in their ability to disperse information about the missing children quickly and broadly—and they remain a critically important law enforcement tool.

The conference report that we consider today will expand and improve the program by establishing an AMBER Coordinator within the Department of Justice to enhance and centralize the operation of the communications system. It will establish minimum standards for coordination between various AMBER plans, particularly between state plans. And, perhaps most important, it will authorize two grants—one in the Department of Transportation to help sustain the AMBER alert programs themselves and a second in the Department of Justice to fund education, training, and related equipment. This common-sense legislation has been delayed far too long. We know that the AMBER Alert System helps save abducted children, and we should not let a single additional day pass before voting this measure into law. With this legislation, safeguards will soon be in place to protect children and their families.

The conference report also includes a negotiated version of the PROTECT Act, which this body unanimously adopted in February. The measure responds to last year's Supreme Court decision in Ashcroft v. Free Speech Coalition by writing a tough new child pornography law that, we hope, will allow prosecutors to go after those who traffic in child pornography—while not running afoul of the Court's first amendment holdings. Importantly, in addition to prohibiting the production and distribution of pornographic material depicting children, this bill achieves a range of other improvements to the law:

First, it strengthens penalties against repeat offenders. Second, it protects the privacy of children victimized by pornographers by preventing the introduction of any non-physical identifying information—like the child's name or social security number—into evidence at court. Third, it facilitates information-sharing between internet providers, who report incidents of child pornography and exploitation on their sites, and State law enforcement officers. And finally, it provides a civil remedy for victims of child pornography—including injunctive relief to stop immediately the bad conduct. These important improvements put children and their needs first. Is the legislation perfect? No. But it will move us substantially down the road to protecting out kids from predators, while preserving important first amendment principles.

I am pleased that several bipartisan proposals which I sponsored in the Senate will be included in this conference report. Like the AMBER Alert and child porn provisions, these additional initiatives will also protect our kids from child predators. I would like to take a moment to explain several of the provisions that I worked to see included in this conference report.

Section 108 establishes the Child Safety Pilot Program, an initiative that for the first time will permit groups like the Boys and Girls Clubs to apply directly to the Justice Department for background checks for their volunteers. It is a proposal that has been a long time in the making, and I am very pleased the conferees agreed to its adoption.

This section is drawn from legislation that I authored along with Senator Thurmond in the 107th Congress, the National Child Protection and Volunteers for Children Improvement Act. That bill passed the Senate unanimously but was not acted upon by the other body. I first raised concerns about the current state of background checks for volunteers in 2000 with the introduction of S. 3252. That bill and the bill that passed the Senate last year would have markedly simplified the current process for background checks for volunteers who work with kids.

Today, 87 million of our children are involved in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services. Millions more elderly and disabled adults are served by public and private service organizations. Organizations across the country, like the Boys and Girls Clubs, often rely solely on volunteers to make these safe havens for kids a place where they can learn. The Boys and Girls Clubs and others don't just provide services to kids—their work reverberates throughout our communities, as the after-

school programs they provide help keep kids out of trouble. This is juvenile crime prevention at its best, and I salute the volunteers who help make these programs work.

Unfortunately, some of these volunteers come to their jobs with less than the best of intentions. According to the National Mentoring Partnership, between 1 and 7 percent of children in child care settings, foster homes and schools are sexually abused. Organizations have tried to weed out bad apples, and today most conduct background checks on applicants who seek to work with children. Regrettably, these checks can often take months to complete, can be expensive, and many organizations do not have access to the FBI's national fingerprint database. These time delays and scope limitations are dangerous: a prospective volunteer could pass a name-based background check in one state, only to have a past felony committed in another jurisdiction go undetected.

Effective December 20, 1993, the National Child Protection Act, NCPA, P.L. 103–209, encouraged States to adopt legislation to authorize a national criminal history background check to determine an employee's or volunteer's fitness to care for the safety and well-being of children. On September 13, 1994, the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322) expanded the scope of the NCPA to include the elderly and individuals with disabilities.

As envisioned by Congress, the NCPA was to encourage states to have in effect national background check procedures that enable a ''qualified entity'' to determine whether an individual applicant is fit to care for the safety and well-being of children, the elderly, or individuals with disabilities. The procedures permit this entity to ask an authorized state agency to request that the Attorney General run a nationwide criminal history background check on an applicant provider.

''Qualified entity'' is defined at 42 U.S.C. 5119c as ''a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services. . . .''

The authorized agency should access and review state and Federal criminal history records through the national criminal history background check system and make reasonable efforts to respond to an inquiry within 15 business days. Congress addressed this issue again in 1998 through enactment of the Volunteers for Children Act, Sections 221 and 222 of P.L. 105–251, ''VCA''. The VCA amended the NCPA to permit child care, elder care, and volunteer organizations to request background checks through state agencies in the absence of state laws implementing the NCPA.

Thus, the NCPA, as amended by the VCA, authorizes national fingerprint-based criminal history background checks of volunteers and employees (including applicants for employment) of qualified entities who provide care for children, the elderly, or individuals with disabilities, and those who have unsupervised access to such populations (regardless of employment or volunteer status), for the purpose of determining whether they have been convicted of crimes that bear upon their fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

Three years ago, organizations seeking to conduct background checks on their employees and volunteers made me aware of serious problems with the current background check system, problems that were jeopardizing the safety of children. Groups like the Boys and Girls Clubs of America alerted me that, despite the authorities provided in the NCPA and the VCA, national check requests were often delayed, in some jurisdictions they were never processed, and that the prohibitive costs of some of these checks were discouraging entities from seeking the reviews.

Under current law, whether they want a state or national criminal background check, organizations must apply through their state-authorized agency. The state agency then performs the state check and forwards the request to the FBI for a national check. The FBI responds back to the state agency, which then forwards the information back to the volunteer organization. In Delaware, the State Police Bureau of Identification works with groups to fingerprint prospective workers and check their backgrounds.

A patchwork of statutes and regulations govern background checks at the state level; there are currently over 1,200 State statutes concerning criminal record checks. This has led to widely different situations in each state: different agencies are authorized to perform the checks for different types of organizations, distinct forms and information are required, and the results are returned in various formats that can be difficult to interpret. States have not been consistent in their interpretation of the NCPA and VCA. Put simply, the current system is extremely cumbersome, particularly for those organizations that must check criminal records in multiple states, and for those groups employing seasonal workers, such as summer camps, for whom time is of the essence when seeking the results of background checks.

After careful study of this issue it became clear to me that the concerns of groups such as the National Mentoring Partnership and the Boys and Girls Clubs are not merely anecdotal. In 1998, the FBI's Criminal Justice Information Services, CJIS, Division performed an analysis of fingerprints submitted for civil applicants purposes. CJIS found that the average transmission time from the point of fingerprint to the state bureau was 51.0 days, and from the state bureau to the FBI was another 66.6 days, for a total of 117.6 days from fingerprinting to receipt by the FBI. The worst performing jurisdiction took 544.8 days from fingerprinting to receipt by the FBI. In a survey conducted by the National Mentoring Partnership, mentoring organizations on average waited 6 weeks for the results of a national criminal background check to be returned.

The danger these delays post to mentoring groups and others cannot be overstated. Suppose a group seeks to hire a volunteer who grew up in a neighboring jurisdiction to work with children. The group has the volunteer fingerprinted at their local police department, forwards those prints along to the agency designated by state statute or procedure to receive such requests, and then waits for the national results. FBI data indicates they will wait close to four months, on average, for the final results of the background check. That's too long. It forces groups to choose between taking a risk on someone's background, not making the hire at all, or seeking out only candidates from their jurisdiction for whom a full national background check may not be necessary.

Delay is not the only problem with the current system. The NCPA/VCA caps the fees the FBI can charge for national background checks at $24 for employees. For state fees, the NCPA/VCA requires States to ''establish fee systems that insure that fees to nonprofit entities for background checks do not discourage volunteers from participating in child care programs.'' In a survey of mentoring organizations, the National Mentoring Partnership found that organizations were paying on average $10 for a State records check, plus the fee for a national check. For organizations utilizing hundreds of volunteers and employees, the costs of conducting thorough background checks can be exorbitant. Small, community-based organizations with limited funding often must choose between funding services to children and checking the criminal history records of prospective volunteers.

Section 108 does three things. First, subsection (a)(2) establishes a State Pilot Program that will facilitate the ability of youth-serving organizations in three States designated by the Attorney General to check the backgrounds of their volunteers. The intent of this provision is for State Pilot Program to operate as the Congress intended the National Child Protection Act to operate. That is, youth-serving organizations who attempt to check the backgrounds of volunteers under this section shall be able to access the FBI's national criminal history database when necessary. The requesting process will go through the appropriate State agency. The State will review its criminal history records, and then forward the organization's request along to the FBI if a national check is required. Under 108(a)(2)(D), all criminal

history records will be provided to the State agency. The language in that section which reads ''consistent with the National Child Protection Act'' is intended to result in that State agency then making a determination of the potential volunteer's fitness to work with children. While (a)(2)(D) does permit the National Center for Missing and Exploited Children to access the criminal history records of the potential volunteer under (a)(2)'s State Pilot Program, it is my view that the Conferees intended this section result in fitness determinations being made by the appropriate State agency as under current law. Subsection (a)(2)(F) ensures that this determination will be provided to the organization in a timely fashion.

Second, subsection (a)(3) establishes a Child Safety Pilot Program. Under this subsection, three youth-serving organizations will be permitted to allocate a number of Federal background checks to their members or affiliates over an 18-month period. Current law does not permit these organizations to provide fingerprint cards directly to the FBI's criminal history records system in order to check the backgrounds of potential volunteers. This subsection changes that. Ninety days after the date of enactment of this conference report, the Attorney General will notify the Boys and Girls Clubs of America, the National Mentoring Partnership, and the National Council of Youth Sports that they have been statutorily designated to make 100,000 background check requests of the FBI. Allocations of these checks are set out in (a)(3)(C). The three eligible organizations may not accept fingerprint cards under this Pilot Program from any of their members or affiliates located in the three States designated by the Attorney General to participate in the State Pilot Program described in (a)(2). The organizations are required to obtain a signed statement from the potential volunteer along with the volunteer's fingerprints. Once the Attorney General receives fingerprint cards from the volunteer organizations, subsection (a)(3)(F) gives him 14 business days to provide any resulting criminal history records information to the National Center for Missing and Exploited Children. The Attorney General shall charge these three organizations no more than $18 to perform these checks. The National Center for Missing and Exploited Children will work with the three organizations to develop standards to determine how to evaluate the criminal history records information provided by the FBI, and to set standards to guide the fitness determination described in (a)(3)(G)(i). Nothing in this subsection requires the NCMEC to make such a fitness determination; the language of (a)(3)(G)(i) is discretionary. It is my view that the conferees intended this subsection to permit NCMEC to work with the eligible organizations in determining the fitness of prospective volunteers to work with children. However, it is my view that the conferees did not intend for NCMEC to perform this function unless adequate appropriations are allocated to it pursuant to subsection (c)(1). NCMEC shall not be liable for any fitness determination made pursuant to (a)(3)(G)(i), consistent with the limitation on liability set forth in section 305(a) of the conference report.

Third, subsection (d) requires the Attorney General to report to Congress on the implementation of the pilot programs at their conclusion, and to make legislative recommendations to Congress on whether the National child Protection Act requires amendments to ensure that organizations like those described in section 108 have access to prompt, effective, and affordable national criminal history background checks. It is important to point out that section 108 establishes only a pilot program for 100,00 checks. Members of the National Mentoring Partnership alone rely upon close to one million volunteers. The boys and Girls Clubs have close to 150,000 volunteers. Hundreds of thousands more volunteer with little leagues, soccer leagues, and other youth sports leagues affiliated with the National Council of Youth Sports. We should be doing more than establishing a pilot program, and I am disappointed the department of Justice continues to maintain that enactment of my legislation that passed the Senate last year, S. 1868, could overburden its fingerprinting infrastructure. Ensuring that those who volunteer to work with out kids in an investment that we should be willing to make. I intend to work to expand this Child Safety Pilot Program until ultimately all of those who want to access the FBI's criminal history records system are able to do so, consistent with the privacy protections provided by current law.

I thank Robbie Callaway and Steve Salem of the Boys and Girls Clubs of America for their strong support for my original bill and for this section would not be included in this conference report we take up today. Margo Pedroso of the National Mentoring Partnership has been extremely helpful to me and my staff in terms of educating Congress concerning the extent of the current problem, and I thank her and her organization for their support for this section. John Walsh with America's Most Wanted provided effective, timely advocacy for this provision and I am extremely grateful for his tireless commitment to protecting the Nation's children from criminals. I am also thankful for the efforts of Sally Cunningham of the National Council of Youth Sports for her organization's support for this program this year.

This bill also contains a provision I sponsored that reauthorizes Child Advocacy Centers. Child Advocacy Centers bring together law enforcement, prosecutors, child protective services and medical and mental health professionals to provide comprehensive, child-focused services to child victims of crimes. They provide immediate attention to young victims of sexual and physical abuse so that they are not ''twice abused,'' first by the perpetrator and second by a system which used to shuttle them from a medical clinic to a counseling center to the police station to the D.A.'s office.

Operating in all 50 states, Child Advocacy Centers served over 116,000 child victims last year. Of these victims, 26,934 received onsite medical exam, 27,684 received counseling and 69,443 went through a forensic interview process especially designed for children. Seventy-six percent of the children they serviced were under the age of 12. In Delaware, there are currently two operational Centers. Last year, Child Advocacy Centers in Delaware handled 1,000 cases where child victims as young as three alleged physical or sexual abuse.

Widely cited as an efficient, cost-effective mechanism of handling child abuse cases, Child Advocacy Centers are widely supported by police, prosecutors and the courts. Not surprisingly, communities with centers report increased successful prosecution of perpetrators, more consistent follow-up to child abuse reports, increased medical and mental health referrals for victims, and more compassionate support for child victims. It is also worth noting that in a May 1998 publication titled, New Directions from the Field, the Department of Justice included Children's Advocacy Centers as their number one recommendation for improving services to children who directly experience or witness violence—number one.

Mr. President, in 1994, this body passed the Violence Against Women Act, which I authored. This act made it clear that victims of domestic violence were victims in need of the full extent of this nation's medical and legal resources. My child advocacy provision is designed to bring this same type of concentrated focus, general awareness, and coordinated response to victims of child abuse

Section 607 is of the conference report includes my Secure Authentication Feature and Enhanced Identification Defense Act of 2003, also known as the ''SAFE ID'' Act. I would also like to thank Senator HATCH for joining me in introducing this legislation as a stand-alone bill and for helping to ensure that it became part of this conference report.

Mr. President, two of the terrorists who perpetrated the acts of 9/11 held false identification documents, which they purchased from a broker of false IDs. That broker was convicted under State law, but sentenced merely to probation. The judge and the prosecutor publicly lamented that the law did not subject such a person to harsher penalties.

These events focused new attention on an existing, growing problem—the ease with which individuals and organizations can forge and steal IDs and use

them to harm our society. These circumstances weaken our efforts in the fight against terrorism; identity theft; underage drinking and drunk driving; driver's license, passport and birth certificate fraud; even child abduction. In the post-9/11 era, we must do more to prevent the creation of false, misleading or inaccurate government IDs. This has become an issue of national importance and therefore merits a national response.

In recent years, the ability of criminals to produce authentic-looking fake IDs has grown immensely. Today, unfortunately, it is becoming increasingly common for criminals to either steal or forge, and traffic in, the very items that issuing authorities use to verify the authenticity of their IDs.

These ''authentication features'' are the holograms, watermarks, and other symbols, letters and codes used in identification documents to prove that they are authentic. Unfortunately, today ID's carrying authentication features can be purchased on the Internet or through mail order outfits. In addition, breeder documents, such as birth certificates, are desk-top published, with an illegitimate embossed or foil seal. Put another way, not only do crooks forge identification documents, they also now illegally fake or steal the very features issuing authorities use to fight that crime.

Under current law, it is not illegal to possess, traffic in, or use false or misleading authentication features whose purpose is to create fraudulent IDs. That is why I have authored the SAFE ID Act. The SAFE ID Act would prohibit the fraudulent use of authentication features in identity documents. Specifically, the SAFE ID Act adds authentication features to the list of items covered by an existing law prohibiting fraud and related activity in connection with identification documents. In addition, the act requires forfeiture of any violative items, such as false authentication features and relevant equipment.

The act defines ''authentication feature'' as ''any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.''

Holograms have long been used on credit cards, and are beginning to be deployed in identification documents. The term ''hologram'' is meant to include diffractive optical gratings and other optically variable devices, regardless of their manner of fixation to, or formation in, a document substrate.

Watermarks take a variety of forms including fabricated paper watermarks and digital watermarks. Watermarks have a long history of use as authentication features in paper, and were traditionally fabricated during the wet paper phase of the paper-making process by varying the thickness of paper fiber. Such conventional watermarks are now fabricated in a number of other ways, including chemical treatment. Generally, the watermark pattern—e.g., a logo—is revealed by viewing the document at an angel, or subject to certain illumination.

A second type of watermark is a digital code, sometimes referred to as a digital watermark. This code is secretly conveyed by an identification document using a number of steganographic technologies. In one, artwork on the document is altered in very slight respects to effect changes to the luminance, chromaticity, or reflectance at different locations across the artwork. This pattern is imperceptible to the human eye, but can be revealed by digitally scanning the document, examining the resulting data for these slight variations, and interpreting these variations to discern the digital code. The artwork encoded in this fashion can be a photograph, a logo—e.g., a seal of the issuing authority—or ornamentation—e.g., guilloche patterning. In other steganographic techniques, the background of the card is tinted with a subtle patterning, or a patterned texture is formed on the document. Again, such patterns are too slight to be recognized by human observers as conveying the digital watermark code, but the code can be discerned by scanning, and then analyzing the scan data.

This type of watermark finds application in detecting counterfeit, altered, and otherwise falsified documents in a number of different ways. For example, a photograph on a driver's license may steganographically convey a digital watermark code that identifies the issuing authority (e.g., the State of New Jersey). If the license is altered—by substituting a different photo—then analysis of the license will reveal the substitution because the photograph will not convey the expected digital code. Likewise, the blank stock on which driver's licenses are printed may convey, e.g., in a tint pattern, a digital code that identifies the issuing authority. If a suspect driver's license is found not to convey the expected code, it will be recognized as non-authentic.

In still other documents, the watermark can serve as a logical cross-check of other data or security features on the card. For example, the digital watermark code with which a driver's license is steganographically marked can convey a ''hash'' of the ASCII characters forming the lawful owner's name that is originally printed on the license. If the name on the license is altered, the hash resulting from that name will be different, and will not longer match the hash conveyed by the digital watermark code. Likewise, the birthdate printed on the license can be hashed and serve as the watermark. If the printed birthdate is altered, its hash will no longer match that conveyed by the steganographic encoding. By such arrangements, alteration of text and other elements of an identification document can readily be discerned by reference to digital watermarks.

Sometimes authentication features are used in the creation of so-called ''novelty IDs.'' These are documents that appear to be identification documents from recognized issuing authorities, but in fact are not. (An Internet search on the term reveals hundreds of web sites.) Sometimes such documents follow the exact layout of text, photo, and design elements used in authentic identity documents. However, such mimicry is not essential for such a ''novelty ID'' to be accepted as legitimate (e.g., a liquor store owner in California may not know what a genuine Vermont driver's license looks like). Such non-identical documents commonly make use of features that are relied upon by others in ascertaining the genuineness of an identification document. The definition of ''authentication feature'' thus embraces such features, and provisions elsewhere in the amended statute prohibit the use of such features on so-called ''novelty IDs.''

Subpart (4) extends the former statutory definition of ''false identification document'' from documents that are counterfeit ab inito, to also include documents that were originally issued lawfully, but subsequently altered for a purpose of deceit.

In like manner, subpart (5) makes clear that ''false identification document'' includes both features that were never genuine, but appear to be genuine, as well as features that originally were genuine but were subsequently (i) tampered with or altered for purposes of deceit; or (ii) diverted, or intended for diversion, without the authorization of the issuing authority.

Subpart (6) is amended to define ''issuing authority.'' This term includes ''quasi-governmental organizations,'' such as The Port Authority of New York and New Jersey, and governmentally chartered entities (e.g., the United States Postal System and the U.S. Federal Reserve System).

Mr. President, this section will give law enforcement officials a powerful tool to crack down on identity thieves. According to the U.S. Department of Justice, up to 700,000 people in the United States may be victimized by identity bandits each year, costing the average victim more than $1,000. Additionally, banks lost at least $1 billion to identity thieves last year. The SAFE ID Act will also go a long way toward combating the nationwide problem of underage drinking. Underage drinking is a serious problem with dangerous, and sometimes deadly consequences. The SAFE ID Act will help prevent underage drinking by making it harder for fraudulent criminals to provide young people with fake IDs. It perhaps goes without saying that legislation such as this, which makes it

harder to obtain fake IDs, will also make it harder for those who abduct innocent children to mask their identity and thereby avoid detection.

Mr. President, it is rare that we have before us legislation that would effectively address problems as disparate as homeland defense, identity theft, underage drinking, and child abduction. The SAFE ID Act would do just that, by cutting the legs out from under those who would misuse technology to mislead government authorities.

I am pleased that we were also able to include in the conference agreement the text of the Illicit Drug Anti-Proliferation Act, a bill which I introduced with Senator GRASSLEY in the Senate as S. 226, and that Representatives COBLE and SMITH introduced in the House of Representatives.

This legislation arose out of a series of hearings Senator GRASSLEY and I held in the Senate Caucus on International Narcotics Control on the risk that the so-called ''club drug'' Ecstasy poses to young people and the predatory behavior of some promoters of all-night dance parties—known as ''raves''—in distributing the drug to them.

The bill provides federal prosecutors the tools needed to combat the manufacture, distribution or use of any controlled substance at any venue whose purpose is to engage in illegal narcotics activity.

Rather than create a new law, it merely amends a well-established statute to make clear that anyone who knowingly and intentionally uses their property—or allows another person to use their property—for the purpose of distributing or manufacturing or using illegal drugs can be held accountable, regardless of whether the drug use is ongoing or occurs at a single event.

The bill is aimed at the defendant's predatory behavior, regardless of the type of drug or the particular place in which it is being used or distributed. One problem that we are facing currently involves so-called ''club drugs'' and raves. According to the Partnership for a Drug Free America, teens who report attending a rave are seven times more likely to have tried Ecstasy than teens who report not attending a rave. I find this statistic quite troubling and I hope that the changes made by the conference report before us today will make promoters think twice before endangering kids in this manner.

Despite the conventional wisdom that Ecstasy and other club drugs are ''no big deal,'' a view that even the New York Times magazine espoused in a cover story, these drugs can have serious consequences, and can even be fatal. Earlier this year we got some encouraging news: after years of steady increase, Ecstasy use is finally beginning to decrease among teens. That said, the rate of use remains unacceptably high and we still have quite a bit of work to do to counter the widespread misconception that Ecstasy is harmless, fashionable and hip.

At a 2001 Drug Caucus hearing, witnesses testified that rogue rave organizers commonly go to great lengths to portray their events as safe so that parents will allow their kids to attend. But the truth is that some of these raves are drug dens where use of Ecstasy and other ''club drugs''—such as the date rape drugs Rohypnol, GHB and Ketamine—is widespread.

We know that there will always be certain people who will bring drugs into musical or other events and use them without the knowledge or permission of the promoter or club owner. This is not the type of activity that my bill would address. My bill would help in the prosecution of rogue promoters who not only know that there is drug use at their event but also hold the event for the purpose of illegal drug use or distribution. That is quite a high bar. The coalition of Licensed Beverage Associations and the International Association of Assembly Managers, who initially expressed concerns that my bill would make their members liable for the actions of their patrons, have endorsed my legislation because they realized that my bill was not aimed at responsible party promoters.

I am confident that the overwhelming majority of promoters are decent, law abiding people who are going to discourage drug use—or any other illegal activity—at their venues. But there are a few promoters out there who are taking steps to profit from drug activity at their events. Some of these folks distribute drugs themselves or have their staff distribute drugs, get kickbacks from drug sales, have thinly veiled drug messages on their promotional flyers, tell security to ignore drug use or sales, or send patients who need medical attention to a hospital across town so that people won't link emergency room visits with their club.

My bill has met fierce resistance from a number of groups who have not felt the need to be constrained by the facts. Earlier this week the Drug Policy Alliance, a group whose goal is to end criminal penalties for marijuana, sent out an alert to get people to call their Senators and Representatives to register their disapproval of my bill. The background information they provided on the issue discussed my bill interchangeably with a House bill that I have never had any association with, have never supported, and was not being discussed by the conference committee. Rather than quoting the legal standard in my bill—which makes clear that an individual would have to knowingly maintain a place for the purpose of drug use—the Drug Policy Alliance chose to quote from the House bill that (1) has a legal standard—that the individual ''knows or reasonably ought to know'' that a controlled substance will be used at their event—that is far lower than that in my bill and (2) is specifically targeted at raves and promoters. What is more, on their web site, the Drug Policy Alliance makes the outlandish claim that:

The ''RAVE'' Act threatens free speech and musical expression while placing at risk any hotel/motel owner, concern promoter, event organizer, nightclub owner or arena/stadium owner for the drug violations of 3rd parties—real or alleged—even if the event promoter and/or property owner made a good-faith effort to keep their event drug-free. It applies not just to electronic-music parties, but any type of public gathering, including theatrical productions, rock concerns, DJ nights at local bars, and potentially even political rallies. Moreover, it gives heightened powers and discretion to prosecutors, who may use it to target events they personally don't like—such as Hip-Hop events and gay and lesbian fundraisers.

The law that my bill amends, 21 U.S.C. 856, has been on the book for nearly two decades and I am unaware of it ever being used to prosecute a legitimate business. My bill would not change that fact.

The reason that I introduced this bill was not to ban dancing, kill the ''rave scene'' or silence electronic music—all things of which I have been accused. Although this legislation grew out of testimony I heard at a number of hearings about the problems identified at raves, the criminal and civil penalties in the bill would also apply to people who promoted any type of event for the purpose of drug use or distribution. If rave promoters and sponsors operate such events as they are so often advertised—as places for people to come dance in a safe, drug-free environment—then they have nothing to fear from this law. In no way is this bill aimed at stifling any type of music or expression—it is only trying to deter illicit drug use and protect kids.

Again, I am glad that this measure was included in the conference report. I believe it is a fitting addition to a bill whose purpose is to protect children.

I am pleased that we were also able to include in the conference agreement section 10 of S. 152, the ''DNA Sexual Assault Justice Act of 2003,'' a bill which I introduced with Senators SPECTER, CANTWELL and CLINTON, along with 20 bipartisan cosponsors, in the Senate and that Representatives GREEN and MALONEY introduced in the House of Representatives. This bill unanimously passed the Senate in the 107th Congress as S. 2513.

Section 611 would amend Title 18 to encourage federal prosecutors to bring ''John Doe/DNA indictments'' in federal sex crimes. Specifically, the provision amends 18 U.S.C. §3282 to authorize explicitly federal prosecutors to issue an indictment identifying an unknown defendant by this DNA profile within the 5-year statute of limitations. If the indictment is issued within the 5-year statute of limitations, the statute is then tolled until the perpetrator is identified through his or her DNA profile at a later date. The John

Doe/DNA indictment would permit prosecution at anytime once there was a DNA ''cold hit'' through the national DNA database system.

While the Justice Department is permitted currently to bring John Doe/DNA indictments under Rule 7 of the Federal Rules of Criminal Procedure, see, e.g., *United States* v. *Fawcett*, 115 F.2d 764, 767 (3d Cir. 1940) (an indictment is an accusation against a person, not against a name, and hence the name is not of the substance of the indictment), they have not been frequently used in federal sex offenses. Accordingly, section 611 in no way should be construed, by negative implication, as suggesting that a DNA profile is the only alternative method of identification in criminal indictments.

Joe Doe/DNA indictment strike the right balance between encouraging swift and efficient investigations, recognizing the durability and credibility of DNA evidence and preventing an injustice if a cold hit happens years after the crime if law enforcement did not promptly process forensic evidence. Providing incentives for law enforcement to test quickly crime scene DNA from sexual assaults will also help identify sex offenders (who are often recidivists) to permit their speedy apprehension and prosecution.

In conclusion, Mr. President, this conference report will do a lot to protect our kids. I commend the Chairman of the Judiciary committee Senator HATCH for his efforts. Our ranking member Senator LEAHY dedicated himself to passing a meaningful Amber Alert bill. The staffs of the Senate and House Judiciary Committees worked long hours to get us to this point today. I am especially grateful for the efforts of Makan Delrahim, Mike Volkov, Reed O'Connor and Jennifer Wagner of Senator HATCH's staff. Thanks also to Bruce Cohen, Ed Pagano, Julie Katzman, Steve Dettelbach, Tim Lynch, Tara Magnere and Jessica Berry of Senator LEAHY's staff. The majority and minority staffs of the House Judiciary Committee worked equally hard to produce this conference report. I am appreciative of the efforts of Phil Kiko, Steve Pinkos, Will Moschella, Jap Apperson, Sean McLaughlin, Beth Sokul and Katy Crooks of Congressman SENSENBRENNER's staff. Also I would like to thank Ted Kalo with Congressman CONYERS and Bobby Vassar and Greg Barnes with Congressman SCOTT for their working during the conference committee.

Finally, and most importantly, I thank my Judiciary Committee staff for their efforts on behalf of this conference report. Neil MacBride, Eric Rosen, Tonya Robinson, Marcia Lee, Jonathan Meyer, Louisa Terrell and my very able law clerk Tracy Carney each ensured that many of my legislative priorities were included in this conference report and in so doing they helped to ensure our kids will be safer tomorrow then they are today. I urge my colleagues to vote in favor of the conference report.

Mr. LEVIN. Mr. President, I am deeply concerned about sentencing-related provisions included in the legislation now under consideration. The bill which the Senate passed in February of this year addressed an important issue—on which their was unanimous bipartisan agreement—of cracking down on child pornography. While I am pleased that the bill before us retains the provisions of that bill, it also proposes wholesale, and in my view unwise, changes to procedures for judicial departures from the sentencing guidelines in criminal cases.

The bill before the Senate contains a provision requiring de novo review of all sentencing departure cases appealed to the circuit courts. This provision overturns, without there having been any State debate on the issue, the interpretation of the ''due-deference'' standard for review of district court sentencing decisions contained in the Supreme Court's 1996 decision in Koon v. United States. In that case, the Court said:

> We agree that Congress was concerned about sentencing disparities, but we are just as convinced that Congress did not intend, by establishing limited appellate review, to vest in appellate courts wide ranging authority over district court sentencing decisions. Indeed, the text of section 3742 manifests an intent that district courts retain much of their traditional sentencing discretion. Section 3742(e), as enacted in 1984, provided ''[t]he court of appeals shall give due regard to the opportunity of the district court to judge the credibility of the witnesses, and shall accept the findings of fact of the district court unless they are clearly erroneous.'' In 1988, Congress amended the statute to impose the additional requirement that courts of appeals ''give due deference to the district court's application of the guidelines to the facts . . .

The bill also threatens to chill the use of judicial discretion to depart from the sentencing guidelines by imposing burdensome reporting requirements on judges who depart. Further, it requires the Attorney General to provide both the House and Senate Judiciary Committees with a report containing information—including the identity of the district court judge—on every downward departure in any case. The Judicial Conference of the United States has said, in an April 3, 2003, letter to Senator HATCH:

> We oppose the systematic dissemination outside the court system of judge-identifying information in criminal case files. . . . We urge Congress to meet its responsibility to oversee the functioning of the criminal justice system through the use of this and other information without subjecting individual judges to the risk of unfair criticism in isolated cases where the record may not fully reflect the events leading up to and informing the judge's decision in a particular case.

Surely we should hear from the Judicial Conference which has some serious concerns about the impact of this provision on judicial decisionmaking.

The bill could also have the effect of dramatically altering the composition of the U.S. Sentencing Commission. The Sentencing Commission consists of seven members. Under current law, at least three of it members must be Federal judges selected by the President from a list of six judges submitted by the Judicial Conference. By removing the requirement that judges hold at least three of the seven seats on the Sentencing Commission, the bill threatens the integrity and future good judgement of the Commission. I do not believe that this is a wise change because judges have a unique perspective on the issue of criminal sentencing.

These are just a few among the many troublesome provisions that were inserted into a piece of legislation after its passage in the Senate had enjoyed broad bipartisan support. The Senate has not had the opportunity to consider the potential impact of these provisions through either hearings or floor debate. Mr. President, I am disappointed that they are now being considered in a conference report which we will not have opportunity to amend.

Mr. DODD. Mr. President, I rise today to speak about the CARE Act which is an important piece of legislation that was passed yesterday. The CARE Act will help thousands of charitable organizations across the country perform the important work that they do every day on behalf of people and causes that need and deserve our assistance.

Every day in America, men and women and sometimes children—working and volunteering under the auspices of countless charitable organizations—feed hungry children, provide hot meals and home visits to senior citizens, clean our parks and lakes and rivers, care for neglected and abused animals, and provide clothes, food, and shelter for the homeless and mentally ill. These activities take place each day despite great costs to workers and volunteers in terms of time and resources.

I would daresay that were this bill not to become law, volunteers and charitable organizations around the country would be no less committed and dedicated to their work. But because we have passed this legislation and because this legislation or a reasonable facsimile thereof will hopefully become law in the near future, it is my belief that the work performed by charitable organizations and volunteers throughout America will be supported, strengthened, and expanded upon for years to come.

One of the most important provisions in this bill will allow those who do not itemize their deductions to receive a tax deduction for their charitable contributions. This deduction will benefit millions of low and middle-income families who are already making significant charitable contributions each year, and it will encourage even more charitable contributions in future years.

This bill also authorizes preferential treatment of gifts made from IRAs. This provision is important to many

major charities and universities throughout our Nation.

I am also very pleased that the CARE Act restores funding for the Social Services Block Grant. The social services block grant pays for critical services for millions of children, families, seniors, and persons with disabilities each year. Congress has been ignoring its responsibility to those in need for too long. Since 1995, annual funding for SSBG has been cut by more than $1 billion, from a high of $2.8 billion to the current level of $1.7 billion. This bill will restore the amount to $2.8 billion in the next fiscal year which is especially important now since we are seeing States across America cut and sometimes even eliminate the very services that SSBG was enacted to support because of the budget deficits they are currently faced with.

I do not believe it is an exaggeration to say that, if you want to know what America is all about, visit one of America's charities. There you will find the American spirit burning brightly. It is a spirit of compassion, selflessness, equal opportunity, and initiative. Those are the values that have made our Nation great. Those are the values that are nurtured each and every day in these organizations. And those are the values that will be given new strength and potency by this legislation.

I commend those of our colleagues who have worked hard to bring this legislation to the floor today. And I look forward to continuing to work with them in the days to come to enact it into law.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the remarks of the distinguished Senator from California. There is no question she and the distinguished Senator from Texas have been major movers of this legislation and she has been a strong supporter of the bill that this is attached to that does so much for children. I personally would have preferred to have just passed AMBER alert, but I am overjoyed we have this child legislation.

By the way, the judges did not have to report to the Congress, they only have to report to the Sentencing Commission, which is made up in part of judges. I wanted to correct that in the RECORD because I know my colleague will appreciate knowing that.

One of the most startling statistics is to find almost 4 million kids out of the 23 million children in our country between 12 and 18 have been abused. It is unbelievable. A study conducted by the Bureau of Prisons found that 76 percent of defendants convicted of child pornography or of traveling in interstate commerce to engage in sex with minors, admitted to undetected sex crimes, with an average of 30.5 victims; on average, 76 percent of people convicted of child pornography or of traveling in interstate commerce to engage in sex with minors, admitted to undetected—in other words, crimes that nobody knows about—sex crimes with minors with an average of 30.5 additional child sex victims. Every one of them.

It is time we get tough. This bill is a tough bill, as it should be. This bill will help solve some of the problems of society, as it should.

I have to confess, I have been underwhelmed by some of the arguments, underwhelmed by some of the arguments in this area. All I can say is that we do not do away with downward departures; they better be the departures allowed by the Sentencing Commission and not just conjured out of thin air by the judges.

I have to also confess the distinguished Senator from Massachusetts is continuously bringing up Justice Rehnquist and Justice Kennedy. Their letters were to the Feeney amendment which has been drastically modified by the Hatch-Sensenbrenner-Graham amendment. That argument, in and of itself, does not stand or hold water. I will not say that it is a misrepresentation, as has been indicated on the other side, but I will say it does not hold any water.

Now, there have been some complaints from some that the conference committee refused to pass a standalone AMBER alert and PROTECT Act bill. They complain that the conference bill contains measures that they had not considered and are opposed to including in the conference bill. We have a wonderful system of government in this country. Our system divides the Congress into two coequal branches of Government because that is the case. It is not unusual the legislation covering the same topics pass both Houses with language and subject matter that is not entirely the same. Just because the two legislative bodies do not agree on each and every provision, we do not simply walk away from the legislation. Instead, we convene a conference between the two legislative bodies in an attempt to harmonize the legislation.

Sometimes the conference between the two bodies reaches agreement, and sometimes the two bodies do not. In this case, we did. Both bills—the House bill and the Senate bill—dealt with crimes that victimized children. However, the two bills were not identical in every respect. The House bill included significant provisions that add stiff punishments to those who actually victimize children, as well as other punishment-related issues.

The House passed a measure that would have provided for a study on volunteer background checks, but we from the Senate side insisted that the bill go further, to include a pilot program so the volunteers would have access immediately. A majority of the conferees, after considering all of the measures, have agreed to this conference bill.

While all may not agree to each and every specific compromise made by the conference, this bicameral system has succeeded in compiling and producing comprehensive child protective legislation. In fact, it would be safe to say that some of the 400 Members of the House who voted for this today, who voted for this conference bill, agreed to each and every provision in the conference bill, but as with every piece of legislation, overall they voted to pass it.

That is how our system works. I urge my colleagues to vote in favor of this measure because this measure is a measure that can help to put an end to some of these crimes against children that are so affecting our society.

I want to pay tribute to John Walsh, to the people who run the Boys and Girls Clubs of America, and my friend, Wintley Phipps, who runs the Dream Academy to help children of prisoners who have family members in prison; to bring mentors and tutors into their lives to help them come into the digital world and brings mentors and teachers to help them understand computers, to help them understand there is a better way. Many of these kids, 65 to 85 percent of them, depending on the jurisdiction, would go to crime themselves.

I want to compliment those groups I mentioned and many others I wish I had time to mention, who are fighting these battles on the front lines against these child molesters, pornographers, rapists, et cetera. They deserve our respect and they deserve this legislation.

We all deserve this legislation. As a father of 6 children, and a grandfather of 21, I have to tell you I want all my kids and grandchildren protected. My kids are now adults so hopefully they can protect themselves, but my grandchildren by and large are not. I am worried about children all over this country. When you think the average convicted child molester has personally abused 30.5 kids, it is time to get tough on them. Frankly, it is time to quit playing games with the sentencing guidelines in this area.

I don't see why judges should be offended or concerned if we have them review decisions on guidelines, downward departures by the lower court, especially when those departures are unjustified, unwarranted, and in many cases ridiculous.

Let me address something else that has me deeply troubled about what I have heard on the floor about the main complaint by our friends on the other side—some of our friends on the other side; very few, I believe. I believe the vast majority of Democrats are for this bill. I hope they will vote for it. I will be shocked if they do not.

But the main complaint by Democrats appears to be they do not like this compromise that provides for meaningful review of the sentencing guideline provisions. Why anyone would oppose provisions that simply grant appellate courts the opportunity to give meaningful review to criminal sentences is just simply beyond me. The House had Sentencing Commission

hearings. The Senate has had Sentencing Commission hearings—regardless of the representations by my distinguished friend from Massachusetts. We had extensive hearings back in the year 2000. We all know a lot about this.

This measure, through compromise, has taken steps to address a growing problem both bodies identified in guideline sentencing.

But I am even more troubled by remarks I have heard or read from the Associated Press, where Republicans were accused of:

> . . . kidnapping the AMBER alert bill in an attempt to achieve partisan and wholly unrelated goals, getting judicial sentencing guidelines.

Understand, those who support this bill want to strengthen punishments. That is what the supporters have voted for; that is what the supporters who plan to vote for this bill want.

However, the insinuation that supporters of this bill have kidnapped anything is offensive. I am appalled that was said in public and in the press.

The AMBER alert provision is named after Amber Hagerman, from Arlington, TX. This child was kidnapped and murdered. This tragic crime has led to AMBER alerts in various States and is one of the provisions included in this bill for nationwide implementation. To invoke her name in connection with kidnapping is simply offensive. I suspect that when her family reads about that, instead of feeling proud about a law that is named in Amber's memory, this kidnapping reference in connection with her name will only prove more hurtful.

Let's put these unwarranted snipes—and that is what they are—aside. Let's vote on this bill and send it to the President immediately. It will be signed by Easter and those criminals who even think of stepping outside the law with respect to any of these offences will know the full weight of the law will be brought down to bear on them.

Mr. President, I again urge my colleagues to pass this bipartisan compromise agreement. The House of Representatives passed this legislation this morning by a vote of 400–25. I am pleased we will act tonight by voting on this critical measure to protect our children.

This bill enjoys widespread support, and the need for the measures contained in the bill is well demonstrated. Law enforcement organizations around the country have expressed their support for this bill. Victims' families and citizens alike have done so. Earlier I read a letter we received from Elizabeth Smart's family in support of the bill. Even citizens from Senator KENNEDY's home State of Massachusetts—such as Maggie Bish whose daughter Molly, was abducted in 2000 and hasn't been found—have expressed their support for this legislation.

I now urge my colleagues to vote in support of this bill and forward it to the President for his signature as soon as possible.

I know that some on the other side do not agree with each and every measure contained within it. I suspect that there are those among the 400 Members in the House who voted for this conference bill did not agree with each and every provision. They might not have agreed with the specifics of Representative FEENEY's amendment. However, overall, they believed that the conference bill includes child protection measures that will ultimately benefit those in our society who are most vulnerable.

The fact is, this legislation has many provisions that will help prevent crimes against children, as well as help keep those who prey upon the innocent out of our society and away from our children. I am not going to list all of them again here. But I note that provisions such as the AMBER Alert and Code Adam systems will allow the public to assist law enforcement in the timely search for and safe return of child victims. Stronger penalties for pedophiles and child molesters, and especially recidivists, will ensure that those who victimize children will stay behind bars where they deserve to be. Enhanced investigative tools will enable law enforcement officers to prosecute those who exploit children. The sentencing reforms will prevent sentencing abuses in cases involving child and sexual crimes where too often we have seen lenient sentences imposed. They will also ensure that appellate courts can adequately review sentences by district courts.

Mr. President, I would also like to take this opportunity to recognize the tireless work of the dedicated staff members on both sides of the aisle whose work around the clock made this legislation possible. First, on my staff, I want to specifically commend my former staffer Wan Kim, who recently re-joined the United States Attorney's Office for the District of Columbia as an Assistant United States Attorney. He, along with Mike Volkov, Reed O'Conner, Jennifer Wagner, Ted Lehman, Dabney Friedrich, and my Chief Counsel and Staff Director Makan Delrahim, all poured their hearts into this legislation. On Senator LEAHY's staff, I want to thank Julie Katzman, Steve Dettelbach, Tara Magner, Jessica Berry, and Ed Pagano. On Senator BIDEN's staff, Neil McBride, Tonya Robinson and Eric Rosen. On Senator SESSION's staff, William Smith and Andrea Sanders. On Senator GRASSLEY's staff, Chad Groover. On Senator GRAHAM's staff, James Galyean. On Chairman SENSENBRENNER's staff, I want to commend Will Moschella, Phil Kiko, Jay Apperson, Beth Sokul, Katy Crooks and Sean McLaughlin for their hard work and dedication.

It is time for us to vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HATCH. Mr. President, I ask unanimous consent that the vote with respect to this conference report occur at 6:40 today, and that immediately following that vote, the Senate proceed to executive session and a vote on calendar No. 60, the nomination of Ross Swimmer, to be Special Trustee for American Indians; further, I ask consent that following that vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

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. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report to accompany S. 151.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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 98, nays 0, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—98

Akaka	Cantwell	Dole
Alexander	Carper	Domenici
Allard	Chafee	Dorgan
Allen	Chambliss	Durbin
Baucus	Clinton	Edwards
Bayh	Cochran	Ensign
Bennett	Coleman	Enzi
Biden	Collins	Feingold
Bingaman	Conrad	Feinstein
Bond	Cornyn	Fitzgerald
Boxer	Corzine	Frist
Breaux	Craig	Graham (FL)
Brownback	Crapo	Graham (SC)
Bunning	Daschle	Grassley
Burns	Dayton	Gregg
Byrd	DeWine	Hagel
Campbell	Dodd	Harkin

Hatch	Lugar	Sarbanes
Hollings	McCain	Schumer
Hutchison	McConnell	Sessions
Inhofe	Mikulski	Shelby
Inouye	Miller	Smith
Jeffords	Murkowski	Snowe
Johnson	Murray	Specter
Kennedy	Nelson (FL)	Stabenow
Kohl	Nelson (NE)	Stevens
Kyl	Nickles	Sununu
Landrieu	Pryor	Talent
Lautenberg	Reed	Thomas
Leahy	Reid	Voinovich
Levin	Roberts	Warner
Lincoln	Rockefeller	Wyden
Lott	Santorum	

NOT VOTING—2

Kerry	Lieberman

The conference report was agreed to.

(Disturbance in the galleries.)

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF ROSS OWEN SWIMMER TO BE SPECIAL TRUSTEE, OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider Calendar No. 60, which the clerk will report.

The legislative clerk read the nomination of Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians, Department of the Interior.

Mr. DASCHLE. Mr. President, the Senate is about to vote on the nomination of Ross Swimmer for Special Trustee for American Indians.

Trust reform is a critical issue for the Native American community nationwide, and the Special Trustee is the official responsible for directing the Department of the Interior's efforts to correct this longstanding problem and provide sound fiduciary services to trust beneficiaries. This nomination and vote will affect the prospects for success of this critical reform effort.

I think it is extremely important for the full Senate to reflect on two central facts about the trust debate as they consider Mr. Swimmer's nomination. First, for generations, residents of Indian Country have been victimized by persistent mismanagement of trust assets by the Federal Government. Far too many families for far too long have been denied trust assets to which they are entitled because of this mismanagement. And this situation has adversely affected their quality of life.

Second, frustration with the Federal Government's failure to come to grips with this problem has not only led to litigation (Cobell v. Norton), it has also solidified the tribes' determination to contribute to the development of a workable solution to the problem. Effective trust management reform will remain an elusive goal if the tribes are not full participants in this exercise.

The tribes understand that the Special Trustee for American Indians must be their ally in the search for a solution, not an independent actor balancing other agendas. In the past months, leaders of South Dakota's nine tribes have expressed to me their concerns about the administration's desire to entrust Ross Swimmer with this influential role.

The bottom line is that trust beneficiaries deserve a Special Trustee in whom they can have confidence to restore sound accounting principles and integrity to the Federal Government's management of trust assets. There is a critical need to elevate the Indian trust issue to higher levels within the administration. The current state of Indian trust management is a debacle and has come to be known as the ''Enron of Indian Country.'' We need an individual who is able to tackle this issue with the interested stakeholders. I agree with South Dakota tribal leaders and the Great Plains Tribal Chairmen's Association that Ross Swimmer is not the right man for this job.

Ross Swimmer has had many responsibilities at the Department of the Interior. But, most significantly for this debate, over the past several years, he has been an integral part of the Department's disappointing effort to impose a trust management solution conceived by Federal bureaucrats without the full engagement and consent of Native American leadership. It is time to make sure that trust beneficiaries receive the assets to which they are entitled. We must not allow the bureaucracy to ''run out the clock'' in the hope that the courts will ''save the day'' by absolving the Government of its trust responsibility.

To provide some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota and Nebraska own 10 million acres of land held in trust by the U.S. Government. These lands represent over one-third of the tribal trust assets. They have huge interests at stake in ensuring that the Special Trustee is committed to a fair resolution of the trust assets management controversy.

I value and respect the judgment of South Dakota tribal people, their tribal leadership and the Great Plains Tribal Chairmen's Association on this important issue. Therefore, I cannot support Mr. Swimmer's nomination as Special Trustee for American Indians.

Mr. NICKLES. Mr. President, today I want to speak on the nomination of my good friend Ross Swimmer to be Special Trustee for American Indians. Back in 1994 Congress passed the American Indian Trust Fund Management Reform Act, which created the position of Special Trustee for American Indians. This position was created to address years of trust fund mismanagement. Special Trustee is a very challenging responsibility not to mention a thankless job. The President could not have picked a better person for this job. Because of Ross's extensive background in Indian law, banking, and finance, I believe that Ross Swimmer can begin to resolve this issue.

I have had the pleasure of knowing, respecting, and working with Ross for more than 22 years. He has served Indian country in both the public and private sectors where he has served in numerous leadership capacities. For 10 years, Ross was Principal Chief of the Cherokee Nation, the second largest Indian tribe in the United States. He served 3 years as Assistant Secretary at the Department of Interior, where he managed a $1.5 billion budget; 15,000 employees, and the oversight and management of policy concerning Indian affairs.

Ross was president of the First National Bank in Tahlequah and chairman of the First State Bank in Hulbert, OK. He was president of a multimillion-dollar manufacturing company, owned by the Cherokee Nation, which is involved in the aerospace, defense, and telecommunications industries. Ross's legal experience includes General Counsel to the Cherokee Nation, associate and partner in the Oklahoma City firm of Hanson, Fisher, Tumilty, Peterson and Tompkins. Because of Ross's background with Indian law, he established the Indian law division for the law firm of Hall, Estill, Hardwick, Gable, Golden and Nelson.

Ross had the distinction of serving as cochairman of the Presidential Commission on Reservation Economies; chairman of the Energy Resources Tribes; and chairman of the White House Conference on Indian Education. He was also named Outstanding American Indian Leader in 1985 and was inducted into the Tulsa Historical Society's Hall of Fame.

I am delighted to be here to recommend my friend Ross Swimmer, to be Special Trustee for American Indians. I have confidence in Ross that he will work with the Indian community toward resolving the issues surrounding the Indian trust. As you can see by Ross's career, he has the dedication, experience, and qualifications as well as the understanding of Indian law necessary to address this complex, monumental task.

Mr. HATCH. 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 Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN),

the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. DORGAN) 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 72, nays 24, as follows:

[Rollcall Vote No. 133 Ex.]

YEAS—72

Alexander	Domenici	Lincoln
Allard	Durbin	Lott
Allen	Edwards	Lugar
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Biden	Feingold	Miller
Bond	Fitzgerald	Murkowski
Breaux	Frist	Nickles
Brownback	Graham (FL)	Reed
Bunning	Graham (SC)	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Schumer
Carper	Hatch	Sessions
Chafee	Hollings	Shelby
Chambliss	Hutchison	Smith
Cochran	Inhofe	Snowe
Coleman	Inouye	Specter
Collins	Jeffords	Stevens
Cornyn	Kennedy	Sununu
Craig	Kohl	Talent
Crapo	Kyl	Voinovich
DeWine	Landrieu	Warner
Dole	Leahy	Wyden

NAYS—24

Akaka	Daschle	Mikulski
Baucus	Dayton	Murray
Bingaman	Dodd	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Cantwell	Harkin	Pryor
Clinton	Johnson	Reid
Conrad	Lautenberg	Sarbanes
Corzine	Levin	Stabenow

NOT VOTING—4

Dorgan	Lieberman
Kerry	Thomas

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The PRESIDING OFFICER. The Senator from Kentucky.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators allowed to speak during that period for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

POST-WAR IRAQ

Ms. LANDRIEU. Mr. President, I would like to take just a few minutes to speak about the unfolding victory in Iraq and to speak about a specific point that I am going to be spending some time working on throughout the course of the next couple of days and as we spend some time, in a recess, traveling back to our States and visiting other places in the world that have been supportive in terms of our alliance in Iraq.

I want to say, just before we break tonight, that the people of Louisiana have watched, with relief and exuberance and pride, the exploits and the work of our troops in Iraq. We have been proud of each and every soldier and the work they are performing under very difficult circumstances, but they are performing beautifully, exceptionally, as expected. We are very proud of their work, the Active Forces as well as the Reserve Forces.

We know we have done many things right in Iraq. We know there are some weaknesses we will address. The military is always the first to say—which is why I enjoy working so closely with them—this is what we did right and we are proud of it and we are going to do it better. But we don't mind admitting there are some things we could do better next time. And lessons learned is something that our military goes through after each and every exercise, which is why they are so good, and why we get better and better and better. I am very proud of that kind of approach.

So as we watch this victory unfold in Iraq, with every toppling of every statue, with the destruction of every image of Saddam Hussein, we can begin to build a new image, a new vision for the people of Iraq, one they so richly deserve and have waited decades and decades to arrive. And it is our pride and our great joy that America and Britain and our allies are helping to bring about this vision, as we speak tonight on the floor of the Senate.

We have been involved today in many other important issues, but, of course, there is no issue more important to this Senate or to this Congress or to this country right now, or to the world, than what is unfolding in Iraq as we speak.

I want to just make a note about one specific aspect of the postbattle plan for Iraq. I am going to be working closely with many committees in the Senate to help to fashion that plan, which, of course, will be broad and comprehensive. Hopefully, we will have bipartisan support.

The President will submit many of his own ideas. The international community will contribute. I, for one, have felt very strongly that our military should continue to lead that effort. While they are soldiers first, and soldiers always, they have tremendous skills and abilities when it comes to postconflict periods, when the battle is actually over and the bullets stop flying and the construction and reconstruction begins. Not that our military would want to be engaged over a long period of time, but there are, most certainly, skills that our military can bring to establishing the, at least, early stages of that civil affairs network and framework.

So I am pleased to see the House and the Senate moving back to the administration's original position, which was to allow our military to lead that effort and the Pentagon, as opposed to the State Department; most certainly for the U.S. to continue that leadership position as opposed to the U.N. The U.N. should be a partner, the international community should be a partner, but the U.S. should lead that effort.

I think that is the way we are moving, and I most certainly support that. And I could venture to say, without seeing any polls, I know the people of Louisiana would want that kind of arrangement to be made.

In one part of the post battle plan for Iraq, the reconstruction plan, I am hoping that we would strongly consider—and I will be filing a resolution in just a few days, as soon as we can get some of the details worked out, and, hopefully, file it in a bipartisan way—a resolution that would suggest that we help the people of Iraq establish a permanent trust fund for their long-term economic development, a trust fund based on the revenues received from the production of oil and gas.

The reason I want to spend just a few minutes speaking about this idea is there have been several articles written. We have done, in our office, some research on this subject. And I have had a great deal of experience with the people of Louisiana with this concept. And we are not the only State that has created trust funds from the oil and gas reserves.

Just like Iraq, although we are not a nation, Louisiana produces a tremendous amount of oil and gas and has some of the richest reserves in the United States.

Texas is also a State that has tremendous resources and established, years ago, a permanent trust fund. The proceeds of that fund are directed to the support and maintenance and the strengthening of their two major universities in Texas. And the billions of dollars that have flowed into this trust fund have provided educational opportunities and research opportunities that have led to jobs creation and economic strength in the State of Texas.

The State of Alaska probably has the largest of such a trust fund, called the Permanent Alaska Trust Fund. Not only have those resources been used to help Alaska strengthen its economy, but there are also, literally, rebates that go from that fund to each individual citizen of Alaska. There are only 500,000 people, but the fund has worked in many wonderful ways.

I will suggest through this resolution that we in the Congress lay out an idea to create such a trust fund for the people of Iraq, run by the people of Iraq, to make sure of that diminishing resource, although they supply now 6 percent of the world's oil, and while I am convinced that our technology working with them will find more oil, and potentially gas reserves, that is a diminishing resource, just as in Louisiana

and Texas and Alaska. And beginning a plan now for that money to be used in appropriate ways for education, for health care, for economic development, for improving the infrastructure in Iraq and setting up in a way that protects those moneys so they can be used for the people of Iraq would serve as a great foundation or at least a significant part of a plan for reconstruction for Iraq.

In conclusion, the people are talented and industrious, the infrastructure is there to be built on. With a few good and solid ideas like carving out a trust fund with specific funding from their oil and gas reserves, the people of Iraq can enjoy those reserves and benefit from them, not just in the next year but in many years to come.

I yield the floor.

THE BUDGET CONFERENCE AND OUR ECONOMY

Mr. DORGAN. Mr. President, I wanted to make a comment about what I have been reading this afternoon and hearing most of today about a process by which the budget conference is going to cobble together a compromise and bring it to the House and the Senate, with the prospect of having the Senate have its arms tied behind its back procedurally in order to accomplish a very large tax cut.

Now, what I do not understand is this: We have an economy that everyone understands is in some significant trouble. We have a fiscal policy that does not add up.

About 2 years ago, the President said he wanted a fiscal policy with a very large tax cut, $1.7 trillion. Some of us said: Well, what we ought to do is be a little careful and be a little bit conservative because we don't know what is going to happen in the future.

The President said: No. What we have are budget surpluses as far as the eye can see, and we ought to give that money back.

I said: I believe we ought to provide some tax cuts, but maybe we ought to be a little bit conservative. Who knows what is going to happen in the future.

Well, the President won the day on that, and we had the tax cuts. And then we ran into a couple of problems: One, a recession; two, the terrorist attack of 9/11, which was devastating both with respect to loss of life and also this country's economy.

Then we had the largest corporate scandals in this country's history. We had a pancaking or a flattening of the stock market, a collapsing of the technology bubble in the stock market.

All of these things came to the same intersection at the same time and have caused enormous problems for this country's economy.

Some people say none of that matters. The medicine is still the same no matter the circumstance. I submit, when your economy is sluggish, and people are concerned about the future, they don't have the kind of confidence you would expect about the future—confidence is, after all, what allows this economy to grow—that you ought to take a look at the fiscal policy and see if you can construct a policy that adds up.

Let me describe where we are today.

Two years ago, we had projections that we would have budget surpluses for the next decade—every year, big budget surpluses.

Well, 2 years later, guess where we are. This year, we have a projected $460 billion budget deficit. Under this fiscal policy, this Government spends almost $1.5 billion a day more than it takes in—every single day, 7 days a week. People say it does not matter.

We send our sons and daughters off to war. And those brave souls have performed in a way that make all of us proud. But are we saying to them: ''Go fight this war and come back and we'll allow you to bear the burden of the costs. We will allow you to bear the burden of paying off the debt''. That is what this fiscal policy does.

Some will say the budget deficit is only $300 billion. That is not true. One hundred sixty billion is the Social Security trust fund. That belongs in the trust fund. You can't use that to counter the deficit. Our budget deficit right now is $460 billion.

What is the solution? The majority party says the solution is to cobble together a budget that looks like Disneyland to me in its construct, that says what we ought to do is have larger and larger tax cuts. Why? Because it is a growth policy.

The only thing that is growing in this economy is the Federal debt. The budget that left the Senate—I will bet not many Senators know this—which had the lower tax cut number in it, $350 billion over the next 10 years, proposed on page 6 that at the end of 10 years we would have a $12.9 trillion debt. I wonder if people know that.

Will it grow the economy? No, it is not going to grow the economy. This fiscal policy is going to grow the Federal debt, from just over $6 trillion to nearly $12 trillion in 10 years.

I come from a small town, but we know how to add and subtract. That isn't progress, not for this country.

What is the construction of all of this? The construction is to say, it is a troubled world, we need more defense spending, a lot more. Most Members have decided, yes, we should do that; it is a troubled world; we are threatened by terrorists; we need more spending to protect the homeland—homeland defense it is called, and most Members say yes; I say yes to both of those. So higher homeland security and defense spending, and then very large tax cuts, and then saying: Let's shrink the domestic discretionary spending; let's decide to shrink that.

I was at one hearing today—one example of dozens—on shrinking spending: Let's cut spending for young American Indians going to tribal colleges to try to better themselves through education. That is what they propose. We will shrink spending for that. Does that make any sense?

I told a story this morning about a young woman named Loretta—someone I have been privileged to know. She grew up in a pretty troubled circumstance. She was shy, stuttered, had a baby out of wedlock, got into lots of trouble. She found her way back. This young woman went to a tribal college on an Indian reservation, got an education, had the support of an extended family for childcare and the kinds of things you can get support for when you are going to a tribal college on the Indian reservation. That young woman who started out in such a difficult situation is now called Doctor. She went to school. They called her a savage. She had a very troubled beginning. But now she is a Ph.D.

Do tribal colleges work? Does it matter? Does it make sense? Is it an investment in life that makes sense? The answer is yes.

So if the construct of the fiscal policy says, let's add for defense and homeland security, and we all agree to that, and let's have very big tax cuts, and then let's cut programs such as tribal colleges that give some of those young American Indians an opportunity, if that is the construct, I say this country is not investing smartly. I would much sooner provide an opportunity for those young kids to go to college than provide a tax cut, on average, which will be $80,000 a year for the American who earns $1 million a year in income. At a time when we have a $460 billion annual budget deficit—yes, it is that unless you take the Social Security trust fund and use it as it has been misused—we say we will just take this out of the hide of some programs that really help people. I don't think that makes any sense. By the way, we will have to do that in order to pay for very large tax cuts. That doesn't make sense either.

I don't know what happened to conservatism. I thought being conservative meant that you did not want to see this runup in Federal budget deficits, you did not want to end up in 2013 with a $1.9 trillion Federal debt. Yet that is where we are headed. That is on page 6 of the budget report that enough of my colleagues voted for to send it on to the House. Coming back, it will be worse. Coming back, I guarantee you that on whatever page they list public indebtedness, it will be higher than $11.9 trillion, if they come out with the House number rather than the Senate number on tax cuts.

I don't understand the rationale. We have Nobel laureates, some of the top business men and women, we have almost anybody who looks at this fiscal policy through a lens other than the rose-colored lens of politics saying: This is crazy. This doesn't make any sense. It doesn't add up. This fiscal policy is going to steer this country in a way that will prevent us from having economic growth.

It is interesting to me that this fiscal policy is always described as the growth plan. Even the nonpartisan Congressional Budget Office says this is not going to grow the economy. The only thing it is going to grow is the Federal debt, doubling it from $6 trillion to $12 trillion. I don't understand. And perhaps some will say: You don't understand; this is a new approach. But it is really not even new. Twenty years ago we did this. Then the fiscal policy was to say, let's double defense spending and cut taxes, and somehow it would produce more revenue and add up.

The fact is, we ended up on the road to $6 trillion in additional indebtedness. Then, through a series of good fortunes, this country saw its economy begin to pick up steam once again, and we saw a whole series of things happen, with massive creation of new jobs and growth. Then we began finally to create budget surpluses.

At that moment, very quickly eyes began to water; everybody began to salivate over the surpluses: What can we do with the budget surpluses? The President said: It is their money; it belongs to the American people—he is right about that—so the surplus should go back to the American people.

But some said: Let's not lock in place a tax cut so large for 10 years that it would put our economy at risk.

Never mind, he said.

So now the question: What belongs to the people? The debt? At $1.5 billion a day, every single day, $1.5 billion more that we spend every day than we take in.

It is unfathomable that we have seen this juxtaposition in American politics that those who say they are conservatives don't worry about the debt. But, of course, the evidence is quite to the contrary.

I am perhaps limited by having taught economics for a couple of years. I always point out that although I taught economics, I have been able to overcome that experience. The fact is, the study of economics is not a science; it is an art. But we know enough about how this economy works to understand it works with respect to people's confidence. If the American people are confident about the future with respect to this economy, they do the things that manifest that confidence, and that is the expansion side of the business cycle. They buy a home, take a trip, buy a car, make a purchase, and you have the expansion side of the American business cycle. If, however, they are not confident about the future, they do exactly the opposite: They decide not to make the purchase; they postpone the trip; they don't buy the car; they don't buy the house. And that is the contraction side of the business cycle.

It is all about confidence. The question raised by Nobel laureates and many others, and op-ed pieces, in fact, in the last day or so by a bipartisan group of the most distinguished American thinkers, in my judgment, is: How can the American people be confident about the future of this economy until and unless they see a Congress willing to make the tough choices to put this economy back on track and make these budgets add up. The easiest political lifting in America, the easiest lifting for American politicians, is to say: Let me support tax cuts. A more difficult proposition for a politician is to say: Let us make tough choices to make sure our budgets add up.

There is no way that what we are going to be confronted with tomorrow morning adds up. The American people know it, politicians know it, economists know it, and it is going to erode confidence in this country that will, in my judgment, stall and stutter the recovery that we expect, need, and deserve.

I will have more to say tomorrow on this subject. It is a disappointing day to know what has happened that will bring the budget to the floor tomorrow in such a state that we will hardly give the American people confidence about our country's future.

I yield the floor.

JUDGE MARY BEATTY MUSE

Mr. FRIST. Mr. President, on April 29, 2003, Judge Mary Beatty Muse of Boston will receive the Lifetime Achievement Award from Boston College Law School which she attended 50 years ago. Judge Muse's professional and personal achievements are extraordinary, and Boston College Law School does well to honor this admirable woman whose life stands as a reminder of honor, courage, commitment, duty to profession, and love of family. It has been my good fortune to know Mary Muse over the past several years, as three of her grandsons and my own boys have become close friends and our families have shared many times together. Let me provide a brief summary of Judge Muse's considerable achievements and note several of the commendations she has received because of her professional and personal integrity.

Mary Beatty Muse was born on July 12, 1920, in Boston, the daughter of Irish immigrants. In 1937, she graduated from the Boston Latin School for Girls and then attended Emmanuel College, graduating in 1941.

Soon after Pearl Harbor, she enlisted in the Navy and joined the first class of the newly formed WAVES. She served in the Navy for 3 years as an intelligence and communications officer. Lieutenant Muse was cited for numerous achievements during World War II, as she and this newly formed group of woman sailors served valiantly during that conflict.

Following the war, she attended Boston College Law School on the GI bill, graduating as one of three women in a class of approximately 160 students. That law school, like so many other of our institutions, has seen much progress over the past several decades. In noting this progress, it is imperative we recall and honor the people who were in the vanguard of this movement of women into our professions. The circumstances back in 1950 were dramatically different for women. It took unusual courage, perseverance, and fortitude to achieve as Mary Muse did.

From the early days in her professional career, Judge Muse served as a role model to a generation of younger women, particularly in the Boston area. In her law practice and on the bench, she inspired countless women by her words and actions. Over time, the disparity that was so palpable and obvious when she started her career in law has been erased. Only now because of women like Judge Muse can it be said that our educational institutions are open to all, regardless of gender. This past year, Boston College Law School had a graduating class of 267 students, 123, or 46 percent, of whom were women, a vastly different setting from the early fifties when Mary Muse and her two female classmates accounted for less than 2 percent of their class.

In 1983, Mary B. Muse was appointed a justice of the Massachusetts Trial Court. On the bench, she was known for her firm but kindly manner, as she treated all participants—attorneys, court personnel, and parties—with the respect and courtesy that should be the hallmarks of our justice system. She remained on the bench until her mandated retirement at the age of 70. To say that she ''retired'' though is to misspeak. Judge Muse is now almost 84 and has not begun to slow down in her daily chores or professional activities. Since she left the court, she has been active in numerous and varied undertakings. With an unswerving sense of commitment and an untiring energy, she has served as a member of the Supreme Judicial Court Rules Committee; a member of the board of governors for the Massachusetts Academy of Trial Lawyers; an officer of the Massachusetts Association of Woman Lawyers; vice president of the Massachusetts Judges Conference; a member of the board of directors of the Massachusetts Catholic Lawyers Guild; an elected official in Brookline, MA; a member of the board of trustees of Emmanuel College; and as an officer and member of various other groups and organizations that serve the community . She has also been appointed by the Governor of Massachusetts to be a Master for the Review of Treatment Plans for the Mentally Ill and has been a member of the Governor's Advisory Board to the Department of Mental Retardation.

Her involvement in the Catholic Church reflects the same level of commitment that she brings to her professional endeavors. She has been a Eucharistic lay minister and an active member of her church. But more importantly, behind the scenes, she has been a source of constant and unremitting charity to scores of those

in need. She understands and lives by the notion of quiet charity, helping others both by spiritual and material assistance.

Judge Muse has been honored numerous times by colleges, bar associations, and other organizations. She is the recipient of an honorary degree from Emmanuel College. She has received the Irish American Charitable Award and has been acknowledged with the Distinguished Jurist Award from the Massachusetts Association of Woman Lawyers. In 1991, she was the recipient of Emmanuel College's Alumna of the Year Award. In 1998, Boston College gave her its Alumni Award for Excellence.

I provide this background to give a small sample of the full and vital life of this still very active woman. But it has one critical omission. Along the way, Judge Muse also raised her 11 children, 8 sons and 3 daughters. Each of them was not only a college graduate, but also has a graduate degree from a professional school. They are lawyers, doctors, teachers, builders—and one son is a judge like his mom. If you asked Judge Muse her greatest achievement in life, it would be a quick answer: her family. Throughout her career, she has placed a primacy on what she deems most important in life: her loved ones. As she pursued and reached the pinnacle of her professional career, she raised a family that was deeply nurtured in great love and values. Judge Muse stands heroically in the eyes of her 11 children, all of whom will come from different spots in the country and abroad to be with her on April 29 when she receives this special acknowledgment of her remarkable life.

Finally, my statement would not be complete if I didn't make some mention of the other great force in her life. Her husband, Bob Muse, himself a great trial lawyer and a much decorated Marine Corps fighter pilot, has been her partner for 60 years. No one will stand prouder on April 29. He has been her source of strength and love—as she has been for him.

Judge Muse has served as an exemplar for others, men and women alike, who seek to achieve in this world while holding on to the values of family, friends, and community. She is a gentle and unassuming person whose modesty and Irish wit forbid her from reflecting on, or talking about, the great influence she has had on so many. But it is appropriate and right that others do so—and Boston College Law School does well to honor one of its most distinguished graduates.

NORTH KOREA

Mrs. FEINSTEIN. Mr. President, today North Korea formally withdrew from the Nuclear Non-Proliferation Treaty. Yet while the United States has marshaled its military, diplomatic, and political resources against Iraq over the past 6 months, too little appears to have been done with regard to North Korea, which I believe represents the most imminent, serious, and dangerous threat facing the United States.

Over the past few months North Korea has: expelled International Atomic Energy Agency inspectors; moved 8,000 previously canned plutonium rods back to a reprocessing facility; started up its Yongbyon nuclear facility again; scrambled fighter jets to intercept a U.S. Air Force reconnaissance plane over the Sea of Japan; and, threatened to abandon the armistice that has been in effect since 1953.

We must face facts: North Korea, an isolated dictatorship, with a collapsed economy, controlled by its military, and in possession of nuclear weapons and the means to deliver them, represents a clear and present danger.

If the United States does not exercise leadership and seek a pragmatic approach to engaging North Korea—pragmatism that comes not from weakness, but from strength—we run the risk of disrupting strategic stability in the Asia-Pacific region, the most vital political, military, and economic region for the United States in the 21st century, and undermining our international credibility and global nuclear nonproliferation efforts.

North Korea is a quasi-Stalinist state which, since its formal creation in 1948, has been run by two men—Kim Il Sung, who died in 1994, and his son, Kim Jong Il. It is still almost entirely closed to the Western World, a stark and isolated country marked by repression and poverty.

The North Korean people have no access to outside sources of information, such as television or radio or the Internet.

The totalitarian discipline of the North Korean people is dramatically illustrated by the fact that North Korean infiltrators commonly commit suicide rather than allow themselves to be captured. Only in rare cases have they been captured before they killed themselves. That is a measure of fanatical devotion.

Second, the North Korean economy is increasingly isolated and stands, in my view, on the brink of collapse.

In many ways, North Korea is the ''black hole'' of Northeast Asia. Even before Russia and China curtailed their energy and food support in the 1990s, the North Korean economy was in free-fall.

One measure of the dire straits facing the North Korean economy is the famine that has gripped that nation for the past decade. Largely created by gross human negligence, not natural causes, it has killed an estimated 2 million people since the mid-1990s. Although harvests have improved modestly in recent years, food shortages are still a serious problem.

In recognition of this problem, just last month Secretary of State Powell announced that the United States would provide 40,000 tons of food aid to the North—a modest level compared to recent years but significant nonetheless.

A second measure of the desperate situation facing the North Korean economy is the collapse of its energy sector.

North Korea's total electricity consumption in 2000 was only 65 percent of what it had been in 1991. North Korea has resorted to a rationing system for electricity and often experiences extended blackouts and power losses due to an antiquated transmission grid, and the North Korean agricultural sector is severely afflicted by a lack of diesel and power supplies, as well as spare parts and fertilizer.

Taken together, North Korea's continuing isolation, famine, and economic collapse constitute a humanitarian crisis, and act as a barrier to improving cooperation and engagement in Northeast Asia on a number of fronts—political, economic, and military.

In early October of 2002, Assistant Secretary of State James Kelly informed North Korean officials that the United States was aware that North Korea had a program underway to enrich uranium for use in nuclear weapons.

According to Secretary Kelly, with whom I have discussed this situation on several occasions, North Korea initially denied the allegations, but later confirmed the U.S. claim. In confirming that they had an active nuclear weapons program, they also declared that the 1994 Agreed Framework was essentially null and void.

Under the Agreed Framework, signed by North Korea and the United States: North Korea would freeze its existing nuclear program and agree to enhanced International Atomic Energy Agency, IAEA, safeguards; the United States would lead an effort to replace the DPRK's graphite-moderated reactors for related facilities with light-water, LWR, powerplants; the U.S. pledged to provide 500,000 tons of heavy fuel oil, HFO, annually until the LWRs were completed; both countries would move toward full normalization of political and economic relations; both sides would work together for peace and security on a nuclear-free Korean peninsula; and both sides would work to strengthen the international nuclear nonproliferation regime.

Implementation of the Agreed Framework was never perfect. None of those who negotiated it or worked to implement it were operating under the mistaken belief that North Korea was a ''good actor.'' But the guts of the deal—international safeguards on North Korea's plutonium facilities in exchange for HFO and the construction of the LWRs—appeared to be intact until October 2002, when North Korean officials acknowledged the existence of a clandestine program to enrich uranium for nuclear weapons that is in violation of the Agreed Framework and other agreements.

With the Agreed Framework now null and void, North Korea may well

find in the production of fissile material a new cash crop, ready for export, to support its sagging economy.

What makes the North Korean nuclear program of particular concern is that North Korea also possesses advanced missile technology—in fact, it is the only country on earth that continues to sell Missile Technology Control Regime-banned missiles—including missiles that one day may be capable of reaching the United States.

North Korea produces a wide range of ballistic missiles, including extended range versions of the Soviet-era Scud missile as well as indigenous medium range No Dong and Taepo Dong missiles.

In fact, in 1998, North Korea test fired one of its Taepo Dong missiles over Japan and into the Pacific.

In addition, since at least 1987, North Korea has been developing long-range missiles, including the Taepo Dong 2. A two-stage Taepo Dong 2 has a range of approximately 6,000 miles, while a three-stage version has a 9,300 mile range, allowing it to hit almost any point in North America.

North Korea has also developed and produced cruise missiles. In fact, the land-to-ship missile fired last month on the eve of Roh Moo-hyun's inauguration as South Korea's new President, was a cruise missile believed to be based on the Chinese Silkworm missile design.

Exporting missiles is one of the few sources of hard currency for North Korea, and in addition to the recent Scud sale to Yemen, North Korean leader Kim Jong II has admitted that Pyongyang sells missile technology to other nations, including Syria, Iran, and Libya.

Now, I believe the blame for precipitating the current crisis lies squarely with North Korea, which clearly violated the Agreed Framework by undertaking its secret uranium enrichment program.

The government of Kim Jong II has clearly placed its focus not on feeding its people but in developing its military, its missiles, and its nuclear capability all in defiance of the treaties it has signed.

Yet it also appears that our own handling of events on the Korean peninsula over the past 2 years, as well as our broader foreign policy rhetoric and statements have served, ironically, to fuel North Korea's paranoia and made the situation much more difficult to manage.

Part of the problem was our reluctance to endorse former President Kim Dae Jung's ''Sunshine Policy,'' a diplomatic and economic effort by the South Korean Government to ease tensions with the North. President Kim was awarded the Nobel Peace Prize in 2000 for precisely these initiatives.

This move was perceived as a major humiliation in South Korea, helped set the stage for the rise of anti-Americanism, and was seen as a sign by the North that the administration was intent on a policy of isolation and confrontation.

Next month, when President Roh visits Washington, I would urge the administration to take great care to assure that the United States and South Korea share a common vision, goal, and purpose regarding North Korea.

The North Korean situation offers no easy solution. But over the past several months it has gone from bad to worse, and the administration has yet to demonstrate the degree of high-level seriousness and commitment necessary to defuse the crisis.

We cannot allow North Korea to produce additional nuclear material. Restarting its production facility will allow North Korea to develop at least a half dozen nuclear weapons within 6 months.

It is bad enough that North Korea might acquire a significant nuclear arsenal for its own possible use. But even worse would be North Korea becoming a plutonium factory selling fissile material to the highest bidder. As we were reminded in December when we intercepted a quasi-legal missile shipment to Yemen, this is a regime that will sell anything it develops.

In short, the administration's justification for being concerned about Iraq that it is a brutal dictatorship that may threaten instability in the region and may provide WMD to terrorists is quickly becoming a reality with North Korea.

A failure to stop North Korea's nuclear program is sending a terrible message to other rogue states and to our friends and allies as well. Every would-be proliferator is measuring our response to North Korea as they consider how to chart their futures.

And a nuclear North Korea may lead friends in the region, like Japan and South Korea, to conclude that they have to increase their military capabilities, sparking an arms race in Asia and drawing China, India, and Pakistan into a regionwide cycle of escalation.

At the end of the day, I believe that we face the same three basic options today that we did in 1994: We can launch a preemptive strike against North Korea's nuclear facilities; we can pursue a policy of isolation and containment; or, we can seek to persuade North Korea to abandon its nuclear ambitions through negotiations.

In reality, a preemptive strike is not a feasible option.

First, while we might be able to take out Yongbyon and other well-known sites, we simply don't know where all of North Koreans fissile material, missile, or nuclear facilities are located. There are over 10,000 caves and holes in North Korea. We don't know the location of the uranium facility.

Second, launching a preemptive strike is hardly a palatable option given the military realities on the ground at the DMZ. Such a strike would lead to all-out war on the Korean peninsula, and although I believe the U.S. and our allies would emerge victorious, the price would be high.

Finally, our South Korean allies strongly reject a preemptive strike, which should give us pause.

Likewise, there are major problems with continuing a policy of isolation and containment, as some in the administration have argued for. In essence, isolation and containment appear unlikely to succeed in toppling a regime that has been isolated and contained for so long. And it means that we have acquiesced to North Korea's going nuclear, and to North Korea acquiring serial production capacity for nuclear weapons and fissile material. Furthermore, isolation will not prevent North Korea from exporting fissile material to Iran, al-Qaida, or others.

A policy that allows North Korea to build and retain nuclear weapons and long-range missiles capable of reaching the United States, and to possess excess fissile material and a highly efficient network to sell or transfer fissile material to terrorists or other rouge states, is not in our best interest, which brings us to the third option negotiations.

I strongly believe that the United States must signal its willingness to engage in immediate U.S.-North Korean negotiations to dismantle North Korea's nuclear program in return for U.S. security assurances to North Korea, economic assistance and normalized relations. In fact, as some experts have suggested, bilateral negotiations themselves could be premised on a North Korean commitment not to reprocess the Yongbyon reactor fuel rods into plutonium during the discussions.

As we seek creative solutions to engage North Korea and go forward with a process of negotiations, it is critical that we do so in harmony with South Korea and Japan, and both China and Russia must also play a major role. The administration is right that this crisis is an international problem that requires the active involvement of the other powers in the region.

I am particularly pleased to note that China has, in fact, played a constructive role in helping to convey to North Korea the gravity of its current course.

At the same time, I believe that the burden of international leadership falls on the United States, and, as we seek to engage North Korea diplomatically, we must move beyond continuing to argue over the shape of the table or how many chairs should be at it. Continuing to do so is little more than an excuse for those who would prefer to see the crisis escalate instead of seeking to solve it.

Although the administration believes, correctly, that bad behavior should not be rewarded, it is also a truism of diplomacy that if you want to get something you must be prepared to give something.

And I strongly believe that it is in the United States' best interests to get something from North Korea: That North Korea cease and desist its nuclear activities and stop proliferating missiles.

So I believe that it is imperative to think creatively about inducements that can be offered to induce North Korea to relinquish its nuclear ambitions. Implementation of several relatively modest nonnuclear energy sector initiatives—introducing market institutions to the North Korean energy sector; undertaking efforts to repair the existing electric grid; rehabilitating coal supply and transport; eliminating waste; and underwriting small-scale renewable projects—would provide for a stable energy sector for North Korea in the near and intermediate term. And, as part of a process of larger diplomatic engagement with North Korea, this can contribute significantly to defusing the current crisis.

There is no evidence that North Korea has started to reprocess. North Korea may well be determined to go down the nuclear path and a nuclear North Korea may well be an unavoidable consequence of the current crisis. But nothing is yet set in stone, and at a time of increasing uncertainty the world looks to the United States to lead. And there is no better way to underscore our seriousness than through direct negotiations. Such talks are all the more important when dealing with an isolated, tyrannical and bellicose regime, because miscommunication can all too easily lead to miscalculation, with possibly catastrophic consequences.

REAUTHORIZING THE ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, a Bureau of Justice Statistics survey published in November 2001 reported that almost 7 percent of State inmates and more than 9 percent of Federal inmates carried military-style semiautomatic weapons in carrying out the crime for which they were convicted. In 1997, roughly 43 percent of inmates who carried a military-style semiautomatic or fully automatic weapon fired it and more than 25 percent of them killed or injured their victim.

Military-style semiautomatic weapons are modifications of traditional semiautomatic weapons. They incorporate features intended to give users an advantage in combat situations. Such features include but are not limited to: pistol grips, folding stocks, bayonet mounts, and flash suppressors. The 1994 semiautomatic assault weapons ban prohibited the manufacture of semiautomatic weapons that incorporate at least two of these military features and accept a detachable magazine. Preexisting military-style semiautomatic weapons were not banned.

The semiautomatic assault weapons ban will expire on Sept. 13, 2004. If the law is not reauthorized, the production of military-style semiautomatic weapons can legally resume. As the Bureau of Justice Statistics study illustrates, the use of military-style semiautomatic weapons is already a widely used option for many in the criminal population. Restarting production of these weapons will obviously increase their number and availability. Such an increase does not bode well for public safety.

It is critical that we reauthorize the semiautomatic assault weapons ban. We should not wait for new statistics to demonstrate that more criminals are turning to newly manufactured military-style semiautomatic weapons. Existing evidence of past behavior is clear. If we wait, more damage will already have been done. Military-style semiautomatic weapons represent a danger to the lives of police officers and the general public. For the safety of our Nation's citizens, the Congress should act this year.

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 September 19, 2001, in Pittsburgh, PA. A 43-year-old man attacked a 22-year-old Pakistani-born university student. The student was walking home from classes when he was alarmed to see a stranger charging after him, his arms already swinging. As he punched and kicked the student, the attacker yelled, ''Are you from Afghanistan?'' and ''I'm going to kill you!'' A nearby construction worker managed to stop the attacker, who then fled.

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.

CLUSTER BOMBS AND LANDMINES IN IRAQ

Mr. LEAHY. Mr. President, we can all celebrate the collapse of Saddam Hussein's brutal, corrupt regime. While much remains to be done to rebuild Iraq and reassure the Arab world that the United States is a liberator, not a conqueror, and that we have no intention of imposing our will on the Iraqi people, the demise of such a tyrant should be universally welcomed.

As we reflect on the past 3 weeks of war, we should above all pay tribute to the extraordinary courage and professionalism of our Armed Forces. They conducted themselves in ways that should make all of us proud.

We should also make note of the vast arsenal of modern weapons which enabled them to prevail. These weapons have devastated Iraqi troops, armor, and military infrastructure.

We have seen on television how effective our precision-guided missiles and bombs are, and we can only imagine how many civilian casualties were avoided because of their accuracy. It is partly because we have such increasingly accurate weapons that I want to discuss an issue that concerns me, and that is the use of cluster bombs by our forces in Iraq.

Cluster bombs, otherwise known as ''submunitions'' or ''bomblets,'' are strewn by aircraft or artillery over a wide area. They can be as small as a baseball. They are designed to detonate on impact and scatter deadly shrapnel in every direction. However, on average some 2–20 percent do not explode on impact. Instead, they remain on the surface of the ground, often hidden by sand or vegetation, where they lie in wait for some unsuspecting child, farmer, or other innocent person. They also pose a grave danger to U.S. forces in the area.

The United States military dropped millions of cluster bombs on Laos during the Vietnam war. Today, over 30 years later, they continue to maim and kill innocent people. The cost of removing these tiny, lethal weapons is prohibitive for an impoverished country like Laos. The United States Agency for International Development, through the Leahy War Victims Fund, is aiding some of the severely disabled victims of these indiscriminate weapons.

More recently, the United States has used cluster bombs in several countries, including Kosovo, Afghanistan, Iraq during the first gulf war, and, according to reports, again in Operation Iraqi Freedom.

In the first gulf war, U.S. planes dropped more than 24 million submunitions on Iraq, leaving roughly 1.2 million duds which resulted in over 1,600 Kuwaiti and Iraqi civilian deaths and an additional 2,500 injured following the war. The cost of clearing these duds and other unexploded ordnance was in the hundreds of millions of dollars.

In 1995 in Bosnia, U.S. military officers reportedly banned the use of cluster bombs because they were seen to present an unacceptable risk to civilians. However, 3 years later, during the NATO air campaign in Yugoslavia, U.S., British and Dutch military aircraft dropped more than 295,000 submunitions. The U.N. Mine Action Coordination Center estimated that more than 20,000 live bomblets remained after the war, and the International Committee of the Red Cross reported that in the year following the war there were 151 reported casualties due to cluster bombs.

The U.S. Air Force has used cluster bombs in Afghanistan, where, predictably, they have caused the deaths of innocent civilians. Additionally, the appearance of the yellow bomblets bore a

remarkable similarity to food aid parcels being airdropped. Civilians searching for food instead have found a hidden death. Also, the bright yellow of the bomblets attracted children, who thought it might be a toy. I read recently that this same problem has occurred in Iraq.

According to Human Rights Watch, television images and reports from journalists embedded with the U.S. military indicate that U.S. forces are using artillery projectiles and rockets containing large numbers of cluster munitions of a type which, according to a Department of Defense report, have a failure rate of 16 percent. This could result in hundreds or thousands of dangerous duds.

In addition, The Washington Post reported on March 29 that U.S. forces fired 18 Army Tactical Missile Systems against suspected air defense sites in support of a helicopter attack by units of the 101st Airborne Division on March 28. The payload of an ATACMS is 300 or 950 submunitions with a reported failure rate of 2 percent.

There is also apparently video footage of U.S. Marine artillery units supporting the 3rd Light Armored Reconnaissance Battalion using 155 millimeter artillery firing projectiles at Iraqi positions. A reporter described ''hundreds of grenades'' being fired at the Iraqis. These were apparently a type of submunition which have a 14 percent dud rate.

Submunitions that fail to detonate upon impact become de facto landmines. I have long opposed the use of landmines, and while cluster bombs differ from landmines in that the former are designed to explode on impact, I have urged the Department of Defense to only use cluster bombs that contain reliable self-destruct fuses. Modern self-destruct fuses, which cost only $8–10 each, could reduce the number of duds and the number of innocent casualties by more than 97 percent. Yet, the cluster bombs used by U.S. forces in Iraq do not, to my knowledge, include this available technology. Innocent people, whether Iraqis or Americans, should not die on account of a mere ten dollars.

I have also urged the Pentagon to adopt rules of engagement to prevent the use of cluster bombs in heavily populated areas. These weapons, which are designed to detonate over a wide area, are not accurate enough to prevent widespread death and injury to noncombatants.

I also want to speak about the use of landmines by Iraqi forces. As I mentioned, I oppose the use of landmines—specifically, landmines that do not have a man in the loop. According to Human Rights Watch and press reports, Iraqi soldiers and paramilitaries have strewn antipersonnel mines widely. They even stored mines inside a mosque in a town in northern Iraq, and placed them around the mosque. This is a war crime.

Iraq is not among the 132 countries that are party to the 1997 Ottawa Convention that outlaws any use, production, stockpiling or trade in antipersonnel mines. Neither is the United States. However, landmines that do not have a man in the loop which can distinguish between an enemy soldier and an innocent civilian are outmoded, inhumane weapons. They should be universally condemned.

Even before this latest conflict, Iraq was a heavily mined country. It is littered with mines from the Iraq-Iran war and from decades of internal fighting. Landmines were used in the first Gulf war by Iraq, as well as by U.S. forces. I am very pleased that U.S. forces apparently have not used landmines in Operation Iraqi Freedom. The fact that even without landmines our soldiers were able to destroy the Iraqi army in a matter of weeks is the latest evidence that landmines without a man in the loop should have no future in U.S. war fighting plans.

Landmines continue to take their toll. In the past 3 weeks, a cameraman working for the BBC was killed in Iraq when he stepped on a mine, and at least three U.S. marines have been injured by mines in separate incidents. It is a virtual certainty that innocent people will continue to be maimed and killed by mines in Iraq long after the fighting stops.

Saddam Hussein's army had a long history of atrocities against the Iraqi people, as well as against Iraq's neighbors. Its use of landmines is but another example of its utter disregard for innocent life.

Mr. EDWARDS. Mr. President, today is a new beginning for the people of free Iraq. The central authority in Baghdad has collapsed. Saddam Hussein's regime has lost control. But we know that there will be hard days ahead, days that will test our leadership, and test our willingness to engage with the rest of the world.

In the coming months and years, America faces the enormous challenge of helping the Iraqi people rebuild their lives in peace and prosperity. This challenge presents an extraordinary opportunity for the United States as well. If we do this right, we have a chance to ensure that the United States occupies a place of respect and admiration in the world. We must take advantage of this opportunity to strengthen relationships with our core allies, to revitalize the United Nations, and to demonstrate American leadership through respectful engagement with the rest of the world.

Today, in Baghdad and throughout Iraq, America's military forces are still in harm's way, and our thoughts and prayers are with them. Over the past 3 weeks, I have visited with some of our troops and their families in North Carolina at Fort Bragg, Camp Lejeune, and with the National Guard. These young men and women inspire us all. They are performing brilliantly, and they will bring us to a great military victory. I support our troops, and I support the cause for which they are fighting.

I have long argued that disarming Saddam, even if it meant the use of military force, was necessary to defend America's national interests. Last fall, I cosponsored and voted for the resolution authorizing force to disarm Saddam. As I argued then, lasting victory will require more than removing Saddam from power and disarming Iraq once and for all. Victory means winning the peace. We have proved that we have firepower. Now we must show that we have staying power.

We must make a major commitment to help rebuild Iraq. It is in America's national interest to help build an Iraq at peace with itself and its neighbors, because a democratic, tolerant and accountable Iraq will be a peaceful regional partner. Such an Iraq could serve as a model for the entire Arab world. If done right—with humility, patience and cooperation—this effort to rebuild Iraq will bring the world together and return America to a place where it is respected and admired.

The President has spoken about his commitment to Iraq's future and pledged that America will be there to help. We must hold him to these commitments, especially because in Afghanistan the President's rhetoric about winning the peace looks more and more like an empty promise.

In order to succeed, our actions to help Iraq must be based on four clear and simple principles.

First, the United States cannot do this alone. It would be a huge mistake if the reconstruction of Iraq were an ''American-only'' effort. The United Nations must play a central role, not just through passive endorsement, but through active engagement in reconstruction, humanitarian relief, and civil administration. In addition, we should be working with our NATO allies to find ways the alliance could be involved in providing security assistance, and we should seek help from our friends in the European Union. Finally, we need to work with regional partners such as Turkey and Jordan to support these efforts. A robust multilateral approach to this problem will not just increase the likelihood of success. It also will allow us to share the burden of the reconstruction costs with the rest of the international community. And it will help create a free Iraqi Government with legitimacy and authority in the region and the world.

Second, we must ensure the immediate security and safety of the Iraqi people, and help them achieve stability over the long-term. In the beginning, most of this security will have to come from American and British military forces. While our forces should be there as long as it takes, and not be restricted by artificial deadlines, an American military presence in Iraq cannot be indefinite. We should support creating a multinational force to follow our efforts, including a central role for NATO. There are many other urgent security needs as well, such as eliminating the instruments of Iraq's

system of repression and securing Iraq's borders and oil facilities. The Iraqi people will only be able to emerge from the shadow of Saddam Hussein's tyranny if they are freed from the threat of violence and lawlessness.

Third, the Iraqi people must be able to shape their own future, not have it imposed on them by outsiders. We can help create an environment for this to happen. This means, most fundamentally, a civil administration that protects three basic freedoms: freedom of speech, freedom of assembly, and freedom of movement. Iraq also must develop the rule of law. Its people need the international community's help in capturing and trying war criminals, developing legal institutions, educating judges and lawyers, and developing a legitimate police force.

The reconstruction effort must also begin to restore the basic elements of everyday life, from ensuring that they have adequate electricity and clean water to helping them at tasks life rebuilding their roads and schools.

All Iraqis must have confidence that they will have a voice in their future and that they will have a government that reflects their diversity. A free and democratic Iraq will not spring up by itself or overnight in a multi-ethnic, complicated society that has suffered under repression for generations. The Iraqi people deserve and need our help to rebuild their lives and to create a prosperous, thriving, open society. All Iraqis—including Sunnis, Shia and Kurds—deserve to be represented.

Fourth, the Iraqi people must have the tools to build a prosperous economy that is theirs alone. Iraqi has enormous natural resources and it has great potential. While we should help the Iraqi people tap into that potential, we have to make clear to the Iraqi people that the oil is theirs, and not for the U.S. or others to exploit. We also will have to explore all possibilities for debt restructuring and relief. Yet doing what it takes to succeed in Iraq is only one of the challenges we face. We have to develop a new kind of leadership throughout the world.

In the Middle East, it is time to engage to achieve a real peace between the Israelis and the Palestinians. I think this administration's disengagement in this crisis for the past 2 years has been a mistake. With the end of the conflict in Iraq, we have an opportunity to bring hope to this troubled region. We must seize it.

We also have to do far more to support democracy and freedom throughout the Middle East. No region of the world is more vital to our interests; yet no region is as undemocratic. Ultimately, there is no greater force for peace and prosperity—and against terrorism—than the promotion of democratic regimes that respect human rights and the rule of law, both within and beyond their borders.

Showing a new kind of leadership in the Middle East will also help begin to bridge the gap that has grown between America and many of our best friends in the world.

The most powerful country in the world can afford to heed the concerns of its friends. We cannot afford to lose them. Yet I am concerned that some would move us in the opposite direction, attempting to punish allies that disagreed with us on Iraq. This is wrong. We also have to take action to revitalize institutions like NATO and the United Nations. At times these institutions can be frustrating, but we must remember that it was America's vision and leadership that created these institutions. American leadership will be indispensable to helping them act to tackle today's challenges.

Make no mistake, America's families are safer in a world where America is looked up and respected, not isolated and resented. America's interests are best served when we lead in a way that brings others to our side, not drives them away. Like the generation of Franklin Roosevelt and Harry Truman, we have a chance to define how America uses its power—whether it is defending against threats, promoting prosperity and freedom or giving help to those who need it.

We have a chance to strengthen international institutions and alliances to help us meet these challenges. And we have a chance to ensure America's place of respect in the world. This is what we can achieve with the right kind of leadership.

NATIONAL LIBRARY WEEK

Mr. SARBANES. Mr. President, as a strong supporter of Federal programs to strengthen and protect libraries, I am pleased to recognize April 6 to 12 as National Library Week. This is the 45th anniversary of this national observance, and its longevity is evidence of the great importance our Nation places on libraries, books, reading, and education.

National Library Week grew out of 1950s research that showed a troublesome trend Americans were spending more money on radios and television and less on buying books. The American Library Association and the American Book Publishers joined forces and introduced the first National Library Week in 1958 in an effort to encourage people to read and to use their libraries.

When the free public library came into its own in this country in the 19th century, it was, from the beginning, a unique institution because of its commitment to the principle of a free and open exchange of ideas, much like the Constitution itself. Libraries continue to be an integral part of all that our country embodies: freedom of information, an educated citizenry, and an open and enlightened society.

I firmly believe libraries play an indispensable role in our communities. They promote reading and quench a thirst for knowledge among adults, adolescents, and children. More importantly, they provide the access and resources to allow citizens to obtain timely and reliable information that is so necessary in our fast-paced society. In this age of rapid technological advancement, libraries are called upon to provide not only books and periodicals, but many other valuable resources as well—audiovisual materials, computer services, internet access terminals, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public.

Libraries provide a gateway to a new and exciting world for all—the place where a spark is often struck for disadvantaged citizens who, for whatever reason, have not had exposure to the vast stores of knowledge and emerging technology available to others. In this information age, they play a critical role in bridging the digital divide. Many families cannot afford personal computers at home, yet the role of computers has become almost necessary to a basic educational experience. The children of these families would suffer without the access to emerging technology that libraries provide to all patrons regardless of income. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

During National Library Week, I wish to salute those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our libraries. Library staff, volunteers, and patrons work to ensure existing libraries run smoothly and have adequate resources, as well as advocate for increased funding and new libraries.

I am proud that Maryland is a State of readers. Recent statistics show that Maryland citizens borrowed more public library materials per person than those of almost any other State, nearly 9 per person. In addition, 67 percent of the State's population are registered library patrons. We are lucky to have 24 public library systems, providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of resources. The State Library Network that provides interlibrary loans to the State's public, academic, special libraries, and school library media centers has enhanced this policy. Marylanders have responded to this outstanding service by showing their continued enthusiasm and support for our public libraries.

I have worked closely with members of the Maryland Library Association, colleges and universities, and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of National Library Week.

I look forward to continuing this relationship with those who enable libraries to provide the unique and vital services available to all Americans.

I ask unanimous consent that the attached op-ed by Carla Hayden, ''Don't Take Libraries for Granted,'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Apr. 9, 2003]

DON'T TAKE LIBRARIES FOR GRANTED

(By Carla D. Hayden)

Americans have several beacons of light in what seem to be dark and fearful times, among them libraries.

The Enoch Pratt Free Library is proud to join the American Library Association in celebrating all that libraries have to offer during National Library Week this week.

Every day, more than 120,000 librarians nationwide connect students, families, senior citizens, businesspeople, teachers and professors with the information they need to be successful in a swiftly changing and increasingly troubled era.

Americans rely on libraries for help in finding jobs, using the Internet, demystifying technology, getting free access to thousands of books and videotapes and connecting with their neighbors and colleagues. And this couldn't be more relevant in Baltimore City, where more than 23 percent of our residents live at or below the poverty level.

The staff at the Pratt works to meet the needs of the community by providing seminars on race relations, building personal assets, entrepreneurship, computer training and more.

As the State Library Resource Center for Maryland, the Pratt is dedicated to assisting residents across the state in finding information they need 24 hours a day, seven days a week. We are a major support of the new ''Ask Us Now'' statewide library reference service, an invaluable resource. And it's all free of charge.

Librarians are committed to freedom of access to information and are fighting to ensure that such freedom remains intact so that no one is afraid to search for answers to important questions. It is often easy to take our libraries and librarians for granted.

Carla D. Hayden is the executive director of the Enoch Pratt Free Library and president-elect of the American Library Association.

DANIEL PATRICK MOYNIHAN

Mr. CHAFEE. Mr. President, I want to pay tribute to Daniel Patrick Moynihan, a man for whom I had the utmost respect.

One of the first times I was presiding in the Senate, Senator Moynihan was speaking from the floor. What he had to say and the way he said it made a lasting impression on me. The next day I asked for a copy of the statement and have kept it in my desk ever since. Senator Moynihan began: ''Mr. President, it is agreed that I will begin these brief remarks in order that our chairman might conclude the debate and proceed to the vote which I think has every prospect of being prodigious in its majority.'' He continued to explain one of the most complicated and difficult issues that we will deal with here in the Senate in a clear and concise manner. ''In very short order, I would simply like to recapitulate the four simple steps which will put Social Security on an actuarially sound basis for the next 75 years. They are: 1. Provide for an accurate cost-of-living adjustment. In 1996, the Boskin Commission originally estimated that the CPI overstates changes in the cost-of-living by 1.1 percentage points; now they say it is 0.8 of a percentage point; 2. Normal taxation of benefits; 3. Extend coverage to all newly hired State and local workers; 4. Increase the length of the computation period from 35 to 38 years.''

I don't know if this is the answer, but I will always refer to it when the topic of Social Security comes up. He laid out a plan with professorial clarity and a complete grasp of the issue. Whether you agreed or disagreed with Senator Moynihan, you had to appreciate his style.

Although I did not have a close working relationship with Senator Moynihan, I am truly impressed with the depth and breadth of his career achievements. From his pioneering work on Social Security reform, his almost encyclopedic knowledge of fiscal policy, to his championing of environmental and transportation issues, Senator Moynihan was the kind of Senator worth emulating. I also admired his ability to always look at the long view of the steps taken today and their impact on future generations. Senator Moynihan had an unwavering commitment to care for all people in need and was willing to cross party lines to accomplish his goals. His work as advisor to Presidents of both parties is testament to the high regard that official Washington had for his intellect and integrity.

As a dear friend of my father's for over 25 years, my strongest sense of the Senator comes from hearing my dad speak of Senator Moynihan with reverence and true admiration. Upon my father's passing, Senator Moynihan included an excerpt from a wonderful poem by W.B. Yeats, ''The Municipal Gallery Revisited,'' in his tribute. Those kind words were a great comfort to our family.

In the words of another poem by the poet W.B. Yeats:

The man is gone guided ye, unweary, through the long bitter way,
Ye by the waves that close in our sad nation,
Be full of sudden fears,
The man is gone who from this lonely station
—Has moulded the hard year . . .
Mourn—and then onward, there is no returning
He guides ye from the tomb;
His memory is a tall pillar, burning
Before the gloom

Our Nation will mourn, but Senator Moynihan would insist that we move on. On behalf of my mother and the Chafee family, we send our sincere condolences to Liz and all her family.

JEFF MADRICK ON ''THE U.S. ECONOMY AND THE IRAQI TIME BOMB''

Mr. KENNEDY. Mr. President, last Sunday's magazine section of the New York Times contained an excellent and insightful article by Jeff Madrick on the Nation's troubled economy as a result of huge tax cuts, the stalled economy, and the cost of the war and the reconstruction of Iraq. His article emphasizes the severe consequences we will face if we fail to bring the exploding deficit under control. Mr. Madrick's article, ''The Iraqi Time Bomb,'' will be of major interest to all of us in Congress, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine Section, Apr. 6, 2003]

THE IRAQI TIME BOMB

(By Jeff Madrick)

The denial of economic reality that permeated Wall Street a few years ago has now migrated to Washington. On Wall Street, when companies did not generate the promised profits to justify the bubble in stock prices, many analysts told investors that profits did not matter. A new economy would be gauged by other measures, they insisted. Today, in similar fashion, as the federal budget has plunged into the red over the past two years, President Bush's economic team is telling the nation that deficits no longer matter.

At first, perhaps, the claim seemed plausible. Damage to the economy was not yet evident. And I, for one, am not a deficit hawk. At times, deficits are necessary to stimulate economic growth, and their dampening impact on private investment is occasionally exaggerated. But because of the Bush administration's policies and a weak economy, deficits are now approaching unmanageable levels, as they did in the 1980's. In fact, the federal government's fiscal health has deteriorated at a pace so stunning that few have yet caught up with the facts.

Here are some of those facts. Even without a war, the budget deficit would have exceeded $300 billion this year—just three years after the budget experienced a surplus of nearly $240 billion. (This was in the midst of a four-year run of substantial surpluses.) But with war costs escalating and revenues falling as a result of the flat economy, this year's deficit could rise to $400 billion. In fiscal year 2004, it is likely to be higher.

The president has asked Congress for $75 billion to finance war-related costs, but many think a more realistic estimate of the combined costs of war and reconstruction will be closer to $200 billion. More alarming is the decline of government revenues over the long run. Instead of generating $5 trillion to $6 trillion in surpluses over 10 years from rising tax revenues on growing incomes, the government will now probably come up nearly $2 trillion short through 2013. That recession and slower growth have shrunk tax revenues is predictable enough. But the sinking stock market has taken more of a toll than expected: there are no more outsize capital gains to tax. These yielded fat revenues in the late 1990's, when stocks were soaring, exaggerating the fiscal health of the nation. Now the train is running in reverse.

Finally, the Bush tax cuts have made long-term financial prospects significantly worse. Occasionally, tax cuts make sense. But the

$1.4 trillion tax-cut package passed in 2001 would have been more productive if it had been temporary and applicable to more taxpayers. Instead, it was skewed to the rich (who are prone to save rather than spend) and will be permanent—far from disappearing should the economy improve, the tax cut will grow larger. The administration proposed a second major tax cut in early January, estimated to cost $726 billion over 10 years, and it appears to be even less effective as a near-term stimulus: more than half of the total results from the elimination of taxes on dividends, an idea raised at Bush's economic summit in Waco, Tex., last August by a stockbroker, Charles Schwab. In addition, the Bush administration followed up this tax plan with a new budget that would extend the 2001 cuts three years past their expiration, costing another $600 billion.

The Senate has since voted to reduce the $726 billion budget request by half, but last week it was still far from clear that this change would prevail, given that the House passed a budget resolution that assumed the president's tax cuts.

The consequence of all these steps? Budget deficits as far as the eye can see. When Bush took office, his budget team estimated there would be a cumulative surplus of some $5.6 trillion over the next 10 years. Now, in light of the 2003 tax cuts and the new Bush budget, the Congressional Budget Office, the nonpartisan economic research arm of Congress, calculates that a long-term surplus will turn into a $1.8 trillion deficit between 2004 and 2013.

Unfortunately, economists outside the government estimate that the deficit will be even larger. William Gale and Peter Orszag of the Brookings Institution figure the deficit is likely to approach $2.5 trillion. The Wall Street economists William Dudley and Edward McKelvey of Goldman Sachs say that the deficit will exceed $4 trillion by 2013.

The timing of this looming deficit could not be worse. The retirement of baby boomers is about to begin en masse. In 10 years, the costs of Social Security and Medicare will start rising rapidly. By the 2020's, these costs will begin to reach roughly 12 to 15 percent of gross domestic product, compared with about 6.8 percent today. To put this in perspective, consider that all current federal expenditures now come to only 20 percent of G.D.P.

The concern about large deficits is that they reduce long-term economic growth and produce even less revenue for social programs. When large enough, government deficits require so much federal borrowing that they can displace private investment and push up interest rates on mortgages, consumer credit and business borrowing to levels that thwart home buying, consumer purchases and capital investment. (If interest rates should stop falling, home refinancing, which has recently been a principal source of more money for consumers, will be less attractive.) Big deficits also make the U.S. economy especially vulnerable to the loss of capital investment from overseas. Because Americans save so little, and because the nation imports much more than it exports, the United States must attract close to $500 billion of foreign capital annually to finance its growth. High budget deficits could easily reduce the confidence of foreign investors, who already own 36 percent of U.S. government debt. If they sell some of those securities, they will drive down the value of the dollar and U.S. investments will become even less attractive. Over the last year, the dollar has already fallen by 20 percent against some major currencies.

The slower growth that results from large deficits affects everybody. It leads to lost jobs, lower wages and fewer business opportunities. A return to the sluggish economy of the 1980's and early 1990's is not only possible but likely.

Straitened conditions are being felt already. States, starved for revenues because they cannot borrow to make up for the deficits caused by the economic downturn, are now cutting education, health and poverty programs aggressively. State and local governments are also complaining that money promised by Washington for homeland security has not arrived. And the president recently told the states that there's no extra money for them.

Given the pinch, how can we explain the administration's fiscal choices? Some economists in the Bush camp claim that lower tax rates and the elimination of taxes on dividends will both motivate people to work harder and investors to invest more. The economy will grow faster than traditional economic models anticipate, producing tax revenues that will reduce projected budget deficits. But most economists say there is a large measure of ideological wishful thinking here, reminiscent of the supply-side economists who advised President Reagan. Bush's economic advisers argue, for example, that the dividend tax cuts may generate more growth than any conventional economic model can predict by making investment in stocks more attractive; rising stock prices will in turn encourage investment. Few economists agree, however that eliminating dividend taxes will have more than a modest impact on stock prices. And even a 20 percent boost in stock prices from current levels does not restore them to their recent highs.

Narrow politics, of course, can partly account for the Bush administration's tax proposals. The tax cuts disproportionately benefit the wealthy, which, after all, is Bush's natural political constituency. But Bush's policies may, in fact, best be explained by another, more radical agenda. Extensive tax cuts will require Congress to limit the growth of social programs and public investment and undermine other programs altogether. If that is your vision of the best direction America can take, the strategy makes some sense. So, we were wrong about how dividend tax cuts stimulate growth, you can almost hear the Bush advisers thinking. No problem. Rising deficits will inevitably force Congress to starve those ''wasteful'' social programs. The prospective high deficits may even make it imperative to privatize Social Security and Medicare eventually. Social spending is the problem, goes the argument, not tax cuts.

The Bush administration has been inconsistent about its economic rationales since it earliest days in office. First, President Bush justified his $1.4 trillion tax cut in 2001 by claiming the government should return surpluses to taxpayers when the economy is strong. He found a convincing ally in Alan Greenspan, chairman of the Federal Reserve, whose influence was critical to the tax cut's passage. Then, as the economy appeared to be weakening, Bush argue that a tax cut was needed for an entirely different reason. It would stimulate the weak economy inherited from Bill Clinton. This made sense, but as noted, the tax package was not a short-term stimulus package.

When, by early 2003, there was no escaping the fact that the federal budget would remain in long-term deficit, the Bush administration's budget office did not issue the customary 10-year forecast. Instead, it only forecast a five-year budget. Beyond that, the Bush team said, economic events were too uncertain.

The Congressional Budget Office, however, does not enjoy such flexibility. It produced its standard 10-year outlook, which spelled out the obvious. But to give the Bush administration its due, a more recent C.B.O,. analysis also tried to take into account the possible growth incentives of the tax cuts. Based on at least seven different approaches to how government policies may affect future finances, none of the Congressional Budget Office's economic projections eliminated the future deficit. To the contrary, they all clustered around the original $1.8 trillion deficit figure that the office had calculated earlier. (The number of possible approaches to these forecasts alone suggests how little is truly known about the impact of such changes.) There would be a significant budget deficit every year through at least 2013, and, by implication, for many years after.

Can we live with these new deficits? If they remain as low as the budget office predicts, they will come to less than 1 percent of gross domestic product in the last few years of the forecast. Even so, this will probably impede economic growth. And by 2014, when baby boomer liabilities begin to rise rapidly, there will be no easy way to finance them. As Lee Price, the chief economist of the Senate Budget Committee Democrats, points out, by 2010 or even earlier, the nation will have to start gearing up to pay for the baby boom retirement. This will require either a very large tax increase or substantially reduced benefits. The financial markets will force the government to become more responsible about spending, or interest rates will be driven to damagingly high levels.

And that's based on a moderately optimistic forecast, one that assumes the economy grows at a healthy rate. Specifically, it assumes that productivity—the output per hour of work that is the primary source of growth—will rise by 2 percent year. That is a rate slower than that of the booming late 1990's, but it is considerably faster than the average pace between 1973 and 1995.

The C.B.O.'s projection incorporates only changes proposed in the Bush budget. But other costly adjustments will be necessary. Most important, tax cuts will subject as many as 40 million taxpayers to the higher alternative minimum tax. (The A.M.T. forces taxpayers, whose payments would be very low on account of large deductions, to pay at least a minimum rate.) The government will almost certainly change that, further reducing tax revenues. Also, some expiring tax provisions will surely be extended. Gale and Orszag of the Brookings Institution find that these factors add another $700 billion to the 10-year deficit. This does not include war expenditures.

Dudley and McKelvey of Goldman Sachs reach their estimated $4.2 trillion 10-year deficit by adding war and reconstruction estimates. They also expect that Congress will pass a substantially higher provision for reimbursement of prescription drug costs under Medicare than Bush has proposed, and that economic growth will be slower than anticipated.

These and several other realistic assumptions result in a federal deficit that is unquestionably a terrible burden. The deficits will require so much borrowing that the Goldman economists figure that the size of the federal debt will rise from 33 percent of gross domestic product to 49 percent. This, even more than annual deficits, alarms economists. The federal revenue needed just to pay the interest will be enormous.

Even this estimate does not take into account a realistic view of the costs of war and a new foreign-policy doctrine that could mean military involvement elsewhere. The $75 billion in appropriations that the Bush administration recently asked for covers only the first six months in Iraq. As for the

costs of peace, it is hard to make any sensible assessment. Some military experts claim that the presence of only 50,000 troops will be required. Gen. Eric Shinseki, the Army chief of staff, estimates that as many as 200,000 troops will be needed. That could well cost $50 billion a year. There are wide-eyed hopes that Iraq's oil revenues will defray most of the cost of reconstruction, but it will take several years to bring production to its full potential, as well as billions of dollars—and that's assuming there is complete peace. Some put the estimates of maintaining peace and building democracy in the hundreds of billions of dollars.

And implementing the new world vision Bush has discussed recently will require still more money. An ongoing presence in the Middle East beyond Iraq will soak up additional billions; potential crises in Korea and elsewhere will demand expensive attention. As I understand it, since even before the war started, the Defense Department has been spending money so fast it can't keep track of it. In sum, the new defense commitment looks open-ended.

The budget resolution the House passed last month makes clear the dollar amount of cuts in domestic programs that would have to be made in order to retain something close to fiscal balance in Washington in 10 years. They will involve deep cuts in programs from Medicaid to school lunches to college loans to, perhaps most cynically in the current environment, veterans' benefits. The Center on Budget and Policy Priorities calculates that reductions in mandatory programs for the elderly, veterans and the poor would come to $265 billion over 10 years. Another $210 billion would be lopped off of discretionary programs. The total of $475 billion is about equal to the tax reduction the president is requesting for the top 1 percent of earners in America.

To make this politically palatable, the reductions would be phased in. Average reductions would be only 1 percent in the first year, but they would rise rapidly and would average 4 percent over 10 years. In the worst years, the budget for Medicaid would be cut by 7 percent.

But the House bill is based on the C.B.O. projections. If other economists are right, and the deficits are considerably larger, still greater cuts will be required to balance the budget over time—in fact, perhaps double the amount. The Bush administration insists that it can live with the budget deficits and still maintain many of these programs. Denial has become almost a ritual. But it cannot have anticipated how quickly America's finances have turned to red, and it is not very likely that it is prepared to face the reality that the financial markets, if not Congress, will eventually impose on it. If there is no growth miracle on the horizon that would raise government revenues, the Bush administration's options will be limited not only domestically, which may be part of its design, but also militarily. The administration may well be compromising its own dearest goals.

The longer we wait, the harder it will be to correct the nation's finances. Most of us will be hit from both ends. Incomes will not rise the way they did in the late 1990's, and it will be difficult to save for retirement. The rising costs of education and health care will be harder for the typical family to meet. Meanwhile, government will not have the money to help. Programs may be cut across the board. And consider what was not accomplished in the 1990's, despite the nation's prosperity. More than 40 million Americans still have no health insurance. The United States has the highest proportion of children born into poverty in the developed world. The quality of education remains grossly unequal. Even two-worker families cannot afford quality day care. Much remains to be done.

There is time for a course correction. But the longer the nation waits, the harder the problems will be to fix. Forecasting the economic future, as everyone knows by now, is no sure thing. But the federal government simply cannot indefinitely spend so much more than it takes in. At some point, the nation will either raise taxes significantly or make painful cuts in cherished federal programs.

But as long as the full consequences of Bush's extravagance are not immediate, and war limits serious public criticism, the president may for now get away with promising guns and a little butter. And we will all pay for it.

ADDITIONAL STATEMENTS

TRIBUTE TO THE PIKEVILLE HIGH SCHOOL FRESHMAN CHEERLEADERS

● Mr. BUNNING. Mr. President, I rise to pay tribute to the Pikeville High School Cheerleaders of Pikeville, KY. The squad won the freshman division of the Universal Cheerleading Association's National High School Cheerleading Championship earlier this year.

The 23 members of the Pikeville High School Freshman squad were awarded the top prize in the freshman division in Orlando, FL. This is no easy feat and the citizens of Pikeville should be proud to have the members of the Pikeville High School Freshman Cheerleading Squad living and learning in their community. Their examples of hard work and determination should be followed by all in the Commonwealth.

I would like to congratulate the following members of the squad for their success: Lora Cleary, Leann Clevenger, Amanda Combs, Stephanie Combs, Amelia Crum, Amanda Hall, Olivia Harris, Jessica Justice, Kristen Kendrick, Olivia Kinney, Chelsey Kurkowski, Colby Kurkowski, Collins Kurkowski, Chelsi Lawson, Mackenzie Lewis, Leigh Brittany Lynn, Griffin Myers, Jordan Shull, Taylor Stone, Ali Tucker, Bianca Vanhoose, Bridget Walsh, and Erin Wheeler. But also, I want to congratulate their coaches, Mrs. Lisa Wheeler and Ms. Kendra Hamilton, and choreographer, Mr. Hank Light, along with their peers, faculty, administrators, and parents for their support and sacrifices they have made to help meet those achievements and dreams.●

COMMENDING FINDLAY HIGH SCHOOL

● Mr. DEWINE. Mr. President, on April 26, 2003, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of the ''We the People: The Citizen and the Constitution'' program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am pleased and proud to announce that a class from Findlay High School from Findlay, OH, will represent our state in the upcoming national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained a thorough knowledge and deep understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, but it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Furthermore, independent studies by the Educational Testing Service, ETS, revealed that students enrolled in the We the People program at upper elementary, middle, and high school levels significantly outperformed comparison students on every topic of the tests taken. Another study by Richard Brody at Stanford University discovered that students involved in the We the People program develop greater commitment to democratic principles and values than do students using traditional textbooks and approaches. Researchers at the Council for Basic Education noted:

> [T]eachers feel excited and renewed. . . . Students are enthusiastic about what they have been able to accomplish, especially in terms of their ability to carry out a reasoned argument. They have become energized about their place as citizens of the United States.

The class from Findlay High School is currently preparing for their participation in the national competition, and it is inspiring how these young people advocate the fundamental ideals and principles of our government—ideas that identify us as a people and bind us together as a Nation. I send these fine young constitutional experts my best wishes as they compete in the We the People national finals.●

IN RECOGNITION OF ARCHBISHOP VATCHÉ HOVSEPIAN ON THE 52ND ANNIVERSARY OF HIS ORDINATION AND FOR HIS SERVICE TO THE COMMUNITY

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention His Eminence Archbishop Vatché Hovsepian, on the 52nd anniversary of his ordination.

Archbishop Hovsepian is an inspirational and dynamic leader in the Armenian Church, and this milestone anniversary is a symbol of the Archbishop's 52 years of dedicated service and commitment to the Armenian people and the greater community in which he serves. Since 1996, he has served as the Archbishop of the Western Diocese of the Armenian Church of North America.

During his 50 years of service to his Church and community, His Eminence Vatché Hovsepian has been very active. The Archbishop has met with five Presidents of the United States, along with various religious leaders and political figures from all over the world, created new parishes, Armenian schools and summer camps. His Eminence Vatché Hovsepian has traveled and studied all over the world, thus allowing him to have the knowledge of many customs, traditions, cultures and languages.

The Archbishop has spoken eloquently about the Armenian Genocide and the importance that it be remembered by Armenians and people around the world.

He has addressed the California State legislature and been warmly received. He is widely known for his good works, including assistance with reconstruction in Armenia after the 1988 earthquake.

His Eminence Archbishop Vatché Hovsepian is a warm, compassionate and charismatic leader who is most deserving of the outpouring of admiration that greets him today and each day. I am honored to pay tribute to him, and I encourage my colleagues to join me in congratulating the Archbishop on this grand anniversary.●

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 and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1036. An act to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

H.R. 1664. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, 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. 141. Concurrent resolution expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs.

H. Con. Res. 142. Concurrent resolution congratulating the Syracuse University men's basketball team for winning the 2003 NCAA Division I men's basketball national championship.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 151) to amend title 18, United States Code, with respect to sexual exploitation of children.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1036. An act to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

H.R. 1664. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; to the Committee on Finance.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 141. Concurrent resolution expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 142. Concurrent resolution congratulating the Syracuse University men's basketball team for winning the 2003 NCAA Division I men's basketball national championship.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1876. A communication from the Secretary of the Army, Department of Defense, transmitting, pursuant to law, the Selected Acquisition Report (SAR) which state that breaches of 15 percent or more occurred in both Program Acquisition Unit Cost (PAUC) and Average Procurement Unit Cost (APUC) of the Army Tactical Missile System (ATACMS)/BAT, received on April 7, 2003; to the Committee on Armed Services.

EC–1877. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, the report relative to an interagency audit of policies and procedures pertaining to the ''export of technologies and technical information to countries of concern'' received on March 28, 2003; to the Committee on Armed Services.

EC–1878. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report of the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for Fiscal Year (FY) 2004, received on April 1, 2003; to the Committee on Armed Services.

EC–1879. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a statement to the U.S. Senate with respect to a transaction involving U.S. exports to the Kingdom of the Netherlands, received on April 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1880. A communication from the Acting General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program; Standard Flood Insurance Policy 68 FR 9895 (RIN 3067–AD33)'' received on April 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1881. A communication from the Acting General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility 68 FR 9897 (Docket No.–7803)'' received on April 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1882. A communication from the Assistant General Counsel, Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Homeownership Program (RIN 2577–AC15) (FR–4504–F–02)'' received on April 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1883. A communication from the Acting General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Financial and Other Information (RIN 2550–AA25)'' received on April 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1884. A communication from the Acting General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Official Staff Commentary for Truth in Lending

(Regulations Z)'' received on March 31, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1885. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, the report relative to the financial statements of the Bank Insurance Fund (BIF), the Savings Association Insurance Fund (SAIF), and the FSLIC Resolution Fund (FRF); to the Committee on Banking, Housing, and Urban Affairs.

EC–1886. A communication from the Assistant General Counsel, Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''HOME Investment Partnerships Program; CORRECTION (RIN 2501–AC30) (FR–4111–C–04)'' received on April 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1887. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the report relative to the implementation of the District of Columbia Family Court Act of 2001 submitted April 4, 2003; to the Committee on Governmental Affairs.

EC–1888. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Department of Transportation Management Decisions and Final Actions on the Office of Inspector General Audit Recommendations for the period ending September 30, 2002; to the Committee on Governmental Affairs.

EC–1889. A communication from the Senior Vice-President and Chief Financial Officer, transmitting, pursuant to law, the report relative to the Export-Import Bank audit that was performed by Deloitte and Touche LLP, received on April 3, 2003; to the Committee on Governmental Affairs.

EC–1890. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the report relative to the implementation of the District of Columbia Family Court Act of 2001 submitted March 31, 2003; to the Committee on Governmental Affairs.

EC–1891. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–33 ''Emancipation Day Fund Temporary Act of 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1892. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–32 ''Kings Court Community Garden Equitable Real Property Tax Relief Temporary Act of 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1893. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–31 ''Housing Notice Temporary Amendment Act of 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1894. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–30 ''Marvin Caplan Memorial Designation Act 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1895. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–29 ''Closing of a Public alley in Square 341 S.O. 02–4058, Act of 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1896. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–28 ''William H. Rumsey, Sr. Aquatic Center Designation Act of 2003'' received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1897. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Annual report summarizing the Securities and Exchange Commission's activities, received on April 3, 2003; to the Committee on Governmental Affairs.

EC–1898. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the report of a Document consisting of the Performance Plan for fiscal year (FY) 2004 and the Program Performance Report for FY 2002; to the Committee on Governmental Affairs.

EC–1899. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Financial Report of the United States Government for Fiscal Year 2002, received on March 31, 2003; to the Committee on Governmental Affairs.

EC–1900. A communication from the Vice Counsel and Corporate Secretary, Legal Services Corporation, transmitting, pursuant to law, the Sunshine Act report for the Legal Services Corporation for 2002, received on April 1, 2003; to the Committee on Governmental Affairs.

EC–1902. A communication from the Assistant Secretary, Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the Department of Labor's (DOL) Commercial Activities Inventory for Fiscal Year 2002, received on April 1, 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–77. A joint resolution adopted by the Legislature of the State of Wyoming relative to tax treatment of Health insurance; to the Committee on Finance.

JOINT RESOLUTION NO. 1

Whereas, the high cost of health insurance has created a large number of uninsured citizens in the United States and the State of Wyoming;

Whereas, those without health insurance are less likely to receive adequate health care;

Whereas, insurance purchasing decisions are to a large extent made by employees and not insurance beneficiaries;

Whereas, overraliance on empoloyer-provided health insurance impedes worker mobility;

Whereas, spiraling health care costs are in part caused by a lack of active consumer participation in health care markets;

Whereas, employers can deduct the full cost of employee health insurance as a business expense, while individuals may not: Now, therefore, be it

Resolved by the members of the Legislature of the State of Wyoming:

Section 1. That the Wyoming State Legislature petitions the Congress of the United States to equalize the tax treatment of employer-provided and individually purchase health insurance by creating a tax credit for the full amount of insurance purchased by individuals.

Section 2. That the Secretary of State of Wyoming transmit copies of the resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation.

POM–78. A joint resolution adopted by the Legislature of the State of Wyoming relative to the declaration of an emergency in watersheds located in the national forests within Wyoming; to the Committee on Environment and Public Works.

Whereas, the Wyoming State Legislature finds that:

(a) A state of emergency exists in Wyoming due to a shortage, and ever diminishing aggregate total supply, of water available to its citizens, communities, livestock, wildlife and their habitats.

(b) Virtually all Wyoming communities have been seriously threatened and impacted by a shortage of available water within the last calendar year.

(c) Virtually all Wyoming waterways are either presently experiencing, or within the last calendar year have experienced, a significant depletion of available water as well as the streams and tributaries that contribute water to the waterways.

(d) Most Wyoming livestock, wildlife and threatened or endangered species are now or are likely to be seriously imperiled by a shortage of available water either directly or indirectly via the impact of the water shortage on their supply of forage or prey base.

(e) Due to the existence of this declared state of emergency it is imperative that Wyoming promptly take necessary actions to restore and increase the aggregate total supply of water available within the state.

(f) This state's aggregate total supply of water is significantly dependent upon watersheds located on federal lands. To achieve an increase in the aggregate total supply of water in Wyoming it is imperative for the state to take appropriate actions that may be available to remedy the presently existent deteriorated conditions of these watersheds.

(g) The existence of excessive overgrowth on Wyoming's federal forests has been publicly acknowledged and declared both by state officials and in 2002 by the President of the United States, members of his cabinet, other administration officials and numerous members of the United States Congress.

(h) Numerous state and local Wyoming elected officials and other citizens have repeatedly petitioned the United States Forest Service over the last several years to take actions needed to remove or eliminate the excessive forest overgrowth conditions that exist on watersheds on the federal lands within the state of Wyoming. All the petitions have been effectively ignored by the Secretary of Agriculture and other officers within the federal government under her authority, reflecting what can only be characterized as their utter disregard for both the needs of Wyoming citizens and wildlife, and Wyoming's lawful rights to the waterflows.

(j) The United States Congress, in pertinent part, expressly provided that ''No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of waterflows . . .'' 16 U.S.C. §475. Congress reaffirmed this directive when it passed the Multiple-Use Sustained-Yield Act of 1960 by specifically stating that the national forests ''shall be administered'' for ''watershed'' purposes, 16 U.S.C. §528 et seq.

(k) The United States Supreme Court in United States v. New Mexico, 438 U.S. 696 (1978) stated ''Congress has evidenced its continuing concern with enhancing the water supply for nonforest use by specifically authorizing the President to set aside and protect national forest lands needed as sources of municipal water supplies. 16 U.S.C. §552a.''

Moreover, the Supreme Court further stated that the ''States have exclusive control of the distribution of water on public lands and reservations.''

(m) The following facts are indisputable:

(i) Wyoming's watersheds located on federal lands presently contain millions of excess and unnecessary junipers and conifers;

(ii) Each of these excess trees individually consumes from ten (10) to two hundred (200) gallons of water each and every day of the year, depending on its size;

(iii) Thus, in the aggregate, the millions of excess trees on Wyoming's watersheds unnecessarily consume hundreds of acre feet of water each and every day of the year;

(iv) The continued existence of the overgrowth serves no legitimate federal or state purpose. In fact, these conditions have been previously declared to constitute a state of emergency because the catastrophic fire potential they create poses a present unreasonable risk to the lives and property of Wyoming citizens;

(v) The federal government's persistent failure to remove the excess tree overgrowth from Wyoming's watersheds prevents downstream flow to Wyoming in violation of the state's legal entitlement to the diverted waters under both state and federal law.

(n) Based on the foregoing findings of fact, the following conclusions are indisputable:

(i) Wyoming has a legal entitlement to the waterflows that either are or may be derived from federal lands within the state;

(ii) The excessive overgrowth on the watersheds is depriving the state of Wyoming of its legal entitlement to the waters in direct violation of the mandates of the United States Congress and the rulings of the United States Supreme Court;

(iii) Therefore, to abate this illicit diversion of Wyoming's water, to increase the aggregate total supply of water available in and to Wyoming in the future, and to thereby remedy the state of emergency declared by this act, Wyoming hereby now affirms and asserts the supremacy of its right over that of the federal government to the ownership and use of those waters that are currently being unlawfully diverted by the federal government without justification to supply the demands of the needless federal forest overgrowth on Wyoming's watersheds: Now, therefore, be it

Resolved by the members of the Legislature of the State of Wyoming:

Section 1. That the legislature declares the existence of a state of emergency due to a shortage of water available to Wyoming caused in significant part by the deteriorating conditions of the state's watersheds located on federal lands. These conditions are due in turn to unnecessary excessive forest overgrowth. This overgrowth is unlawfully diverting Wyoming's waterflows, thus depleting Wyoming's total supply of water available to its citizens, communities, livestock, wildlife and wildlife habitats.

Section 2. (a) The legislature further finds that the continued existence of the state of emergency poses a direct threat to the health, safety, well-being and economic viability of Wyoming's citizens and to the continued health and viability of its communities, livestock, wildlife and wildlife habitats. It is therefore imperative that Wyoming take such actions as may be necessary to mitigate or eliminate the federal forest watershed overgrowth conditions that shall include the following:

(i) The state shall take any and all actions necessary to obtain a transfer to the state of such limited jurisdiction over federal lands as may be necessary to enable the state to take appropriate actions that are needed to restore the state's watersheds to a condition of health, and to increase waterflows available within Wyoming; and

(ii) Upon the transfer of the limited jurisdiction, the state shall utilize the police and contract powers of the state to the extent necessary to garner the public and private resources and services needed to mitigate and ultimately eliminate the state of emergency hereby declared.

Section 3. (a) The legislature further finds that to further achieve the objectives of this resolution, within ninety (90) days of this resolution, the governor of this state shall consider:

(i) Taking actions necessary and appropriate pursuant to the provision of 7 U.S.C. §2268 and any other state or federal law that may be determined relevant by the attorney general of this state in order to request and obtain from the United States Secretary of Agriculture limited jurisdiction over relevant federal lands as may be necessary for Wyoming to restore its watersheds to a condition of health and thereby increase the waterflows that may be derived from the watersheds; and

(ii) Including within the application to the United States Secretary of Agriculture for the transfer of the limited jurisdiction an express provision that any acceptance by Wyoming of a transfer of limited jurisdiction to restore watershed health upon federal lands shall be conditioned on Wyoming's receipt of sufficient federal funds determined by Wyoming to be necessary to enable the state to perform the actions needed to mitigate or eliminate the state of emergency created by the federal government's impairment of Wyoming's watersheds, waterflows and aggregate water supplies.

Section 4. (a) The legislature further finds that in the event limited jurisdiction coupled with necessary federal funds are not made available by the United States Secretary of Agriculture to Wyoming within one hundred eighty (180) days from the date this resolution is passed, the governor shall direct the Wyoming attorney general to consider the preparation, filing and pursuit of a lawsuit on behalf of Wyoming to:

(i) Obtain a judicial declaration of Wyoming's lawful right to the waterflows originating from watersheds located on federal lands within the state;

(ii) Obtain a judicial declaration of the impairment of the state's rights to waterflows originating on federal lands as a foreseeable consequence of excessive and unjustifiable forest overgrowth; and

(iii) Compel the United States, the Secretary of Agriculture and the Forest Service to take such actions as may be determined by a court of law to be necessary, appropriate and lawful to mitigate or eliminate the state of emergency declared by this act.

Section 5. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the United States Secretary of Interior and the United States Secretary of Agriculture and to the Wyoming Congressional Delegation.

POM–79. A concurrent resolution adopted by the Legislature of the State of Kansas relative to urging the Federal Energy Regulatory Commission to work to develop sufficient electric transmission facility infrastructure and design and implement regional transmission; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 5007

Whereas, The existing transmission systems in the United States is an extensive network of high-voltage powers lines which transport electricity from generators to consumers and which must accommodate the nation's growing demand for reliable and affordable power; and

Whereas, The system is rapidly becoming congested due to growth in demand, investment in new generation facilities and lack of investment in expansion and improvement of transmission facilities; and

Whereas, Expansion and improvement of the transmission system is vital to the national interest because congestion creates bottlenecks which result in decreased reliability less competition, higher prices to consumers and increased infrastructure vulnerability; and

Whereas, The United States Department of Energy recognizes that Kansas transmission system is vital to the national interest because congestion creates bottlenecks which result in decreased reliability, less competition, higher prices to consumers and increased infrastructure vulnerability; and

Whereas, The existing transmission systems is increasingly incapable of providing reliable service to the nature load in Kansas and does not have the capacity to support economic development of renewable and fossil-fuel resources or to economically dispatch power within the state; and

Whereas, The existing transmission system experience significant constraints to the importation of additional power from outside the state and export of additional power to markets beyond the state's boundaries in support of national energy reliability and clean air standards; and

Whereas, The leadership of the Federal Energy Regulatory Commission is crucial to resolving issues related to cost recovery of transmission facility upgrades and regional transmission system reliability issues: Now, therefore, be it

Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein, That the Legislature urges the Federal Energy Regulatory Commission to work with the State of Kansas in development of sufficient transmission facility infrastructure to support the state's economic development efforts and the nations growing energy, security and reliability needs, along with the design and implementation of regional transmission organizations and cost recovery mechanisms, and be it further

Resolved, That the Secretary of State is directed to provide a copy of this enrolled resolution to each member of the Federal Energy Regulatory Commission, the President of the United States, the Vice-President of the United States, the United States Secretary of Energy, the President Pro Tempore of the United States Senate, the Minority leader of the United States House of Representatives, each member of the Kansas Congressional delegation, he State Corporation Commission, the Nebraska Power Review Board, the Missouri Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

I hereby certify that the above Concurrent Resolution originated in the House, and was adopted by that body.

POM–80. A Senate resolution adopted by the Legislature of the State of Michigan relative to expressing support to the war in Iraq; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 37

Whereas, While our nation has faced a wide range of threats to our freedom over the years, the unique war on terrorism in which we now find ourselves engaged demands an exceptional commitment. From our leaders and our military to our citizens and state and local governments, we all must work together to increase the security of our homeland. In the aftermath of September 11th,

our country must deal with the entire range of terrorist threats before us; and

Whereas, The ongoing preparations for a military action to deal with threats from Iraq and its weapons of mass destruction are a direct and necessary response for the United States and our allies. As the world learns more about the links between the reign of hatred of Saddam Hussein and international terrorist organizations, including those affiliated with Osama bin Laden, the gravity of the world's situation has become increasingly clear. The smokescreen of misinformation that has hampered United Nations efforts in Iraq must not be permitted to jeopardize the homeland security of our nation or the stability of other parts of the world; and

Whereas, A number of Michigan citizen soldiers are engaged in the noble effort to defend our liberties. In addition to those already serving in the military, several reserve units have been called into duty. It is important to voice our support for all of them, as their courage and steadfastness in the face of war represents the highest standard of citizenship. For the families with loved ones in the military, the world's tensions take on much more intensity. Once again, we are reminded that the true cost of freedom is clearly beyond measure; and

Whereas, Unity in the face of adversity is essential for success in any grave battle. The people of this state, well aware of the high stakes of any military action, stand behind our President in his work to protect peace in our troubled world: Now, therefore, be it

Resolved by the Senate, That we express support for the President's strategy for protecting the security of the United States through our efforts in Iraq and to express support for the men and women of our military and their families; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 880. An original bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes (Rept. No. 108-37).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment with a preamble:

S. Res. 117. An original resolution recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements.

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 538. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 703. A bill to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Maj. Gen. H. Steven Blum.

By Mr. LUGAR for the Committee on Foreign Relations.

Dennis L. Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

Joseph LeBaron, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Reno L. Harnish, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Heather M. Hodges, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Gregory W. Engle, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Togolese Republic.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Jay T. Snyder, of New York, to be a Member of the United States Advisory Commission on Public Diplomacy.

Harold C. Pachios, of Maine, to be a Member of the United States Advisory Commission on Public Diplomacy.

Elizabeth F. Bagley, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy.

Marie Sophia Aguirre, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy.

Marie Sophia Aguirre, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy.

Barbara McConnell Barrett, of Arizona, to be a Member of the United States Advisory Commission on Public Diplomacy.

Barbara McConnell Barrett, of Arizona, to be a Member of the United States Advisory Commission on Public Diplomacy.

Charles William Evers III, of Florida, to be a Member of the United States Advisory Commission on Public Diplomacy.

Charles William Evers III, of Florida, to be a Member of the United States Advisory Commission on Public Diplomacy.

Wayne E. Neill, of Nevada, 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 Benin.

Stephen D. Mull, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Ralph Frank, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Croatia.

William M. Bellamy, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

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.

Pamela J. H. Slutz, of Texas, 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 Mongolia.

Stephen M. Young, of New Hampshire, 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 Kyrgyz Republic.

By Mr. HATCH for the Committee on the Judiciary.

Cecilia M. Altonaga, of Florida, to be United States District Judge for the Southern District of Florida.

Susan G. Braden, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Charles F. Lettow, of Viginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

By Mr. SPECTER for the Committee on Veterans' Affairs.

*John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.

*Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED

On request by Mr. MCCONNELL and by unanimous consent, it was ordered, That the following nominations be discharged from the Committee on Health, Education, Labor and Pensions.

DEPARTMENT OF EDUCATION

Karen Johnson, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

NATIONAL SCIENCE FOUNDATION

Barry C. Barish, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Delores M. Etter, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Daniel E. Hastings, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Douglas D. Randall, of Massachusetts, to be a Member of the National Science Board,

National Science Foundation, for a term expiring May 10, 2008.

Jo Anne Vasquez, of Arizona, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

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. ALLARD:

S. 850. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mr. BROWNBACK, Mr. INHOFE, Mr. TALENT, Mr. SANTORUM, Mr. GRASSLEY, Mr. ENZI, Mr. SESSIONS, Mr. ALLEN, Mr. BUNNING, Mr. FITZGERALD, Mr. CHAMBLISS, Mr. DEWINE, Mr. MCCONNELL, Mr. COLEMAN, Mr. KYL, Mr. NICKLES, Mr. GRAHAM of South Carolina, Mr. BOND, Mr. HAGEL, Mr. CRAIG, Mr. MCCAIN, and Mr. HATCH):

S. 851. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. DASCHLE, Mr. SMITH, and Mr. LEAHY):

S. 852. A bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 853. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 854. A bill to authorize a comprehensive program of support for victims of torture, and for other purposes; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. GRASSLEY):

S. 855. A bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. HARKIN, Mr. DASCHLE, and Mr. JOHNSON):

S. 856. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, and Mr. COCHRAN):

S. 857. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. BUNNING):

S. 858. A bill to extend the Abraham Lincoln Bicentennial Commission, and for other purposes; to the Committee on the Judiciary.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. SMITH, Mr. DODD, Mr. LEAHY, Mrs. MURRAY, Mr. DURBIN, Mr. LAUTENBERG, and Mr. BINGAMAN):

S. 859. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Nebraska:

S. 860. A bill to amend title 36, United States Code, to designate the oak tree as the national tree of the United States; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUYE, Mr. REED, Mr. BREAUX, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mrs. MURRAY, Mr. CORZINE, Ms. COLLINS, Mr. DODD, Mr. LEVIN, Mr. NELSON of Florida, Mr. WYDEN, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. LAUTENBERG, Ms. CANTWELL, and Mr. CHAFEE):

S. 861. A bill to authorize the acquisition of interests in undeveloped coastal areas in order to better ensure their protection from development; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, and Mr. JOHNSON):

S. 862. A bill to promote the adoption of children with special needs; to the Committee on Finance.

By Mr. EDWARDS (for himself, Mr. MILLER, Mr. BINGAMAN, Ms. MIKULSKI, and Mrs. MURRAY):

S. 863. A bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself, Mr. BINGAMAN, Ms. MIKULSKI, and Mrs. MURRAY):

S. 864. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide for grants to parents and guardians of certain military dependents, in order to assist the parent and guardians in paying for the cost of child care services provided to the dependents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN (for himself, Mr. DORGAN, Mr. BROWNBACK, and Mr. ENSIGN):

S. 865. A bill to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. DURBIN, Mr. SCHUMER, Mr. CORZINE, Mrs. FEINSTEIN, Mr. REED, and Mr. LAUTENBERG):

S. 866. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks; to the Committee on the Judiciary.

By Mr. BURNS:

S. 867. A bill to designate the facility of the United States Postal Service located at 710 Wick Lane in Billings, Montana, as the ''Ronald Reagan Post Office Building''; to the Committee on Governmental Affairs.

By Mr. SMITH:

S. 868. A bill to amend the Coos, Lower Umpqua, and Siuslaw Restoration Act to provide for the cultural restoration and economic self-sufficiency of the Confederation Tribes of Coos, Lower Umpqua, and Siuslaw Indians of Oregon, and for other purposes; to the Committee on Indian Affairs.

By Mr. HARKIN (for himself, Ms. SNOWE, Mr. INOUYE, Mr. GRAHAM of South Carolina, Mrs. MURRAY, Mr. CORZINE, Mr. BIDEN, Mr. SPECTER, Ms. LANDRIEU, Mr. JOHNSON, Mrs. LINCOLN, Mr. HOLLINGS, Ms. MIKULSKI, Mrs. CLINTON, and Ms. COLLINS):

S. 869. A bill to amend title XVIII of the Social Security Act to provide for enhanced reimbursement under the medicare program for screening and diagnostic mammography services, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. COCHRAN):

S. 870. A bill to amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program; considered and passed.

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. KENNEDY, Mr. HAGEL, Mr. DOMENICI, and Mr. FEINGOLD):

S. 871. A bill to provide for global pathogen surveillance and response; to the Committee on Foreign Relations.

By Mr. SANTORUM:

S. 872. A bill to authorize appropriations for fiscal years 2004 and 2005 for United States contributions to the International Fund for Ireland, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN:

S. 873. A bill to authorize funding for catalysis science and engineering research and development at the Department of Energy for fiscal years 2004 through 2009, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALENT (for himself, Mr. SCHUMER, and Mr. GRAHAM of South Carolina):

S. 874. A bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. SANTORUM, Mr. SARBANES, Mr. ALLARD, Mr. DASCHLE, Mr. KENNEDY, Ms. STABENOW, and Mrs. CLINTON):

S. 875. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself, Ms. COLLINS, and Mrs. CLINTON):

S. 876. A bill to require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BURNS (for himself, Mr. WYDEN, Mr. STEVENS, Mr. BREAUX, Mr. THOMAS, Ms. LANDRIEU, and Mr. SCHUMER):

S. 877. A bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 878. A bill to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH:

S. 879. A bill to amend the Internal Revenue Code of 1986 to increase and extend the special depreciation allowance, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 880. An original bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes; from the Committee on Health, Education, Labor, and Pensions; placed on the calendar.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Mrs. LINCOLN, Mr. HATCH, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. DAYTON):

S. 881. A bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the medicare program; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 882. A bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself, Mr. CHAFEE, Mr. BINGAMAN, Ms. LANDRIEU, Mr. LIEBERMAN, Mrs. CLINTON, Mr. MILLER, and Mr. GRAHAM of Florida):

S. 883. A bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mr. NELSON of Nebraska, Mr. SHELBY, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. JOHNSON, Mr. BUNNING, and Mr. REID):

S. 884. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY:

S. 885. A bill entitled ''Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003''; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, and Mr. KERRY):

S. 886. A bill to ratify otherwise legal appointments and promotions in the commissioned corps of the National Oceanic and Atmospheric Administration that failed to be submitted to the Senate for its advice and consent as required by law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL (for himself and Mr. CORNYN):

S. 887. A bill to amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY:

S. Res. 117. An original resolution recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements; from the Committee on the Judiciary; placed on the calendar.

By Mrs. BOXER:

S. Res. 118. A resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. DOMENICI, and Mrs. CLINTON):

S. Res. 119. A resolution expressing the sense of the Senate that there should be parity among the countries that are parties to the North American Free Trade Agreement with respect to the personal exemption allowance for merchandise purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS:

S. Res. 120. A resolution commemorating the 25th anniversary of Vietnam Veterans of America; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mr. GREGG, Ms. SNOWE, and Ms. COLLINS):

S. Con. Res. 35. A concurrent resolution honoring the 129 sailors and civilians lost aboard the U.S.S. Thresher on April 10, 1963, and urging the Secretary of the Army to erect a memorial to this tragedy in Arlington National Cemetery; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 392

At the request of Mr. REID, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 436

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 436, a bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes.

S. 504

At the request of Mr. ALEXANDER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 583

At the request of Mrs. HUTCHISON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 583, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 605

At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 605, a bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008.

S. 623

At the request of Mr. WARNER, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of 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.

S. 631

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 631, a bill to amend title 39, United States Code, with respect to cooperative mailings.

S. 703

At the request of Mr. HAGEL, the names of the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 703, a bill to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

S. 740

At the request of Mr. LIEBERMAN, the names of the Senator from Florida (Mr.

GRAHAM), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 757

At the request of Mr. CHAMBLISS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 757, a bill entitled the ''Guard and Reserve Commanders Pay Equity Act''.

S. 760

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 760, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 783

At the request of Mr. CHAMBLISS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 783, a bill to expedite the granting of posthumous citizenship to members of the United States Armed Forces.

S. 816

At the request of Mr. CONRAD, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

S. 822

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 822, a bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans.

S. 832

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 832, a bill to provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate.

S. 837

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 837, a bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

S. 845

At the request of Mr. GRAHAM of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 845, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S.J. RES. 8

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S.J. Res. 8, a joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

S.J. RES. 8

At the request of Mr. BROWNBACK, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S.J. Res. 8, supra.

S. RES. 75

At the request of Mr. CAMPBELL, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 75, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 82

At the request of Mr. BROWNBACK, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 82, a resolution expressing the sense of the Senate concerning the continuos repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women.

S. RES. 111

At the request of Mr. HATCH, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Texas (Mrs. HUTCHISON), the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 111, a resolution designating April 30, 2003, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENSIGN (for himself, Mr. BROWNBACK, Mr. INHOFE, Mr. TALENT, Mr. SANTORUM, Mr. GRASSLEY, Mr. ENZI, Mr. SESSIONS, Mr. ALLEN, Mr. BUNNING, Mr. FITZGERALD, Mr. CHAMBLISS, Mr. DEWINE, Mr. MCCONNELL, Mr. COLEMAN, Mr. KYL, Mr. NICKLES, Mr. GRAHAM of South Carolina, Mr. BOND, Mr. HAGEL, Mr. CRAIG, Mr. MCCAIN, and Mr. HATCH):

S. 851. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

Mr. ENSIGN. Mr. President, I rise to introduce the Child Custody Protection Act. This legislation makes it a Federal offense to knowingly transport a minor across a State line, with the intent that she obtain an abortion, in circumvention of a State's parental consent or parental notification law.

I have three young children in school, including a daughter, so I know something about parental consent. My wife and I, like most parents, have to give our written consent for school activities all the time.

In most schools, an underage child can't go on a school field trip without a signed permission slip. An underage child also can't receive mild medication at school, such as aspirin, for the alleviation of pain or discomfort unless a parent signs a release form permitting the school nurse to administer it. In some schools, a child may not take sex education class without parental consent. Nothing, however, prevents this same child from being taken across State lines, in direct disobedience of State laws, for the purpose of undergoing a life-altering abortion.

The Child Custody Protection Act simply attempts to strengthen the effectiveness of State laws designed to protect children from the health and safety risks associated with abortion. In many cases, only a girl's parents know of her prior psychological and medical history, including allergies to medication and anesthesia. Also, parents are usually the only people who can provide authorization for post-abortion medical procedures or the release of pertinent data from family physicians. When a pregnant girl is taken to have an abortion without her parents' knowledge, none of these precautions can be taken. The harsh reality is that leaving parents uniformed about their underage daughter's abortion may not only be detrimental to the physical and mental health of the child but may, in some instances, be fatal.

This legislation does not supercede, override, or in any way alter existing State parental involvement laws. It does not impose any parental notice or consent requirement on any State. The Child Custody Protection Act addresses the interstate transportation of minors in order to circumvent valid, existing state laws and uses the authority of Congress to regulate interstate activity to protect those laws from evasion.

Currently, forty-three States have laws requiring a minor to get the consent of or notify one or both parents prior to an abortion, but only thirty-three are enforcing those measures. Most of the statutes apply to a child under the age of 18 and provide for a court bypass procedure should she be unable to involve her parents.

This legislation is a common sense solution to a dire problem. A minor who is forbidden to drink alcohol, to stay out past a certain hour, or to drive a car in some states is certainly not prepared to make a life-altering, hazardous decision, such as an abortion, without the consultation or consent of at least one parent.

In fact, a poll found that 85 percent of voters, including 75 percent of ''pro-choice'' voters, said ''No'' when asked, ''Should a person be able to take a minor girl across State lines to obtain an abortion without her parents' knowledge?''

I would like to thank the original cosponsors of this bill for their support, Senators BROWNBACK, INHOFE, TALENT, SANTORUM, GRASSLEY, ENZI, SESSIONS, ALLEN, BUNNING, FITZGERALD, CHAMBLISS, DEWINE, MCCONNELL, COLEMAN, KYL, NICKLES, LINDSEY GRAHAM, BOND, HAGEL, CRAIG, MCCAIN and HATCH. I look forward to working with them, and other members of the Senate, to ensure that underage girls are protected from unscrupulous individuals who want them to make a life-altering decision without parental involvement.

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. 851

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 ''Child Custody Protection Act''.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

''CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

''Sec.
''2431. Transportation of minors in circumvention of certain laws relating to abortion.

''§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

''(a) OFFENSE.—

''(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

''(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the minor, in a State other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

''(b) EXCEPTIONS.—

''(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

''(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides.

''(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action.

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a 'law requiring parental involvement in a minor's abortion decision' means a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides,

who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.''.

(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 117 the following new item:

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431''.

Mr. HATCH. Mr. President, I rise today to join with my colleagues in introducing the Child Custody Protection Act and express my strong support for this important piece of legislation. Similar legislation was previously introduced in past sessions of Congress but, and I am sad to say, never was signed into law. However, I hope that today is the beginning of a new day to help protect the health and safety of children while safeguarding the rights and responsibilities of parents.

This bill is a reasonable effort to build upon two basic points with which many agree—despite other long-standing differences. The first is the desirability of parental involvement in a minor's abortion decision, and the other is the need to protect a pregnant minor's physical health.

This bill does not supersede, override, or in any way alter existing State parental consent or notification laws. Nor does this bill require States to implement their own parental involvement laws. The Child Custody Protection Act simply makes it a Federal offense to knowingly transport a female minor across a state line, with the intent that she obtain an abortion, in circumvention of State laws requiring parental consent or notification.

This bill, I would emphasize, is not a Federal parental involvement law; it merely ensures that State laws are not evaded through interstate activity. The Federal Government is not trying to tell the States how they must act and when, and this bill is not forcing parents to be good parents. This legislation strengthens the effectiveness of State laws, which is where the issue is best addressed and enforced. If we fail to pass this bill, we would be choosing to ignore the legitimacy and constitutionality of States to create and pass laws that specifically address the needs and desires of its citizens, especially when it comes to the health and safety of children.

The Child Custody Protection Act is a reasonable and rational approach to fixing a serious problem. In most places, a school nurse cannot provide an aspirin to a student for a headache without permission from the parent. Students cannot go on field trips without parental approval. Some report cards need a parent's signature to verify the parent knows how their child is performing academically.

This bill is not addressing something relatively trivial; it is drawing attention to a very serious medical procedure and protecting the health and safety of young girls. States that choose to implement parental notification laws because of their concerns with the well-being and safety of children should have every tool necessary to enforce their own laws.

An abortion is a risky medical procedure, especially for young teenagers. This bill is designed to protect children from the health and safety risks associated with abortion. In many cases, only a young girl's parents know of her prior psychological and medical history, including allergies to medication and anesthesia. Many other medical procedures in this country require the

consent of parents before they are performed. Also, parents are usually the only people who can provide authorization for post-abortion medical procedures or even release important information from family physicians. Given all of these other important medical situations that require parental consent, it is only reasonable and logical to recognize and enforce a States law asking for parental consent or notification for certain abortions.

We all know how contentious the issue of abortion can get around here, and across the country. But this matter is not really even about abortion. This bill is simply about protecting the health and safety of minor children and the rights that their own States have concluded their parents should have.

I would urge all of my colleagues to support this legislation and prevent circumvention of State laws, especially when the health and safety of children is involved.

By Mr. DEWINE (for himself, Mr. DASCHLE, Mr. SMITH, and Mr. LEAHY):

S. 852. A bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

Mr. DASCHLE. Mr. President, today I join with a bipartisan group of colleagues from the Senate Guard Caucus to introduce the National Guard and Reserve Comprehensive Health Benefits Act of 2003. This bill will allow reservists and their families to receive health coverage through Tricare by paying a modest premium.

These dedicated men and women deserve a better benefit package, given the dramatic expansion of their role within our military. Indeed, there is concern that the high rate of mobilizations—which no one expects to abate—will erode this force's ability to recruit and retain top-notch personnel. South Dakota Guard leaders tell me this bill would be perhaps the most powerful tool we could give them for recruiting and retention. By providing access to quality affordable health care for reservists and their families, this bill will also ensure that when they are mobilized, they are healthy and ready to go.

As I stand before you today, nearly 2,000 members of South Dakota's Guard and Reserves are deployed throughout the world—from force-protection missions at home to assignments in Europe and the Persian Gulf. Most of these reservists will be mobilized for 6 months, and some will stay activated for up to 2 years. And while South Dakota has one of the highest per-capita mobilization rates in the country, it is not unique. As the U.S. role as an international leader evolves, the National Guard and Reserves are being called upon at unprecedented rates to bolster our Nation's defense.

Indeed, since the 1991 gulf war, and particularly since the terrorists attacks of September 11, the demands on Reserve and Guard units have increased steadily. Not only are more reservists deployed more often, they are also activated for increasingly diverse tasks. Historically, this force has helped address a wide variety of social needs—from enforcing civil rights laws to fighting forest fires—and homeland defense is shaping us a major new duty that will require its sustained engagement.

While the demands we place on reservists have grown markedly in the last decade, the Federal Government's commitment to this dedicated group of men and women has not kept pace. In fact, the basic pay and benefit structure that was established during the cold war—when reservists could see their entire career pass by without being activated—remains in place today. As a result, leaders of the National Guard and Reserves are increasingly worried about their ability to recruit and retain new members.

The legislation we are introducing today takes a major step toward providing the men and women of our Reserve components with the support they need to carry out their new, vital role in the total force structure. It will offer Reserve and National Guard members the opportunity to participate for themselves and their family members in the same Tricare program available to active-duty service members and their families. Reservists and their families will share the cost of premium payments with the Department of Defense, with the same cost distribution as used in the Federal Employees Health Benefit Plan. This program will help the National Guard and Reserves attract and keep the best and brightest men and women in the Nation.

The National Guard Association of the United States reports that the average cost of a family health care plan through a civilian HMO is $7,541 per year. In contrast, it estimates that the Tricare cost per family is only $5,173 per year, even without the Government sharing any of the cost. With Government cost-sharing, this will be an attractively priced option for securing health coverage.

Beyond recruitment and retention, this program will improve readiness. More than 20 percent of the Ready Reserve—and as much as 40 percent of young enlisted personnel—do not currently have health insurance. Providing access to quality health care during all phases of service can drastically reduce the occurrence of situations in which large portions of a unit are unable to deploy because of medical reasons. Maintaining a healthy force is absolutely essential to maintaining a prepared force.

Our legislation will also reduce the incidence of problems that invariably occur during mobilization, when families leave their private-sector health plan and enter a wholly new plan, Tricare. Last month, I worked with Secretary of Defense Donald Rumsfeld to end a nationwide problem among families of mobilized reservists. Simply put, they were being forced, unfairly and improperly, to join a more expensive Tricare plan. We did solve that problem, but many families had to wait weeks without knowing whether they should try to extend their private coverage or whether they could afford Tricare. That is simply unacceptable. It is the last thing a reservist should have to worry about when preparing, possibly, for deployment to a war zone.

Another challenge for families going through mobilization is learning the Tricare benefit structure and understanding its system for helping those with problems or questions. Again, all this would be eliminated if families could enroll in Tricare before mobilization. If a family believes its employer's civilian plan is superior, they would be free to remain, and, during periods of mobilization, those premiums would be partially subsidized.

We have developed this bill in consultation with leaders of the National Guard and Reserves at the State and National levels. I appreciate their concern for this problem and their work to help develop a solution. In this regard, I would particularly like to acknowledge the efforts and strong support of the South Dakota National Guard, as well as the Military Officers Association of America, the Enlisted Association of the National Guard, the National Guard Association of the United States, the Reserve Officers Association, the Marine Corps Reserve Officers Association, the National Military Family Association, the National Association for Uniformed Services, and the National Military/Veterans Association.

I would like also to thank my cosponsors, Senator LEAHY, Senator DEWINE, and Senator GORDON SMITH, for helping advance this project.

Guaranteeing that all reservists have access to health care—either through civilian employers or Tricare—will ensure that this force is ready to fight at a moment's notice. The bill we are introducing today will not only improve the readiness of the current Reserve Force, but will pay dividends in the future by improving our ability to recruit and retain the best and brightest men and women for the National Guard and Reserves.

The Senate has set aside time each day for the last 3 weeks to honor and support the dedicated service of our troops in Iraq. Surely we can agree that one of our high priorities should be to ensure that, as long as they continue their service to our country, they will always have access to high-quality affordable health care.

Mr. LEAHY. Mr. President, today I am joined by Senator DEWINE, by our minority leader, Senator DASCHLE, and

by Senator SMITH in introducing legislation that will boost the readiness of our Nation's military Reserve.

Never has our Nation relied more heavily on the Selected Reserve—more than 875,000 men and women, who stand ready for deployments at home or abroad, at a moment's notice. More than 54 percent of the U.S. Army's and 34 percent of the U.S. Air Force's end strength resides in the Selected Reserve. Both the Army and the Marine Corps rely on these Reserve forces for almost 20 percent of their manpower strength. The skill, experience and professionalism of these dedicated citizens often meet and exceed those of their brave counterparts in the active force.

It is no wonder that more than 200,000 reservists have been called to duty for service that is related to the war in Iraq. Many States have thousands of their citizens who have temporarily dropped their civilian jobs and left their families for deployments halfway across the globe. More than 300 citizen-soldiers, sailors, airmen, and marines in my home State of Vermont are serving proudly at the moment, here and abroad. When you include the call-ups since the September 11 attacks, the number of activated reservists across the country far exceeds those in the first gulf war.

These deployments have spotlighted some specific and solvable problems that have affected the readiness of the reserves and, in turn, our entire military. Some of the troops who have been called up have not been as healthy as possible. Others have faced the stress of leaving their families behind while looking back in concern as their families try to navigate the sometimes arcane military health care system. While often experiencing a loss of income, reserve family members also have had to leave their civilian doctors and join the military's TRICARE program.

More troubling, many of the members of the Guard and Reserve who might be activated any day do not currently have access to affordable health insurance. A recent General Accounting Office report underscores the fact that most of these uninsured Guard and Reservists reside in the lower enlisted ranks, where the reserve soldiers, sailors, airmen, and marines oftentimes are unemployed or switch jobs frequently. It is unfair to them and their families, and it is unwise for the preparedness of our military, to expect someone to deploy anywhere at the drop of a hat, but then to disregard whether they will be as healthy as possible when we need to call them to active duty.

These men and women are ready to make the ultimate sacrifice for their country, and so are their families. But they are performing as full-time soldiers with part-time benefits.

This situation is preventing the National Guard and the Reserve from being as ready as possible for action. At the same time, the stress and strain that activations place on families has hurt recruiting and retention. To ensure the strongest and most effective reserve and the strongest and most effective military capability, it is critical that we address these issues and provide comprehensive health insurance coverage.

The National Guard and Reserve Comprehensive Health Benefits Act of 2003 will provide seamless health coverage to our reserve forces at all phases of their service. Under our plan, if one of 876,000 members of the Selected is in a drill status, that reservist and his or her family will become eligible to join the TRICARE military health insurance program. The reservist will pay an annual premium, around 30 percent of the annual cost of providing care. For a single reservist, the premium would be about $420 per year, while for a family the annual payment would be about $1,450. This is not rock-bottom-cheap health care, but our aim is to ensure affordable health insurance for hard-working families that may not otherwise have access to coverage.

If a reservist is activated, he or she will continue to have free health care through the military health system. But under our legislation, the reservist's family will be able to avoid the considerable difficulties of switching doctors and health insurance. They also can apply to have their civilian health insurance reimbursed. The program will not cost any more to the Federal Government than the current arrangement because the per capita costs are capped to ensure that they are no more than the cost of TRICARE. And when a reservist comes off active duty, he or she will be able to enter the new premium-based TRICARE program, just as before deployment.

Because reservists will be able to have access to affordable insurance whatever their deployment status, this legislation is being supported by several leading organizations, including the National Guard Association of the United States, NGAUS, the Enlisted National Guard Association of the United States, EANGUS, the Reserve Officers Association, ROA, the Naval Reserve Association, NRA, the National Military Family Association, NMFA, Marine Corps Reserve Officers Association, the National Association for Uniformed Services, the National Military/Veterans Association, and the Military Officers Association, MOA. This legislation is the top priority of The Military Coalition's Guard/Reserve Committee.

We have worked hard to fully understand the existing problems and to construct this efficient and effective solution. I would particularly like to thank former Undersecretary of Defense Fred Pang and former House Armed Services Committee Professional Staff Member Karen Heath for their sage counsel and guidance in developing this legislation. We are part of a strong, bipartisan coalition that will push for enactment of this long-overdue legislation. In the coming weeks we plan to welcome additional cosponsors for this comprehensive bill as we begin the process of moving it without delay through the legislative process and to the President's desk.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 853. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Mental Health Copayment Equity Act with my colleague on the Finance Committee, Senator JOHN KERRY.

In brief, my bill would a correct a serious disparity in payment for treatment of mental disorders under Medicare law. Medicare beneficiaries typically pay 20 percent copayment for outpatient services, including doctor's visits and Medicare pays the remaining 80 percent. But for treatment of mental disorders, Medicare law requires patients pay a 50-percent copayment. Under my bill, this copayment will be reduced over a six year period, starting in 2004, from the current 50 percent to 20 percent. This means that in 2010, patients seeking outpatient treatment for mental illness will pay the same 20 percent copayment required of Medicare patients that receive treatment for any other illness.

Let's look at this issue in another way. If a Medicare patient has an office visit for treatment for cancer or heart disease, the patient is responsible for 20 percent of the doctor's fee. But if a Medicare patient has an office visit with a psychiatrist, psychologist, social worker, or other professional for treatment for depression, schizophrenia, or any other condition diagnosed as a mental illness, the copayment for the outpatient visit for treatment of the mental illness is 50 percent. What sense does this make?

Indeed, my bill has a larger purpose, to help end an outdated distinction between physical and mental disorders, and ensure that Medicare beneficiaries have equal access to treatment for all health conditions. Perhaps this disparity would matter less if mental disorders were not so prevalent. But the Surgeon General has told us otherwise.

The importance of access to treatment for mental disorders is emphasized in a landmark report on mental health released by the Surgeon General in 1999. The Surgeon General reported mental illness was second only to cardiovascular diseases in years of healthy life lost to either premature death or disability. And the occurrence of mental illness among older adults is widespread with a substantial proportion of the population 55 and older—almost 20 percent of this age group—experiencing specific mental disorders that are not part of ''normal'' aging.

Further, older Americans have the highest rate of suicide in the country,

and the risk of suicide increases with age. In fact, in the State of Maine, the suicide rate for seniors is three times as high as the rate for adolescents. Untreated depression among the elderly substantially increases the risk of death by suicide.

There is another sad irony. While Medicare often is viewed as health insurance for people over age 65, Medicare also provides health insurance coverage for people with severe disabilities. The single most frequent cause of disability for Social Security and Medicare benefits is mental disorders—affecting almost 1.4 million of 6 million Americans who receive Social Security disability benefits. Yet, at the same time, Medicare pays less for critical mental health services needed by these beneficiaries than if they had a nonmental disability.

But there also is very good news that there are increasingly effective treatments for mental illnesses. With proper treatment, the majority of people with a mental illness can lead productive lives. By removing financial barriers that inhibit access to treatment services, we will be able to eliminate stigmas and overcome a lack of understanding of mental disorders.

I urge my colleagues to join with me to bring Medicare payment policy for mental disorders into the 21st century.

Mr. KERRY. Mr. President, I am pleased to join my colleague Senator SNOWE in introducing the Medicare Mental Health Copayment Equity Act. This legislation will establish mental health care parity in the Medicare program.

Medicare currently requires patients to pay a 20 percent co-payment for all Part B services except mental health care services, for which patients are assessed a 50 percent co-payment. Thus, under the current system, if a Medicare patient sees an endocrinologist for diabetes treatment, an oncologist for cancer treatment, a cardiologist for heart disease treatment or an internist for treatment of the flu, the co-payment is 20 percent of the cost of the visit. If, however, a Medicare patient visits a psychiatrist for treatment of mental illness, the co-payment is 50 percent of the cost of the visit. This disparity in outpatient co-payments represents blatant discrimination against Medicare beneficiaries with mental illness.

The prevalence of mental illness in older adults is considerable. According to the U.S. Surgeon General, 20 percent of older adults in the community and 40 percent of older adults in primary care settings experience symptoms of depression, while as many as one out of every two residents in nursing homes are at risk of depression. The elderly have the highest rate of suicide in the United States, and there is a clear correlation between major depression and suicide: 60 to 70 percent of suicides among patients 75 and older have diagnosable depression. In addition to our seniors, 400,000 non-elderly disabled Medicare beneficiaries become Medicare-eligible by virtue of severe and persistent mental disorders. To subject the mentally disabled to discriminatory costs in coverage for the very conditions for which they became Medicare eligible is illogical and unfair.

There is ample evidence that mental illness can be treated. Unfortunately, those in need of treatment often do not seek it because they are ashamed of their condition. Among our Medicare population, the mentally ill face a double burden: not only must they overcome the stigma about their illness, but once they seek treatment they must pay one-half of the cost of care out of their own pocket. The Medicare Mental Health Copayment Equity Act will phase-down the 50 percent co-payment for mental health care services to 20 percent over six years. By applying the same co-payment rate to mental health services to which all other outpatient services are subjected, the Medicare Mental Health Copayment Equity Act will bring parity to the Medicare program and improve access to care for our senior and disabled beneficiaries who are living with mental illness. I urge my colleagues to join with us to pass this critical legislation.

I ask unanimous consent that several letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAINE OSTEOPATHIC ASSOCIATION,
Manchester, ME, April 9, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the osteopathic physicians (D.O.'s) in Maine, I want to applaud your leadership efforts in sponsoring the Medicare Mental Health Copayment Equity Act of 2003. This bill would end Medicare's unfortunate discrimination against patients with mental illness.

We support this legislation that would end this discrimination because it requires that Medicare patients pay only the same 20 percent co-payment for mental illness treatment that they pay when seeking other medical treatment, such as treatment for diabetes, asthma or influenza.

The Maine Osteopathic Association appreciates your thoughtfulness, commitment and compassion in equitably treating persons with mental illness.

Your sponsorship of this most important bill is a major step to end Medicare's discrimination coverage of mental illness treatment.

Sincerely,

DANIEL M. PIERCE, D.O.
President.

April 9, 2003.

Hon. JOHN KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: On behalf of the American Association for Geriatric Psychiatry (AAGP), I am writing to add AAGP's endorsement to legislation which you are planning to introduce with Senator Snowe to end the discriminatory copayment required by Medicare for treatment of mental illness.

Medicare coverage of mental health services is fragmented and subject to arbitrary and discriminatory limitations. Although coinsurance for most services covered by Medicare is 20 percent, current law requires a 50 percent co-payment for mental health services furnished by psychiatrists and other health care professionals who specialize in the treatment of mental illness. This limit, which dates back to the inception of the Medicare program in 1965, is based on the outmoded assumption that all mental illness is chronic and requires unlimited therapeutic services. Advances in treatment have made this assumption highly inaccurate. Your bill would establish copayment parity between mental health benefits and other medical benefits under the Medicare program.

Your legislation stands to dramatically improve the lives of Medicare beneficiaries by providing them with the access to mental health care that they deserve.

AAGP commends you for your dedication to ensuring that all Americans have adequate access to effective mental health treatments, and we look forward to working with you to achieve the enactment of this legislation.

Sincerely,

JOEL E. STREIM, M.D.,
President.

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, April 9, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 38,000 physician members of the American Psychiatric Association (APA), and most particularly on behalf of the patients they treat, please accept my thanks for your House sponsorship of the Medicare Mental Health Copayment Equity Act of 2003.

As you know, Medicare Part B requires by statute that beneficiaries pay a copayment of 20 percent, except for the discriminatory 50 percent copayment charged for outpatient mental health treatment. It is time for Congress to end what amounts to cost-sharing discrimination by diagnosis. The bill you are introducing with Representative Richard Neal would ultimately require Medicare beneficiaries to pay the same 20 percent copayment amount for outpatient mental health treatment as they would otherwise pay for other Part B services. Asking our Medicare beneficiaries to pay half the cost of their mental health care out of pocket is simply unjust, and is a significant barrier to necessary treatment.

Thank you for your foresight and leadership in your lead sponsorship of the Medicare Mental Health Copayment Equity Act of 2003. Thanks are also due to the outstanding work by Catherine Finely, who ably represents you. The APA looks forward to working with you to make your bill a reality this year.

Sincerely,

PAUL S. APPELBAUM, M.D.,
President.

NAMI,
THE NATION'S VOICE ON MENTAL HEALTH,
Arlington, VA, April 9, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of NAMI's 210,000 members and 1,200 affiliates I am writing to offer our strong support for the Medicare Mental Illness Nondiscrimination Act. Thank you for bringing forward this important legislation to bring a discrimination in outpatient treatment services in the Medicare program. As the nation's largest organization representing persons with severe mental illness and their families, we are extremely grateful for your leadership on this important issue.

Perhaps the most glaring shortcoming in the Medicare program is the discriminatory

co-payment for most outpatient mental illness treatment services. As you know, outpatient psychotherapy services are covered at 50 percent under Medicare, with a 50 percent beneficiary co-payment requirement. This is stark contrast to the 80 percent payment, and 20 percent co-payment for all other outpatient services. In NAMI's view, this is a clear form of discrimination in one of the federal government's most important health care programs—providing coverage to more than 39 million Americans—both seniors and non-elderly people with severe disabilities such as serious mental illnesses. We know that treatment makes a tremendous difference in the lives of persons with mental illness. Your legislation removes a significant financial barrier to such necessary care for the Medicare population.

Thank you for once again leading the way in the Congress in bringing an end to discrimination against persons living with severe mental illness.

Sincerely,

RICHARD C. BIRKEL,
Executive Director.

AMERICAN ASSOCIATION FOR GERIATRIC PSYCHIATRY,
Bethesda, MD, April 9, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the American Association for Geriatric Psychiatry (AAGP), I writing to add AAGP's endorsement to legislation which you are planning to introduce with Senator Kerry to end the discriminatory copayment required by Medicare for treatment of mental illness.

Medicare coverage of mental health services is fragmented and subject to arbitrary and discriminatory limitations. Although coinsurance for most services by Medicare is 20 percent, current law requires a 50 percent co-payment for mental health services furnished by psychiatrists and other health care professionals who specialize in the treatment of mental illness. This limit, which dates back to the inception of the Medicare program in 1965, is based on the outmoded assumption that all mental illness is chronic and requires unlimited therapeutic services. Advances in treatment have made this assumption highly inaccurate. Your bill would establish copayment parity between mental health benefits and other medical benefits under the Medicare program.

Your legislation stands to dramatically improve the lives of Medicare beneficiaries by providing them with the access to mental health care that they deserve.

AAGP commends you for your dedication to ensuring that all Americans have adequate access to effective mental health treatments, and we look forward to working with you to achieve the enactment of this legislation.

Sincerely,

JOEL E. STREIM, M.D.,
President.

MAINE PSYCHIATRIC ASSOCIATION,
Manchester, ME, March 19, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE, on behalf of the psychiatric physicians of the Maine Psychiatric Society, I want to offer you my sincere appreciation for your leadership in sponsoring the Medicare Mental Health Copayment Equity Act of 2003, working to end Medicare's historic discrimination against patients with mental illness.

Your legislation would end this discrimination by requiring that discriminatory copayments required of Medicare patients for mental illness treatment would eventually be reduced from the current 50 percent level to the 20 percent level patients pay for other medical treatment, such as treatment for diabetes, heart disease, or the flu. This legislation promotes parity for mental health benefits and improves access to mental health care for all Medicare beneficiaries in Maine and across the country.

The Maine Psychiatric Association appreciates your ongoing commitment to persons with mental illness, and your sponsorship of this most important bill to end Medicare's discriminatory coverage of mental illness treatment.

Sincerely,

EDWARD PONTIUS, M.D.,
Chair, Legislative Affairs Committee, Maine Psychiatric Association.

MAINE MEDICAL ASSOCIATION,
April 9, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: I am writing to you on behalf of the Maine Medical Association and the Maine Psychiatric Association, representing over 2500 Maine-licensed physicians, to thank you sincerely for assuming the leadership in sponsoring the Medicare Mental Health Co-payment Equity Act of 2003, that would end Medicare's historic discrimination against patients with mental illness.

As you know, mental health illness and treatment are very often complicated by concurrent major physical illnesses, like cancer, heart disease, and diabetes. Unfortunately, co-payment for treatment of mental illnesses are two and a half times higher than that for physical illnesses. Your legislation would end this discrimination by requiring that Medicare patients pay only the same 20 percent co-payment for mental illness treatment that they would pay when seeking other medical treatment.

The Maine Medical Association and the Maine Psychiatric Association appreciate your ongoing commitment to persons with mental illness and your sponsorship of this most important bill to end Medicare's discriminatory coverage of mental illness treatment.

Sincerely,

KRISHNA BHATTA, M.D.,
President.

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, April 9, 2003.

Hon. JOHN KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: On behalf of the 38,000 physician members of the American Psychiatric Association (APA), and most particularly on behalf of the patients they treat, please accept my thanks for your House sponsorship of the Medicare Mental Health Copayment Equity Act of 2003.

As you know, Medicare Part B requires by statute that beneficiaries pay a copayment of 20 percent, except for the discriminatory 50 percent copayment charged for outpatient mental health treatment. It is time for Congress to end what amounts to cost-sharing discrimination by diagnosis. The bill you are introducing with Representative Richard Neal would ultimately require Medicare beneficiaries to pay the same 20 percent copayment amount for outpatient mental health treatment as they would otherwise pay for other Part B services. Asking our Medicare beneficiaries to pay half the cost of their mental health care out of pocket is simply unjust, and is a significant barrier to necessary treatment.

Thank you for your foresight and leadership in your lead sponsorship of the Medicare Mental Health Copayment Equity Act of 2003. Thanks are also due to the outstanding work by Kelly Bovio, who ably represented you. The APA looks forward to working with you to make your bill a reality this year.

Sincerely,

PAUL S. APPLEBAUM, M.D.,
President.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 854. A bill to authorize a comprehensive program of support for victims of torture, and for other purposes; to the Committee on Foreign Relations.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today to authorize a comprehensive program of support for victims of torture be printed in the RECORD.

There being on objection, the bill was ordered to be printed in the RECORD, as follows:

S. 854

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 ''Torture Victims Relief Reauthorization Act of 2003''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 4(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2004, 2005, and 2006 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) there are authorized to be appropriated to the President to carry out section 130 of such Act $11,000,000 for fiscal year 2004, $12,000,000 for fiscal year 2005, and $13,000,000 for fiscal year 2006.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

Of the amounts authorized to be appropriated for fiscal years 2004, 2005, and 2006 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2221 et seq.), there are authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture $6,000,000 for fiscal year 2004, $7,000,000 for fiscal year 2005, and $8,000,000 for fiscal year 2006.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 5(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2004, 2005, and 2006, there are authorized to be appropriated to carry out subsection (a) $20,000,000 for fiscal year 2004, $25,000,000 for fiscal year 2005, and $30,000,000 for fiscal year 2006.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. GRASSLEY):

S. 855. A bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Investment Company Capital Access Act of 2003 whose purpose is to increase the amount of venture capital available to small businesses. As the chair of the Committee on Small Business and Entrepreneurship, I am pleased that my good friend and former chairman of the Committee, Senator BOND, and the chairman of the Senate Finance Committee, Senator GRASSLEY, have agreed to be the principal cosponsors of this important bill.

During the past 2 years, there has been a significant contraction of the private equity market. During this same period, the Small Business Administration's Small Business Investment Company program has taken on a significant role in providing venture capital to small businesses seeking investments in the range of $500,000 to $3 million.

Small Business Investment Companies are government-licensed, government-regulated, privately managed venture capital firms created to invest only in original issue debt or equity securities of U.S. small businesses that meet size standards set by law. In the current economic environment, the SBIC program represents an increasingly important source of capital for small enterprises.

While debenture SBICs qualify for SBA-guaranteed borrowed capital, the Government guarantee forces a number of potential investors, namely pension funds and university endowment funds, to avoid investing in SBICs because they would be subject to tax liability for unrelated business taxable income. More often than not, tax-exempt investors opt to invest in venture capital funds that do not create UBTI. As a result an estimated 60 percent of the private capital potentially available to these SBICs is effectively off limits.

The Small Business Investment Company Capital Access Act of 2003 would correct this problem by excluding government-guaranteed capital of debenture SBICs from debt for purposes of the UBTI rules. This change would permit tax-exempt organizations to invest in SBICs without the burdens of UBTI recordkeeping or tax liability.

In 1958, Congress created the SBIC program to assist small business owners in obtaining investment capital. More than 40 years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional Wall Street investment firms, small businesses seeking investments in the range of $500,000 to $3 million have to look elsewhere. SBICs are frequently the only sources of investment capital for growing small businesses.

Often we are reminded that the SBIC program has helped some of our Nation's best known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, when Federal Express needed help from reluctant credit markets, it received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage. The SBIC program also helped other well-known companies, when they were not so well known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

What is not well known is the extraordinary help the SBIC program provides to main street America small businesses. These are companies we know from hometowns all over the United States. Main street companies provide both stability and growth in our local business communities.

In 1991, the SBIC program was experiencing major losses, and the future of the program was in doubt. Consequently, in 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct deficiencies in the law in order to ensure the future of the program.

Today, the SBIC program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. And it is important to focus on the significant role that is played by the SBIC program in support of growing small businesses. When Fortune Small Business compiled its list of 100 fastest growing small companies in 2000, six of the top 12 businesses on the list received SBIC financing during their critical growth year.

The Small Business Investment Company Capital Access Act of 2003 is important for one simple reason: once enacted it paves the way for more investment capital to be available for more small businesses that are seeking to grow and hire new employees. According to the National Association of Small Business Investment Companies, a conservative estimate of the effect of this bill would be to increase investments in debenture SBICs by $200 million per year from tax-exempt investors. Together with SBA-guaranteed leverage, that will mean as much as $500 million per year in new capital assets for debenture SBICs to invest in U.S. small businesses.

According to the SBA, one job is created for every $36,000 invested in a small company. At that rate, this bill could be responsible for the creation or support of as many as 16,600 jobs—within companies receiving investments directly as well as within those firms benefitting indirectly through increased sales of goods and services to the former companies. In short, this bill is a jobs creator.

And the cost? The Joint Committee on Taxation estimated in the last Congress that this bill would result in tax revenue loss of only $1 million per year for the next 10 years.

Mr. President, the cost is low and the potential for economic gain is great. Passage of the bill will make the Government's existing SBIC program more effective in providing growth capital for America's small business entrepreneurs.

And most importantly, it will provide sorely needed capital for the sector of our economy that provides a majority of the net new jobs in this country—small businesses. That is a real stimulus that would cause new investments to be made and the creation of critically needed new jobs. Our economy is primed for this kind of support, and I urge my colleagues to support this important bill.

I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

''SMALL BUSINESS INVESTMENT COMPANY CAPITAL ACCESS ACT OF 2003''

DESCRIPTION OF PROVISIONS

The bill amends section 514 of the Internal Revenue Code to exclude government-guaranteed capital borrowed by Debenture Small Business Investment Companies (SBICs) from debt for purposes of the Unrelated Business Taxable Income (UBTI) rules. This change would permit tax-exempt organizations to invest in SBICs without the burdens of UBTI record keeping or tax liability.

Currently, while Debenture SBICs qualify for borrowed capital guaranteed by the Small Business Administration, the government guarantee forces a number of potential investors, namely pension funds and university endowment funds, to avoid investing in SBICs because they would be subject to tax lability for UBTI. Frequently, tax-exempt investors generally opt to invest in venture capital funds that do not create UBTI. As a result, an estimated 60% of the private-capital potentially available to these SBICs is effectively ''off limits.''

S. 855

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 ''Small Business Investment Company Capital Access Act of 2003''.

SEC. 2. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) IN GENERAL.—Section 514(c)(6) of the Internal Revenue Code of 1986 (relating to acquisition indebtedness) is amended—

(1) by striking ''include an obligation'' and inserting ''include—

''(A) an obligation'',

(2) by striking the period at the end and inserting '', or'', and

(3) by adding at the end the following:

''(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(i) issued by such company under section 303(a) of such Act, or

''(ii) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to acquisitions made on or after the date of the enactment of this Act.

By Mr. ROCKEFELLER (for himself, Mr. HARKIN, Mr. DASCHLE, and Mr. JOHNSON):

S. 856. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, and Mr. COCHRAN):

S. 857. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am introducing two key education initiatives designed to promote quality education across our country and respond to the compelling needs in our schools. When I meet with teachers and parents, and even business leaders in West Virginia, everyone is concerned about the condition of our school buildings and the importance of qualified committed teachers working in those classrooms.

To address these clear and compelling needs, I am introducing two education bills. The first initiative, America's Better Classroom Act of 2003, is a school construction initiative to respond to the overwhelming needs for school construction. The Department of Education reports that the average public school building is 42 years old. In 1995, GAO estimated that we needed $112 billion for school construction and renovations. A more recent survey in 2001 in the Journal of Education Finance indicates that the need is increasing, and the unmet need for school infrastructure over the next decade is over $200 billion. My State of West Virginia will need as much as $2 billion for school construction and renovations.

America's Better Classroom Act provides the financial tools to help build and renovate our schools. It will continue the Qualified Zone Academy Bonding, QZAB, Program that has helped economically disadvantaged communities. This provision would provide $2.8 billion to continue and expand the successful QZAB Program. In recent years, this program has provided $4.2 million for support school construction and renovations in disadvantaged communities. Effective programs have earned continued support.

But the truth is that many schools districts need help with school construction and renovations, which is why the America's Better Classroom Act creates a $22 billion Qualified School Bonding Program. Funding will be allocated to the states based on the Title 1 formula so it is targeted, but the states will have flexibility in allocating support among school districts.

Last summer, I toured two schools in Berkeley County, WV—Martinsburg High School and South Middle School. The high school was built in 1928, but it had been renovated. The middle school was built in 1954, and needed serious work. The cafeteria had to serve as a part-time classroom, and they used portable trailers. These schools are in our eastern panhandle which is the region of the greatest population growth, so Berkeley County predicts that it will need to build or renovate nine schools over the next 10 years. Given the current state fiscal crisis, states and communities need the America's Better Classroom Act so that we can make needed investments. Also school construction can play a positive role in helping to stimulate our economy and create needed jobs. School construction is a more reliable economic stimulus, and an important investment in our children's education. I am proud to have Senators TOM HARKIN, TOM DASCHLE, and TIM JOHNSON as cosponsors of this important initiative. Senator HARKIN has been a true leader on education issues throughout this career, including school construction and renovations.

The next initiative to improve education is a bipartisan bill, known as Incentives to Educate American Children Act, or I TEACH. I am proud to have Senators DEWINE, LANDRIEU, and COCHRAN as cosponsors.

Under No Child Left Behind, every classroom should have a qualified teacher. Studies suggest that an estimated 2 million new teachers will be needed in our classrooms over the next decade. It will be important to ensure that we recruit and retain good teachers in every classroom, including our most disadvantaged schools and our rural schools, which often have more trouble recruiting and keeping teachers.

Unfortunately, without our help, America's disadvantaged and rural schools may not be able to attract the qualified teachers required by the No Child Left Behind Act. Isolated and impoverished, competing against higher paying and well-funded school districts for scarce classroom talent, they are already facing a desperate shortage of qualified teachers. As pressure to hire increases, that shortage could become a crisis, and children already at a disadvantage in relation to their more affluent and less isolated peers will be the ones who suffer most. Principals in West Virginia already are reporting shortages of trained teachers.

To help bring dedicated and qualified teaching professionals into our schools, the I TEACH Act will provide teachers a $1000 refundable tax credit every year they practice their profession in the public schools where they are needed most. In addition to this incentive for disadvantage and rural schools, every public school teacher has the ability to earn a $1000 refundable tax credit if a teacher achieves the National Board for Professional Teaching Standards certification. Under the bill, every teacher willing to work in underserved schools will earn a tax credit. Every teacher who gets Board certification will earn a tax credit. Teachers who work in rural or poor schools and get certified will have both credits, worth $2000. Schools who desperately need help attracting teachers will get a boost. And children educated in poor and rural schools will benefit most.

One-fourth of America's children attend public schools in rural areas, and of the 250 poorest counties in the United States, 244 are rural. West Virginia has rural schools scattered throughout 36 of its 55 counties, and these schools face real challenges in recruiting and retaining teachers, as well as dealing with other issues related to their rural location. Attracting teachers to these schools is difficult in large part due to the vast gap between what rural districts are able to offer and the salaries paid by more affluent school districts—as wide as $20,000 a year, according to one study. Poor urban schools must overcome similar difficulties. It is often a challenge for these schools to attract and keep qualified teachers. Yet, according to the 2001 No Child Left Behind Act, every school must have qualified teachers by the end of the 2005–2006 school year.

In my State of West Virginia, as in over 30 other States, there is already a state fiscal incentive for teachers who earn National Board certification. My legislation builds upon the West Virginia program; together, they add up to a powerful tax incentive for teachers to remain in the classroom and to use their skills where they are most needed.

Education should be among our top national priorities, essential for every family with a child and vital for our economic and national security. I supported the bold goals and higher standards of the 2001 No Child Left Behind Act, but they won't be met unless we invest in quality schools and good teachers. I am committed to working closely with my Senate colleagues this fall to secure as much funding as possible for our children's education.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. SMITH, Mr. DODD, Mr. LEAHY, Mrs. MURRAY, Mr. DURBIN, Mr. LAUTENBERG, and Mr. BINGAMAN):

S. 859. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the

Microbicides Development Act of 2003. I am very pleased to be introducing this bipartisan bill along with my colleagues, Senators SNOWE, CANTWELL, GORDON SMITH, DODD, LEAHY, MURRAY, DURBIN, and LAUTENBERG. I thank my colleagues for their support of this important legislation, which we believe is vital to the pursuit of combating the global HIV/AIDS crisis.

As you know, recently released UN reports paint the most horrendous picture yet of the HIV epidemic, with AIDS continuing to kill more people worldwide than any other infectious disease, and sparing no corner of the world. According to the UN, China could have more than 10 million HIV-infected people by 2010. Infection rates in Russia and Eastern Europe are rising faster than anywhere else. India may soon have the largest number of people living with HIV/AIDS in the world. And Sub-Saharan Africa remains devastated by an epidemic that has lowered life expectancy from 62 years on average to just 47. In hard-hit countries like Botswana, where 45 percent of women attending prenatal clinics are HIV-positive, a 15-year old youth has an 80 percent chance of dying of AIDS.

The UN reports come on the heels of CIA assessments that the AIDS pandemic is entering a ''stage of substantial increases in size and scope.''

Despite alarm bells ringing from the organizations as diverse in mandate as the UN and the CIA, little attention is paid to the reality that the face of the HIV epidemic both at home and abroad is increasingly female. As of the end of 2002, according to the Joint United Nations/World Health Organization Programme on HIV/AIDS, half of the world's HIV/AIDS-infected people were women. In Sub-Saharan Africa, 58 percent of all adult HIV/AIDS cases were found in women, and in hard-hit nations such as Zambia, girls are five times more likely than boys to be HIV positive.

Here in the United States, 30 percent of new HIV infections each year occur among women, most of whom, 64 percent, are African-American. The majority of U.S. women, 75 percent, acquire the disease through heterosexual transmission. My own State of New Jersey has the Nation's highest HIV/AIDS infection rate among women and the sixth highest infection rate among all adults. And here in our Nation's capital, one in three people with HIV now is a woman.

Biologically, women are four times more vulnerable to HIV infection. Their vulnerability increases due to their lack of economic and social power in many societies, where women often cannot control sexual encounters or insist on protective measures such as abstinence or mutual monogamy. The typical woman who gets infected with HIV has only one partner—her husband. This trend devastates families and puts children at risk.

This astounding reality bears restating: The single greatest risk factor for a woman in the developing world of contracting the HIV virus is being married.

Women need HIV-prevention tools that they can control to safeguard their health and that of their families and communities. Unfortunately, there exists absolutely no HIV or STD prevention method that is within a woman's personal control. Condom use must be negotiated with a partner. We are all aware that for too many women, particularly low-income women in the developing world and many in our own country who rely upon a male partner for economic support, there is no power of negotiation. We know these women are at risk—yet, we expect them to protect themselves without any tools.

Today we have the opportunity to invest in groundbreaking research that can produce these tools, and ultimately, empower women. Microbicides are self-administered products that women could use to prevent transmission of STDs, including HIV/AIDS. I say ''could'' because due to insufficient research investments, no microbicides have been brought to market. This legislation would expand federal investments for microbicide research at the National Institutes for Health, NIH, the Centers for Disease Control and Prevention, CDC, and the United States Agency for International Development, USAID.

In addition to encouraging new investments in microbicide research, the Microbicides Development Act will expedite the implementation of the NIH's five-year strategic plan for microbicide research, as well as expand coordination among Federal agencies already involved in this research, including NIH, CDC, and the United States Agency on International Development, USAID.

Perhaps most importantly, the legislation calls for the establishment of a Microbicide Research and Development Branch within the National Institute of Allergy and Infectious Diseases.

The National Institutes of Health, principally through the National Institute of Allergy and Infectious Diseases, NIAID, spends the majority of Federal dollars in this area. However, microbicide research at NIH is currently conducted with no single line of administrative accountability or specific funding coordination. In addition, other federal agencies such as CDC and USAID undertake microbicides research and development activities. Because there is no federal coordination, however, there is the risk that inefficiencies and duplication of effort could result. Through a variety of committees Congress has requested that NIH and its Office of AIDS Research provide Congress with a ''federal coordination plan'' for research and development in this area, but formal submission of this plan has been repeatedly delayed.

A branch dedicated to microbicide research and development at the NIH is essential to providing the appropriate staff and funding for the coordination of these activities at the NIH and across agencies.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 859

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 ''Microbicide Development Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) During 2002, AIDS caused the deaths of an estimated 3,100,000 people, including 1,200,000 women and 610,000 children under 15 years of age. An estimated 14,000,000 children living today have lost one or both parents due to AIDS.

(2) Worldwide, heterosexual transmission is accounting for an increasing share of new HIV infections, with adolescents, women, and disadvantaged people at particular risk.

(3) In the United States, for example, African American and Latina women account for 64 percent and 17 percent of all reported HIV cases, respectively, even though they represent only 25 percent of the total United States female population.

(4) Half of the 38,600,000 adults living today with HIV/AIDS are women.

(5) Biological, cultural, economic, and social factors combine to make women and girls particularly vulnerable to HIV and other sexually transmitted diseases (referred to in this section as ''STDs''). In the hardest hit areas of Africa, almost one-quarter of 15 to 19 year-old girls are already infected with HIV, compared to 4 percent of their male peers.

(6) In addition to HIV, other STDs can cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV. When women become infected with HIV, they risk passing along the infection to their infants, either through pregnancy, childbirth, or breastfeeding.

(7) Regrettably, today's HIV prevention methods do not meet the needs of the millions of women worldwide who, for cultural, economic, and social reasons, cannot insist on protective measures such as abstinence, condom use, or mutual monogamy.

(8) A large majority of women become infected with HIV with only one partner—their husbands. Women need prevention options that they can use consistently within ongoing, long-term relationships.

(9) Microbicides are a promising new technology, complementary to vaccines, that could put the power of prevention into women's hands. Formulated as gels, creams, or films, microbicides inactivate, block, or otherwise interfere with the pathogens that cause HIV/AIDS and other STDs.

(10) Even a moderately effective microbicide could have a substantial impact on the HIV epidemic. The London School of Hygiene and Tropical Medicine estimates that a 60 percent efficacious microbicide introduced into the 73 poorest countries could avert 2,500,000 HIV infections in men, women, and children over 3 years.

(11) Microbicides would also benefit men, because their protective effect is likely to be bidirectional.

(12) Numerous potential microbicides are poised for successful development. Thirteen

products are in clinical trials and approximately 50 compounds exist that could be investigated further. There is a backlog in the research and development pipeline, however, so that innovative and promising product concepts are languishing, while infection rates are growing.

(13) At present, there is insufficient economic incentive for large pharmaceutical companies to become actively engaged in microbicide research and development, thus, Federal support is crucial. Three Federal agencies—the National Institutes of Health, the Centers for Disease Control and Prevention, and the United States Agency for International Development—have played important roles in progress to date, but strong, effective, well-coordinated, and visible public sector leadership will be essential for the promise of microbicides to be realized.

(14) A microbicide could be available within 5 to 7 years if sufficient public sector funding were made available to accelerate research and support the necessary clinical trials.

(15) Microbicide research and development currently receive only 2 percent of the AIDS research budget of the National Institutes of Health, not nearly enough to keep pace with public health need and scientific opportunity.

(16) The United States Agency for International Development sustains strong partnerships with public and private organizations working on microbicide research, importantly including clinical trials in developing countries where its experience is extensive. The long experience of such Agency in logistics management, service delivery, provider training, and social marketing position it well to prepare for and implement the introduction of microbicides once they are available.

(17) The Centers for Disease Control and Prevention also engages in critical microbicide research and clinical testing, and has a long history of conducting field trials in developing countries.

(18) For the microbicide pipeline to advance significantly and the essential clinical trials to be fielded soon, the current amount of Federal investment needs to increase to $130,000,000 in fiscal year 2004 and to $160,000,000 in fiscal year 2005.

TITLE I—MICROBICIDE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. OFFICE OF AIDS RESEARCH; PROGRAM REGARDING MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Subpart I of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc–40 et seq.) is amended by inserting after section 2351 the following:

"SEC. 2351A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

''(a) FEDERAL STRATEGIC PLAN.—

''(1) IN GENERAL.—The Director of the Office of AIDS Research shall expedite the development and implementation of a Federal strategic plan for the conduct and support of microbicide research and shall biannually review and as appropriate revise the plan.

''(2) COORDINATION.—In developing, implementing, and reviewing the plan, the Director of the Office of AIDS Research shall coordinate with—

''(A) other Federal agencies, including the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, involved in microbicide research;

''(B) the microbicide research community; and

''(C) health advocates.

''(b) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Office of AIDS Research, acting in coordination with other relevant institutes and offices, shall expand, intensify, and coordinate the activities of all appropriate institutes and components of the National Institutes of Health with respect to research on the development of microbicides to prevent the transmission of HIV and other sexually transmitted diseases.

''(c) MICROBICIDE DEVELOPMENT BRANCH.—In carrying out subsection (b), the Director of the National Institute of Allergy and Infectious Diseases shall establish within the Vaccine and Prevention Research Program of the Division of AIDS in the Institute, a branch charged with carrying out microbicide research and development. In establishing such branch, the Director shall ensure that there are a sufficient number of employees dedicated to carry out the mission of the branch.

''(d) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 1 year after the date on which the initial Federal strategic plan is developed under subsection (a), and biannually thereafter, the Director of the Office of AIDS Research shall submit to the appropriate committees of Congress a report that describes the strategies being implemented by the Federal Government regarding microbicide research and development. Each such report shall include—

''(A) a description of activities with respect to microbicides conducted and supported by the Federal Government;

''(B) a summary and analysis of expenditures, during the period for which the report is prepared, for activities with respect to microbicide-specific research and development, including the number of employees involved in these activities within each agency;

''(C) a description and evaluation of the progress made, during the period for which such report is prepared, towards the development of effective, reliable, and acceptable microbicides;

''(D) a review of the remaining scientific and programmatic obstacles with respect to microbicides; and

''(E) an updated Federal Strategic Plan, including professional judgment funding projections.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINITION.—For the purposes of this subsection, the term 'appropriate committees of Congress' means the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

''(e) HIV DEFINITION.—For purposes of this section, the term 'HIV' means the human immunodeficiency virus. Such term includes acquired immune deficiency syndrome (AIDS).

''(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 and 2005, and such sums as may be necessary in subsequent fiscal years to sustain multiyear funding at a productive level.''.

TITLE II—MICROBICIDE RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended—

(1) by transferring section 317R so as to appear after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following:

"SEC. 317S. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

''(a) DEVELOPMENT AND IMPLEMENTATION OF THE MICROBICIDE AGENDA SUPPORTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director of the Centers for Disease Control and Prevention shall fully implement the Center's 5-year topical microbicide agenda to support microbicide research and development. Such an agenda shall include—

''(1) conducting laboratory research in preparation for, and support of, clinical microbicide trials;

''(2) conducting behavioral research in preparation for, and support of, clinical microbicide trials;

''(3) developing and characterizing domestic populations and international cohorts appropriate for Phase I, II, and III clinical trials of candidate topical microbicides;

''(4) conducting Phase I and II clinical trials to assess the safety and acceptability of candidate microbicides;

''(5) conducting Phase III clinical trials to assess the efficacy of candidate microbicides;

''(6) providing technical assistance to, and consulting with, a wide variety of domestic and international entities involved in developing and evaluating topical microbicides, including health agencies, extramural researchers, industry, health advocates, and nonprofit organizations; and

''(7) developing and evaluating the diffusion and effects of implementation strategies for use of effective topical microbicides.

''(b) STAFFING.—In carrying out the microbicide agenda, the Centers for Disease Control and Prevention shall ensure that there are sufficient numbers of dedicated employees for carrying out the agenda under subsection (a).

''(c) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of Congress, a report on the strategies being implemented by the Centers for Disease Control and Prevention with respect to microbicide research and development. Such report shall be submitted alone or as part of the overall Federal strategic plan on microbicides compiled annually by the National Institutes of Health Office of AIDS Research as required under section 2351A. Such report shall include—

''(A) a description of activities with respect to microbicides conducted and supported by the Centers for Disease Control and Prevention;

''(B) a summary and analysis of expenditures, during the period for which the report is prepared, for activities with respect to microbicide-specific research and development, including the number of employees involved in these activities;

''(C) a description and evaluation of the progress made, during the period for which such report is prepared, towards the development of effective, reliable, and acceptable microbicides; and

''(D) a review of the remaining scientific and programmatic obstacles with respect to microbicides.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINITION.—For the purposes of this subsection, the term 'appropriate committees of Congress' means the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

''(d) DEFINITION.—For the purposes of this section, the term 'HIV' means the human

immunodeficiency virus. Such term includes acquired immune deficiency syndrome (AIDS).

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 and 2005, and such sums as may be necessary in subsequent fiscal years to sustain multiyear funding at a productive level.''.

TITLE III—MICROBICIDE RESEARCH AT THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 301. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 104 the following:

''SEC. 104A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

''(a) DEVELOPMENT AND IMPLEMENTATION OF THE MICROBICIDE AGENDA SUPPORTED BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Office of HIV/AIDS of the Agency for International Development, in conjunction with other offices within the Agency for International Development, shall fully implement the Agency's microbicide agenda to support the development of microbicides, and facilitate wide-scale introduction once microbicide products are available. Such an agenda shall include—

''(1) support for the discovery, development, and preclinical evaluation of topical microbicides;

''(2) support for the conduct of clinical studies of candidate microbicides to assess safety, acceptability, and effectiveness in reducing HIV and other sexually transmitted diseases;

''(3) support for behavioral and social science research relevant to microbicide development, testing, acceptability, and use;

''(4) support for preintroductory and introductory studies of safe and effective microbicides in developing countries; and

''(5) facilitation of access to microbicides as they become available to women at highest risk of HIV and other sexually transmitted diseases as soon as possible.

''(b) STAFFING.—The Office of HIV/AIDS of the Agency for International Development shall ensure that there are sufficient numbers of dedicated employees for purposes of carrying out the agenda under subsection (a).

''(c) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Administrator of the Agency for International Development shall submit to the appropriate committees of Congress a report on the strategies being implemented by the Agency for International Development with respect to microbicide research and development. Such report shall be submitted alone or as part of the overall Federal strategic plan on microbicides compiled annually by the National Institutes of Health Office of AIDS Research as required under section 2351A. Such report shall include—

''(1) a description of activities with respect to microbicides conducted and supported by the Agency for International Development;

''(2) a summary and analysis of expenditures, during the period for which the report is prepared, for activities with respect to microbicide-specific research and development, including the number of employees involved in these activities;

''(3) a description and evaluation of the progress made, during the period for which such report is prepared, towards the development of effective, reliable, and acceptable microbicides;

''(4) a review of the remaining scientific and programmatic obstacles with respect to microbicides; and

''(5) a description of the steps being taken to increase access and availability of approved microbicides to prevent HIV and other sexually transmitted diseases.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINITION.—For the purposes of this subsection, the term 'appropriate committees of Congress' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

''(d) DEFINITION.—For the purposes of this section, the term 'HIV' means the human immunodeficiency virus. Such term includes acquired immune deficiency syndrome (AIDS).

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 and 2005, and such sums as may be necessary in subsequent fiscal years to sustain multiyear funding at a productive level.''.

Mr. DURBIN. Mr. President, I am honored to be a cosponsor of the Microbicides Development Act of 2003. The legislation calls for a redoubling of the effort at the National Institutes of Health and the Centers for Disease Control to develop microbicides, a class of products that can prevent transmission of HIV and other sexually transmitted diseases in women and their partners.

As this Congress continues to fight AIDS, taking tiny steps in pursuit of a challenge racing away from us, I see the development of microbicides as another ''tiny'' step forward. I believe microbicides are an important addition to the arsenal to fighting AIDS, and indeed the Global AIDS bill I introduced, The Global CARE Act of 2003, S. 250, includes microbicides among the preventative measures the U.S. should support.

I, and the other cosponsors of this important legislation, see a real need and urgency to expand the range of preventive interventions for HIV transmission. The ABC options for preventing HIV infection, which remain a key part of our response and contribute to the world's ability to slow the spread of HIV/AIDS, have not changed since the 1980s: A, abstinence when it comes to sexual activity; B, be faithful to one partner; C, if you are going to ignore the other two, use a condom. Despite the effectiveness of the ABCs in many areas, HIV/AIDS continues to spread. We urgently need more prevention options.

Microbicides, defined as antimicrobial products that can be applied topically for the prevention of sexually transmitted diseases, STDs, including HIV, may offer one of the most promising preventive interventions. They could prove to be safe, effective, inexpensive, readily available, and widely acceptable. Microbicides will add to the range of options available. Most importantly, microbicides offer an additional method of prevention that can be controlled by women.

Notwithstanding the knowledge of successful HIV prevention strategies—condom use, reduction in the number of sexual partners, diagnosis and treatment of sexually transmitted infections—HIV continues to spread at an alarming rate especially among women in developing countries.

In sub-Saharan Africa, the area hardest hit by the pandemic, women and girls account for 58 percent of those living with AIDS. Worldwide, women represent 50 percent of those infected, an increase of 9 percent in five years. In some of the hardest hit countries in southern Saharan Africa, HIV prevalence among girls aged 15 to 19 is four to seven times higher than among boys their age. Attitudes, beliefs, and taboos surrounding sex, the status of women and children, and the source and causes of AIDS also complicate attempts to control transmission and provide appropriate prevention and treatment.

In the United States, more than 30 percent of newly reported HIV cases diagnosed are occurring in women, according to the most recent data collected by the Centers of Disease Control. As in the rest of the world, the majority of these reported HIV infections among U.S. women result from heterosexual transmission, and the data suggest that younger women are disproportionately at risk for acquiring HIV.

Microbicides will be particularly attractive to those who do not wish to draw attention to the fact that they are using a prevention method. Unlike male or female condoms, microbicides are a potential preventive option that women can easily control and that does not require the cooperation, consent or even knowledge of the partner. Microbicides are likely to be cheaper than condoms and, in the future, microbicides could be used to prevent mother-to-child transmission of HIV.

Microbicides have been under development for more than a decade. Yet, it is unlikely that they will be available before 2007, which leads to the general perception that there has been insufficient progress in this area. Three versions are currently in the final stages of clinical trials to determine whether they are safe and effective. Many factors contribute to this slow progress. The National Institutes of Health, NIH, reports that microbicide research requires huge and complex efficacy and effectiveness studies that must be conducted in areas with high HIV incidence rates. Such rates occur predominantly in developing countries where the research infrastructure is underdeveloped. Given this dependency on poorer, developing nations, it is not surprising that no large pharmaceutical company is interested in funding microbicide development. A second obstacle lies in the ethical obligation to provide counseling and make condoms available to the study subjects, which adds to the complexity and

size of the trials. As a result, NIH explains, few Phase III efficacy trials have been completed. Of those completed, few have yielded promising results.

Reflecting on the reality of the global epidemic, United Nations Secretary General Kofi Annan stated that the face of the HIV epidemic is that of a woman. ''If you want to save Africa,'' Annan says, ''you must save the African woman first. It is they who care for the young, the old, the sick and the dying. It is they who nurture social networks that help societies share burdens.''

Lack of access to treatment and care means that for the majority of HIV-positive women throughout the world, HIV infection is a death sentence. In Haiti, for example, AIDS is now the leading cause of death for women of childbearing age.

Microbicides will never become a viable option for prevention unless a serious amount of money is invested in their development. Senator CORZINE's legislation will make microbicide research a priority, calling for the expansion and coordination of microbicide activities at the National Institutes of Health and other agencies working in this field. The bill requires the Centers for Disease Control to implement a 5-year topical research plan and requires the U.S. Agency for International Development to develop and implement a microbicide agenda.

I am proud to join Senator CORZINE as a cosponsor of this legislation and hope that my colleagues will join us as we determine the next steps in our battle against AIDS, including the development of prevention efforts that may help women take control of their lives and their survival.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUYE, Mr. REED, Mr. BREAUX, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mrs. MURRAY, Mr. CORZINE, Ms. COLLINS, Mr. DODD, Mr. LEVIN, Mr. NELSON of Florida, Mr. WYDEN, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. LAUTENBERG, Ms. CANTWELL, and Mr. CHAFEE):

S. 861. A bill to authorize the acquisition of interests in undeveloped coastal areas in order to better ensure their protection from development; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today with my colleague Senator GREGG to introduce the Coastal and Estuarine Land Protection Act of 2003. Senator GREGG and I introduced this bill last session, and it was reported favorably by the Commerce Committee, but time did not permit action to be completed on the bill before the end of the Congress. My colleagues and I will work hard to pass this important piece of legislation during the 108th Congress.

I would like to thank our cosponsors, 24 in all, Senators KERRY, SNOWE, INOUYE, JACK REED, BREAUX, DEWINE, SARBANES, BIDEN, KENNEDY, MIKULSKI, COCHRAN, MURRAY, CORZINE, COLLINS, DODD, LEVIN, BILL NELSON, WYDEN, LIEBERMAN, FEINSTEIN, LAUTENBERG, CANTWELL, and CHAFEE for their strong support of this bill, which marks another important chapter of our thirty year effort to put coastal and ocean issues at the forefront of environmental policy.

I am also proud to say that the bill is strongly supported by The Trust for Public Land, Coastal States Organization, The Nature Conservancy, Land Trust Alliance, International Association of Fish and Wildlife Agencies, American Sportfishing Association, and the South Carolina Wildlife Federation. I understand that the U.S. Commission on Ocean Policy will also endorse this approach.

When I was Governor of South Carolina over 30 years ago, I experienced first hand the need for Federal direction and assistance to the States to enable them to effectively and sustainably manage coastal development. My experiences during a series of coastal hearings and continued research in the Senate led me to write the Coastal Zone Management Act of 1972, which provided clear policy objectives for states to establish coordinated coastal zone management programs to help balance coastal development with protection.

But we appear to need more tools to help States continue the job we started in 1972. In the year 2003, as our population grows, more and more people are moving to the coast to enjoy its beauty and recreational opportunities. In fact, by 2010, an estimated 60 percent of Americans will live along our coasts, which represent less than 17 percent of our land area. More than 3,000 people move to coastal areas everyday, and 14 of the Nation's 20 largest cities are on the coast, and are five times more densely populated than the interior of the country. As these good folks move to take advantage of coastal living, we have to be careful that we don't destroy the natural resources and quality of life that draw them to our shores. Big changes are coming to all of our coastal counties, and we must make some careful and smart decisions if we want to keep the very resources we depend on.

In particular, estuaries and wetlands have many unique attributes that make them important to both our natural resources and our economy. Estuaries, and the watersheds that flow into them, support fisheries and wildlife and contribute immensely to the coastal area economies. But these ecologically and economically important watersheds are also under the most threat from land development and conversion away from their natural state. Coastal urbanization trends are particularly strong in the southeastern areas. In my State alone, the Forest Service has estimated natural forests of the coastal plain will decrease by 1.9 million acres in the next 40 years—a 35 percent loss of South Carolina's forests. These findings and future trends tell me that for the good of our coastal communities we need some fast, targeted action to protect ecologically important coastal areas most threatened with development or conversion.

Now more than ever, the pressures of urbanization and pollution along our nation's coasts threaten to impair watersheds, impact wildlife habitat and cause irreparable damage to the fragile coastal ecology. The Environmental Protection Agency has reported that some areas of the country are seeing some improvement from the heavily polluted status of the past, but predicts that the more pristine areas like the Southeast, which has some of the best water quality in the Nation, will experience degradation of water quality due primarily to runoff of pollutants from rapid development in our coastal watersheds. This is very bad news for the shrimpers, oystermen, and recreational users who depend on these waters for their livelihood and quality of life.

We see strong signals of what continuing down this path will bring us: beach and shellfish closings, fish kills, and human health impacts. The National Research Council reports that over the next 20 years over 70 percent of our estuaries will experience more low oxygen—or ''eutrophic''—conditions, such as the Gulf ''Dead Zone.'' If this trend continues, our coastal economies will suffer and perhaps never recover. I know in my state the economy would falter greatly from the lack of fishing, shrimping and tourism opportunities, and this is true up and down the Atlantic coast, which contains 37 percent of the Nation's estuarine areas.

The good news is that there are ways we can make a difference, and we have some good models we can turn to. I am proud to say my home State of South Carolina is a leader in this area. The past decade I have led an extensive cooperative conservation effort, bringing together the State of South Carolina, private landowners, groups like the Nature Conservancy, Ducks Unlimited and federal partners like NOAA and the Fish and Wildlife Service to protect the ACE Basin. It is now the largest pristine estuarine reserve on the East Coast, a 350,000-acre area at the convergence of the Edisto, Ashepoo and Combahee Rivers, which comprises many ecologically important habitats that are home to many fish and bird species, including a number of endangered species. An outcome of these efforts is that the ACE Basin, already home to a National Wildlife Refuge, was declared a National Estuarine Research Reserve in 1992, and has been growing in size ever since. In building the ACE Basin, the partners worked creatively and in a coordinated manner, and we successfully obtained land acquisition funds through a variety of

federal sources, including the Forest Legacy Program.

What became clear, however, is that there is no Federal program explicitly setting aside funding for conservation of coastal lands, where the needs are clearly the greatest. That is exactly what the Coastal and Estuarine Land Protection Act of 2003 will do. It authorizes a competitive matching grant program in NOAA to enable states to permanently protect important coastal areas.

Under this NOAA program, coastal states can compete for matching funds of up to 75 percent to acquire land or easements for the protection of endangered coastal areas that have considerable conservation, recreation, ecological, historical or aesthetic values threatened by development or conversion. The bill also provides funding for a regional watershed demonstration project that can be used as a model for future watershed-scale programs. The program is authorized at $60 million for fiscal year 2004 and beyond, with an additional $5 million for the regional watershed demonstration project.

By establishing a plan for the preservation of our coastal areas, the Coastal and Estuarine Land Protection Act will build on the foundation laid down by the CZMA, all in stride with the changing times, growing number of people, and limited resources available today. When it comes to the environment, rules and regulations sometimes can't do it all. Sometimes cooperative actions work better and we can turn to models that encourage joint conservation projects among folks who all want the same thing—sustainable coasts.

Partnership programs among federal government, state agencies, local governments, private landowners and nonprofits, like the ACE Basin Project, work and we need to encourage these partnerships in all our coastal areas if we are to prevent degradation of our coastal resources. The good news is that we can make a difference today by providing the funding for land conservation partnerships provided for by the Coastal and Estuarine Land Protection Act. I am proud to be a sponsor of this bill, which will not only improve the quality of the coastal areas and marine life it supports, but also sustain surrounding communities and their way of life.

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. 861

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 ''Coastal and Estuarine Land Protection Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Coastal and estuarine areas provide important nursery habitat for two-thirds of the nation's commercial fish and shellfish, provide nesting and foraging habitat for coastal birds, harbor significant natural plant communities, and serve to facilitate coastal flood control and pollutant filtration.

(2) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) recognizes the national importance of these areas and their ecological vulnerability to anthropogenic activities by establishing a comprehensive Federal-State partnership for protecting natural reserves and managing growth in these areas.

(3) The National Estuarine Research Reserve system established under that Act relies on the protection of pristine designated areas for long-term protection and for the conduct of education and research critical to the protection and conservation of coastal and estuarine resources.

(4) Intense development pressures within the coastal zone are driving the need to provide coastal managers with a wider range of tools to protect and conserve important coastal and estuarine areas.

(5) Protection of undeveloped coastal lands through the acquisition of interests in property from a willing seller are a cost-effective means of providing these areas with permanent protection from development.

(6) Permanent protection of lands in the coastal zone is a necessary component of any program to maintain and enhance coastal and estuarine areas for the benefit of the Nation, including protection of water quality, access to public beachfront, conserving wildlife habitat, and sustaining sport and commercial fisheries.

(7) Federal-State-nongovernmental organization pilot land acquisition projects have already substantially contributed to the long-term health and viability of coastal and estuarine systems.

(8) Enhanced protection of estuarine and coastal areas can be attained through watershed-based acquisition strategies coordinated through Federal, State, regional, and local efforts.

SEC. 3. ESTABLISHMENT OF COASTAL AND ESTUARINE LAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish a Coastal and Estuarine Land Protection Program, in cooperation with appropriate State, regional, and other units of government for the purposes of protecting the environmental integrity of important coastal and estuarine areas, including wetlands and forests, that have significant conservation, recreation, ecological, historical, or aesthetic values, and that are threatened by conversion from their natural, undeveloped, or recreational state to other uses. The program shall be administered by the National Ocean Service of the National Oceanic and Atmospheric Administration through the Office of Ocean and Coastal Resource Management.

(b) PROPERTY ACQUISITION GRANTS.—The Secretary shall make grants under the program to coastal States, except coastal States that have lost less than 1 percent of their wetlands to development or conversion to other land uses by the date of enactment of this Act, with approved coastal zone management plans or National Estuarine Research Reserve units for the purpose of acquiring property or interests in property described in subsection (a) that will further the goals of—

(1) a Coastal Zone Management Plan or Program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); or

(2) a National Estuarine Research Reserve management plan; or

(3) a regional or State watershed protection plan involving coastal States with approved coastal zone management plans.

(c) GRANT PROCESS.—The Secretary shall allocate funds to coastal States or National Estuarine Research Reserves under this section through a competitive grant process in accordance with guidelines that meet the following requirements:

(1) The Secretary shall consult with the State's coastal zone management program, any National Estuarine Research Reserve in that State, and the lead agency designated by the Governor for coordinating the establishment and implementation of this Act (if different from the coastal zone management program).

(2) Each participating State shall identify priority conservation needs within the State, the values to be protected by inclusion of lands of the program, and the threats to those values that should be avoided.

(3) Each participating State shall evaluate how the acquisition of property or easements might impact working waterfront needs.

(4) The applicant shall identify the values to be protected by inclusion of the lands in the programs, management activities that are planned and the manner in which they may affect the values identified, and any other information from the landowner relevant to administration and management of the land.

(5) Awards shall be based on demonstrated need for protection and ability to successfully leverage funds among participating entities, including Federal programs, regional organizations, State and other governmental units, landowners, corporations, or private organizations.

(6) Applications must be determined to be consistent with the State's or territory's approved coastal zone plan, program and policies prior to submittal to the Secretary.

(7) Priority shall be given to lands described in subsection (a) that can be effectively managed and protected and that have significant ecological or watershed protection value.

(8) In developing guidelines under this section, the Secretary shall consult with other Federal agencies and non-governmental entities expert in land acquisition and conservation procedures.

(9) Eligible States or National Estuarine Research Reserves may allocate grants to local governments or agencies eligible for assistance under section 306A(e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a) and may acquire lands in cooperation with nongovernmental entities and Federal agencies.

(10) The Secretary shall develop performance measures that will allow periodic evaluation of the program's effectiveness in meeting the purposes of this section and such evaluation shall be reported to Congress.

(d) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under the program unless the Federal funds are matched by non-Federal funds in accordance with this subsection.

(2) MAXIMUM FEDERAL SHARE.—

(A) 75 PERCENT FEDERAL FUNDS.—No more than 75 percent of the funding for any grant under this section shall be derived from Federal sources, unless such requirement is specifically waived by the Secretary.

(B) WAIVER OF REQUIREMENT.—The Secretary may grant a waiver of the limitation in subparagraph (A) for underserved communities, communities that have an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary deems appropriate.

(3) OTHER FEDERAL FUNDS.—Where financial assistance awarded under this section represents only a portion of the total cost of a project, funding from other Federal sources

may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

(4) SOURCE OF MATCHING COST SHARE.—For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) Land value may be used as non-Federal match if the lands are identified in project plans and acquired within three years prior to the submission of the project application or after the submission of a project application until the project grant is closed (not to exceed 3 years). The appraised value of the land at the time of project closing will be considered the non-Federal cost share.

(B) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award. These costs may include either case or in-kind contributions.

(e) REGIONAL WATERSHED DEMONSTRATION PROJECT.—The Secretary may provide up to $5,000,000 for a regional watershed protection demonstration project that will meet the requirements of this section, and—

(1) leverages land acquisition funding from other Federal land conservation or acquisition programs such that other Federal contributions, at a minimum, equal the amounts provided by the Secretary;

(2) involves partnerships from a broad spectrum of Federal, State, and non-governmental entities;

(3) provides for the creation of conservation corridors and preservation of unique coastal habitat;

(4) protects largely unfragmented habitat under imminent threat of development or conversion;

(5) provides water quality protection for areas set aside for research under the National Estuarine Research Reserve program; and

(6) provides a model for future regional watershed protection projects.

(f) RESERVATION OF FUNDS FOR NATIONAL ESTUARINE RESEARCH RESERVE SITES.—No less than 15 percent of funds made available under this section shall be available for acquisitions benefiting National Estuarine Research Reserve acquisitions.

(g) LIMIT ON ADMINISTRATIVE COSTS.—No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2004, fiscal year 2005, and triennially thereafter.

(h) TITLE AND MANAGEMENT OF ACQUIRED PROPERTY.—

(1) IN GENERAL.—If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide such assurances as the Secretary may require that—

(A) the title to the property will be held by the grant recipient or other appropriate public agency designated by the recipient in perpetuity;

(B) the property will be managed in a manner that is consistent with the purposes for which the land entered into the program and shall not convert such property to other uses; and

(C) if the property or interest in land is sold, exchanged, or divested, funds equal to the correct value will be returned to the Secretary, for re-distribution in the grant process.

(2) CONSERVATION EASEMENT.—In this subsection, the term ''conservation easement'' includes an easement, recorded deed, or interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this Act except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

(d) DEFINITIONS.—In this section, the term ''coastal State'' has the meaning given that term by section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4)), and any other term used in this section that is defined in section 304 of that Act has the meaning given that term in that section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

(1) $60,000,000 for each of fiscal years 2004 through 2007 to carry out this section (other than subsection (e)); and

(2) $5,000,000 for fiscal year 2004 to carry out subsection (e), such sum to remain available without fiscal year limitation.

SEC. 4. ASSISTANCE FROM OTHER AGENCIES.

Section 310(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456c(a)) is amended by striking ''any qualified person for the purposes of carrying out this subsection.'' and inserting ''any other Federal agencies (including interagency financing of Coastal America activities) and any other qualified person for the purposes of carrying out this section.''.

Mr. GREGG. Mr. President, I rise today along with Senator HOLLINGS to introduce the Coastal and Estuarine Land Protection Act. We are introducing this much needed coastal protection act along with Senators KERRY, SNOWE, INOUYE, REED, BREAUX, DEWINE, SARBANES, BIDEN, KENNEDY, MIKULSKI, COCHRAN, MURRAY, CORZINE, COLLINS, DODD, LEVIN, NELSON, WYDEN, LIEBERMAN, FEINSTEIN, LAUTENBERG, CANTWELL, and CHAFEE. In addition, this legislation is supported by the Trust for Public Land, the Coastal States Organization, the Nature Conservancy, International Association of Fish and Wildlife Agencies, American Sportfishing Association, and the Land Trust Alliance.

The Coastal and Estuarine Land Protection Act promotes coordinated land acquisition and protection efforts in coastal and estuarine areas by fostering partnerships between non-governmental organizations and Federal, State, and local governments. With Americans rapidly moving to the coast, pressures to develop critical coastal ecosystems are increasing. There are fewer and fewer undeveloped and pristine areas left in the Nation's coastal and estuarine watersheds. These areas provide important nursery habitat for two-thirds of the Nation's commercial fish and shellfish, provide nesting and foraging habitat for coastal birds, harbor significant natural plant communities, and serve to facilitate coastal flood control and pollutant filtration.

The Coastal and Estuarine Land Protection Act pairs willing sellers through community-based initiatives with sources of Federal funds to enhance environmental protection. Lands can be acquired in full or through easements, and none of the lands purchased through this program would be held by the Federal Government. This bill puts land conservation initiatives in the hands of state and local communities. This new program, authorized through the National Oceanic and Atmospheric Administration at $60,000,000 per year, would provide Federal matching funds to States with approved coastal management programs or to National Estuarine Research Reserves through a competitive grant process. Federal matching funds may not exceed 75 percent of the cost of a project under this program, and non-Federal sources may count in-kind support toward their portion of the cost share.

This coastal land protection program provides much needed support for local coastal conservation initiatives throughout the country. In my role on the Commerce, Justice, State Appropriations Subcommittee, I have been able to secure significant funds for the Great Bay estuary in New Hampshire. This estuary is the jewel of the seacoast region, and is home to a wide variety of plants and animal species that are particularly threatened by encroaching development and environmental pollutants. By working with local communities to purchase lands or easements on these valuable parcels of land, New Hampshire has been able to successfully conserve the natural and scenic heritage of this vital estuary.

Programs like the Coastal and Estuarine Land Protection Program will now enable other States to participate in these community-based conservation efforts in coastal areas. This program was modeled after the U.S. Department of Agriculture's successful Forest Legacy Program, which has conserved millions of acres of productive and ecologically significant forest land around the country.

I welcome the opportunity to offer this important legislation, with my close friend, Senator HOLLINGS. I am thankful for his strong leadership on this issue, and look forward to working with him to make the vision for this legislation a reality, and to successfully conserve our coastal lands for their ecological, historical, recreational, and aesthetic values.

By Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, and Mr. JOHNSON):

S. 862. A bill to promote the adoption of children with special needs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Adoption Equality Act of 2003. I am proud to have a bipartisan group of cosponsors including Senators DEWINE, LANDRIEU, COLLINS, LEVIN and JOHNSON. Work on this legislation is based on the bipartisan work of the Senate coalition that supported the 1997 Adoption and Safe Families Act, an historic effort to ensure that a child's safety and health are paramount, and that every child should have a permanent home.

The Adoption and Safe Families Act was the most sweeping and comprehensive piece of child welfare legislation passed in over a decade, and since its enactment, adoptions from our foster care system have nearly doubled. In my State of West Virginia, adoptions have nearly tripled. Those adopted children now have a permanent home. But there are still 131,000 in foster care nationwide who have the goal of adoption but are still waiting. In West Virginia, we have 520 children in foster care waiting for adoption, but only 343 children might qualify for support. I believe each child with special needs who is waiting for adoption deserves help but under current law only some do. They are the innocent ones who were victims of abuse and neglect. Clearly we must do more for those children.

Throughout the process of developing the Adoption Act we heard about the challenging circumstances facing children described as having ''special needs''. These include children who are the most difficult to place into permanent homes, often due to their age, disability or status as part of a group of siblings needing to be placed together.

One of the most significant provisions of ASFA was the assurance of ongoing health care coverage for all children with special needs who move from foster care to adoption. Parents willing to adopt such children were promised health care coverage in 1997 which is essential.

While all special needs children that are adopted maintain health care coverage, only half are eligible for adoption assistance payments. Current law provides for the payment of federal adoption subsidies to families who adopt only those special needs children whose biological family would have qualified for welfare benefits under the old 1996 AFDC standards. Federal adoption subsidy payments provide essential income support to help families finance the daily basic costs of raising these special children, as well as support for special services like therapy, tutoring, or special equipment for disabled children. Federal adoption subsidies are a vital link in securing adoptive homes for special needs children who by definition would not be adopted without support.

Under current law, a child's eligibility for these important benefits is dependent on the income of his or her biological parents even though these parents' legal rights to the child have been terminated, and these are the parents who either abused or neglected the child. This is, simply, wrong. The Adoption Equality Act will eliminate this anomaly in Federal law by making all special needs children eligible for Federal adoption subsidies.

The Adoption Equality Act is the next logical step to streamline and promote adoptions from foster care. The bill is designed to ''level the playing field'' by ensuring that all children with special needs, and the loving families who adopt them, have the support they need to grow and develop.

First, the bill removes the requirement that an income eligibility determination be made in regard to the child's biological parents, whom the child is leaving, thereby allowing Federal adoption subsidy to be paid to all families who adopt children who meet the definition of special needs.

Second, the bill continues to give states flexibility to determine the definition of a child with special needs, but it is clear that adoption subsidies should only be provided if the child could not be adopted without such assistance.

Third, the bill requires that States reinvest the monies they save as a result of this bill back into their state child abuse and neglect programs which should help promote prevention and family support.

When we talk about how to help abused and neglected children in this country, many complex questions are raised about what constitutes best policy, and how Federal tax dollars should be spent. Yet, at the heart of all the questions are vulnerable children who desperately want a safe, permanent home. The lack of modest financial resources to support these adoptions is often the only barrier that stands between an abused child and a safe, loving and permanent home.

Federal adoption subsidies are designed to encourage adoption of children with special needs—those children who have the hardest time finding permanent, adoptive families. It is an absurd policy to discriminate against thousands of children with special needs based upon the income of their biological, and often abusive, parents. It is time to create a Federal policy that levels the playing field and gives all children with special needs an equal and fair chance at being adopted.

The Adoption Equality Act will treat every special needs child the same. It is designed to encourage adoption and support those admirable parents willing to help a child with special needs and a history of abuse or neglect. Such children may have physical disabilities, or other may have emotional challenges due to past abuse and neglect. Such children and families often need special counseling or support services, and that is why the adoption assistance payments are key. If we want to truly help our most vulnerable children find a permanent home, this is a wise investment.

By Mr. EDWARDS (for himself, Mr. MILLER, Mr. BINGAMAN, Ms. MIKULSKI, and Mrs. MURRAY):

S. 863. A bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself, Mr. BINGAMAN, Ms. MIKULSKI, and Mrs. MURRAY):

S. 864. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide for grants to parents and guardians of certain military dependents, in order to assist the parent and guardians in paying for the cost of child care services provided to the dependents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. EDWARDS. Mr. President, I rise today to introduce two important pieces of legislation that offer a helping hand to the members and families of the National Guard, the Reserves, and the regular active-duty military.

The National Guard and Reserves used to be called ''forces of last resort,'' but they have become much more. Between 1945 and 1989, the Guard and Reserves were activated four times. Only four times in 45 years. Between 1990 and the present, in less than 15 years, the Guard and Reserves were activated six times. They have become a central element of our national defense.

We've come to rely on them to fight side-by-side with full-time active duty soldiers. Each time our Nation has needed them, the Guard and Reserves members have left their jobs, their homes, and their families to serve this nation with pride and distinction. They view activation as an opportunity for service, but the truth is that activation does cause challenges at home. We should do right by them.

Over the past few weeks, this body has considered a number of important measures for the Guard, the Reserves, and our entire military. I was pleased to support Senator LANDRIEU's amendment to raise combat and family separation pay and to modernize equipment. I also supported Senator LINCOLN's effort to make sure that all members of the National Guard and Reserves can participate in the same health program that's available to full-time soldiers and their families. It's hard to believe, but 20 percent of the men and women in the Guard and Reserves don't even have health insurance.

Today, I am introducing two new pieces of legislation to address unique difficulties facing Guard and Reserve members and, in fact, members of the regular military as well. I've traveled around the bases in my State and, time and time again, soldiers and their families have told me they need help.

My first proposal is for child care. A few weeks ago, I outlined my ideas for addressing the growing challenges facing working families. Parents are working longer hours, earning less, and spending less time with their kids. One idea I offered was expanding after-school programs for kids of working parents.

The child care crunch is enormously exacerbated for military families. When one parent is called away, the other must take on all the responsibilities around the home. And at the same time, many members of the Guard and

Reserves take a pay cut, making it more difficult to hire help.

Families can get child care on a military base, which is great for some families. But members of the Guard in North Wilkesboro, for example, live 173 miles away from the nearest military installation. Those families are totally left out.

My National Guard and Reserves Child Care Relief Act would give families financial help for child care in their hometown. We would help families with a mom or dad called away on active duty. This is a concrete, practical way to make a difference in people's lives.

I also have a bill to provide some help paying for education for the men and women who serve our country in the military. Nearly a quarter of Guardsmen and Reservists are college students, and many more are graduates with student loans.

While these patriots are fighting for their country overseas, we charge them interest on their student loans here at home. This happens even if they're serving on the frontlines in Iraq; even if they took a huge pay cut because they're in the Guard or Reserves; even if they have a very low income to begin with.

For somebody with an average size loan of $17,000, this can add up to as much as $1,400 in interest a year. That's not right. No one should return to civilian life deeper in debt because they took time off to serve their country. We should waive the interest on these Federal loans.

The Secretary of Education has the authority to waive interest under the HEROES Act of 2001, but he has chosen not to exercise it. My Fairness for America's Soldiers in Higher Education Act would require him to do just that.

It would also permanently end an Education Department policy-suspended during the current conflict—that makes many guardsmen and reservists who have to drop college courses when they are activated pay back student aid.

As we consider trillion-dollar budgets, these are modest ideas, but they would make a real difference in the lives of Americans serving their country and signal our appreciation for their sacrifice.

I urge my colleagues to support these important bills. I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the texts of the bills were ordered to be printed in the RECORD, as follows:

S. 863

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 ''Fairness for America's Soldiers in Higher Education Act of 2003''.

SEC. 2. REFUND POLICY.

Section 484B(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1091b(b)(2)) is amended by adding at the end the following:

''(D) STUDENTS ON ACTIVE DUTY DURING A WAR OR NATIONAL EMERGENCY.—Notwithstanding subparagraphs (A), (B), and (C), a student who withdraws from an institution of higher education to serve on active duty during a war or national emergency shall not be required to repay any grant assistance that is otherwise required to be repayed under this section.''.

SEC. 3. DEFERMENT DURING ACTIVE DUTY.

(a) FFEL AND DIRECT SUBSIDIZED LOANS.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) in clause (ii), by striking ''or'' after the semicolon;

(2) in clause (iii), by inserting ''or'' after the semicolon; and

(3) by inserting after clause (iii) the following:

''(iv) during which the borrower—

''(I) is a member of a regular component on active duty during a war or during a national emergency declared by the President or Congress, and receives compensation described in section 112(a) of the Internal Revenue Code of 1986;

''(II) is on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, 12304, 12306, 12307, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law, during a war or during a national emergency declared by the President or Congress, regardless of the location at which such active duty service is performed; or

''(III) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 12402 of title 10, United States Code, or section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.''.

(b) CONSOLIDATION LOANS.—Section 428C(b)(4)(C)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(4)(C)(ii)) is amended—

(1) in subclause (II), by striking ''or'' after the semicolon;

(2) in subclause (III), by striking ''or (II)'' and inserting '', (II) or (III)'';

(3) by redesignating subclause (III) (as so amended) as subclause (IV); and

(4) by inserting after subclause (II) the following:

''(III) by the Secretary, in the case of a consolidation loan of a student who is on an active duty deferment under section 428(b)(1)(M)(iv); or''.

(c) FFEL AND DIRECT UNSUBSIDIZED LOANS.—Section 428H(e) of the Higher Education Act of 1965 (20 U.S.C. 1078-8(e)) is amended by adding at the end the following:

''(C) Notwithstanding subparagraph (A), interest on loans made under this section for which payments of principal are deferred because the student is on an active duty deferment under section 428(b)(1)(M)(iv) shall be paid by the Secretary.''.

(d) PERKINS LOANS.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) in clause (iii), by striking ''or'' after the semicolon;

(2) in clause (iv), by inserting ''or'' after the semicolon; and

(3) by inserting after clause (iv) the following:

''(v) during which the borrower—

''(I) is a member of a regular component on active duty during a war or during a national emergency declared by the President or Congress, and receives compensation described in section 112(a) of the Internal Revenue Code of 1986;

''(II) is on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, 12304, 12306, 12307, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law, during a war or during a national emergency declared by the President or Congress, regardless of the location at which such active duty service is performed; or

''(III) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 12402 of title 10, United States Code, or section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower (within the meaning of section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)) on or after such date.

S. 864

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 ''National Guard and Reserves Child Care Relief Act''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There is'' and inserting ''(a) IN GENERAL.—There is'';

(2) in subsection (a), as so designated, by inserting ''(except section 658T)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) CHILD CARE FOR CERTAIN MILITARY DEPENDENTS.—There is authorized to be appropriated to carry out section 658T $10,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 3. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by adding at the end the following:

''SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

''(a) IN GENERAL.—The Secretary shall make grants to eligible persons to assist the persons in paying for the cost of child care services provided to dependents by eligible child care providers.

''(b) ELIGIBLE PERSON AND DEPENDENT.—In this section:

''(1) DEPENDENT.—The term 'dependent' means an individual who is—

''(A) a dependent, as defined in section 401 of title 37, United States Code, except that such term does not include a person described in paragraph (1) or (3) of subsection (a) of such section; and

''(B) an individual described in subparagraphs (A) and (B) of section 658P(4).

''(2) ELIGIBLE PERSON.—The term 'eligible person' means a person who—

''(A) is a parent of one or more dependents of—

''(i) a member of a reserve component of the Armed Forces serving on active duty for a period of more than 30 days in support of a military operation pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code; or

''(ii) any other member of the Armed Forces on active duty who, as determined by

the Secretary of the military department concerned, is involved in a military operation;

''(B) has the primary responsibility for the care of one or more such dependents; and

''(C) resides permanently at a location at least 50 miles from—

''(i) the nearest military installation of the Department of Defense where child care facilities and programs are available for use by dependents of the member; and

''(ii) the nearest child development center or family child care home that is funded in whole or in part with appropriations available to the Department of Defense and is available for use by dependents of the member.

''(3) MILITARY OPERATION.—The term 'military operation' means—

''(A) Operation Enduring Freedom;

''(B) Operation Iraqi Freedom;

''(C) Operation Noble Eagle; or

''(D) any successor operation of the United States Armed Forces to an operation named in subparagraph (A), (B), or (C).

''(c) APPLICATIONS.—To be eligible to receive a grant under this section, a person shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a description of the eligible child care provider who provides the child care services assisted through the grant.

''(d) RULE.—The provisions of this subchapter, other than section 658P and provisions referenced in section 658P, that apply to assistance provided under this subchapter shall not apply to assistance provided under this section.''.

SEC. 4. CONFORMING AMENDMENTS.

Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''appropriated under this subchapter'' and inserting ''appropriated under section 658B(a)''; and

(B) in paragraph (2), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''; and

(2) in subsection (b)(1), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''.

By Mr. MCCAIN (for himself, Mr. DORGAN, Mr. BROWNBACK, and Mr. ENSIGN):

S. 865. A bill to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am joined by Senators DORGAN, BROWNBACK, and ENSIGN in introducing the Commercial Spectrum Enhancement Act. This bill is designed to streamline the process of relocating government users from spectrum reallocated for commercial use.

The bill would establish a separate fund on the books of the United States Treasury called the Spectrum Relocation Fund. When spectrum occupied by a Federal agency is auctioned, the proceeds from the auction would be deposited into the fund. Federal agencies would be able to withdraw from the fund the estimated expenses associated with the relocation, with additional expenses being approved by the Office of Management and Budget, with notice provided to Congress and the General Accounting Office, GAO, as necessary.

Currently, when spectrum assigned to a Government agency is auctioned, the law requires the agency to negotiate with the winning bidder to determine the cost of purchasing or returning new equipment necessary for the agency to transfer out of the spectrum band. These negotiations would be time-consuming and difficult for both parties. This bill would eliminate the need for lengthy negotiations between these parties. Thus it would accelerate the pace of introduction of new services using the spectrum.

Spectrum is a critical resource of our armed services. It is important that any relocation process consider the needs of our military operations. I believe that this bill would allow our military to have confidence that its relocation costs will be fully and timely reimbursed, while providing commercial bidders with certainty regarding the full cost of the right to use the spectrum and the ability to use it in a timely fashion.

Finally, the bill provides important oversight functions for Congress and the GAO to ensure that the fund is used in a manner that is fair and justified. In this way, American taxpayers are assured that their resources are used most efficiently.

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:

(The bill will be printed in a future edition of the RECORD.)

By Mr. KOHL (for himself, Mr. DURBIN, Mr. SCHUMER, Mr. CORZINE, Mrs. FEINSTEIN, Mr. REED, and Mr. LAUTENBERG):

S. 866. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Child Safety Lock Act of 2003, on behalf of myself, Senator DURBIN, Senator SCHUMER, Senator CORZINE, and Senator FEINSTEIN. Our measure will save children's lives by reducing the senseless tragedies that result when children get their hands on improperly stored and unlocked handguns.

Each year, children and teenagers are involved in more than 10,000 accidental shootings in which close to 800 of them die. In addition, each year more than 1,000 young people killed themselves with a firearm—that is almost three per day. Safety locks can be effective in deterring or preventing many of these incidents.

The sad truth is that we are inviting disaster every time an unlocked gun is stored in a place that is still accessible to children. Parents take a number of precautions to ensure their children's safety, from equipping them with bike helmets, to securing them in automobiles, to changing smoke detector batteries. Unfortunately, not all parents are as safety conscious about child proofing their firearms.

Guns are kept in 43 percent of American households with children. In 23 percent of these households, the guns are kept loaded. And alarmingly, in one out of every eight of those homes the loaded guns are left unlocked.

This is wrong and unacceptable.

Such startlingly cold statistics cannot even begin to describe in human terms the daily tragedies that could be prevented by the use of a safety lock.

For example, in January a 21-month-old little boy was fatally shot when he tipped over a laundry hamper containing a loaded handgun. The handgun did not have a lock. The boy had no supervision. The result was tragic. A lock would have also saved the life of a four-year-old in Florida who shot himself playing with his grandfather's gun while the rest of his family was sleeping. Last September, a Detroit mother lost her son because he accidentally shot himself with a gun she had borrowed to protect herself. And, of course, no one will ever forget the Santana High School shooting two years ago, when a high school freshman opened fire on his classmates, killing two and injuring 13 others with a handgun and multiple rounds of ammunition he found at home.

Our legislation will help prevent tragedies like these. It is simple, effective, and straightforward. It requires that a child safety device—or trigger lock—be sold with every handgun. These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it. Trigger locks can be purchased in virtually any gun store for less than ten dollars. They are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use and have surely saved many lives.

Protection is only as good as the safety lock itself, therefore the Child Safety Lock Act of 2003 includes standards for the safety locks. Studies by the Consumer Product Safety Commission and recalls by safety lock manufacturers conclusively demonstrate the child safety locks are often not made well enough. A lock that is easily picked or one that breaks apart with little force defeats the purpose of this bill. We would not use a lock that is less than foolproof to guard our most valuable possessions. We should not use defective locks to protect what is most valuable to us—our children.

Support for this simple, common sense proposal is widespread. In 1999, a child safety lock provision passed the Senate by an overwhelming vote of 78 to 20 as an amendment during the juvenile justice debate. This proposal is as popular with the rest of the country

and the law enforcement community as it was with the 106th Senate. Polls show that between 75 and 80 percent of the American public, including gun owners, favor the mandatory sale of child safety locks with guns. When I surveyed almost 500 of Wisconsin's police chiefs and sheriffs last summer, 90 percent of respondents agreed that child safety locks should be sold with each gun.

During his campaign, President Bush indicated that if Congress passes a bill making child safety locks mandatory he would sign it into law. Two years ago, Attorney General Ashcroft affirmed the Administration's support of the mandatory sale of child safety locks during his confirmation hearings before the Senate Judiciary Committee.

Mr. President, this legislation is necessary to ensure that safety locks are provided with all handguns so that numerous lives are not lost in easily preventable accidents. We already protect children by requiring that seat belts be installed in all automobiles and that childproof safety caps be provided on medicine bottles. We should be no less vigilant when it comes to gun safety. I hope that the Senate will move to pass the Child Safety Lock Act of 2003 so that further unnecessary death and injury can be avoided.

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. 866

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 ''Child Safety Lock Act of 2003''.

SEC. 2. REQUIREMENT OF CHILD HANDGUN SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(36) The term 'locking device' means a device or locking mechanism that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred and that—

''(A) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

''(B) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

''(C) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

''(z) LOCKING DEVICES.—

''(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) the manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm;

''(B) transfer to, or possession by, a law enforcement officer employed by an entity referred to in subparagraph (A) of a firearm for law enforcement purposes (whether on or off duty); or

''(C) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under State law of a firearm for purposes of law enforcement (whether on or off duty).''.

(2) EFFECTIVE DATE.—Section 922(z) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensee, the Attorney General may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action by the Attorney General under this paragraph may be reviewed only as provided under section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Attorney General.''.

SEC. 3. AMENDMENT TO CONSUMER PRODUCT SAFETY ACT.

(a) IN GENERAL.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

''SEC. 39. CHILD HANDGUN SAFETY LOCKS.

''(a) ESTABLISHMENT OF STANDARD.—

''(1) RULEMAKING REQUIRED.—

''(A) INITIATION OF RULEMAKING.—Notwithstanding section 3(a)(1)(E), the Commission shall initiate a rulemaking proceeding under section 553 of title 5, United States Code, not later than 90 days after the date of enactment of the Child Safety Lock Act of 2003 to establish a consumer product safety standard for locking devices. The Commission may extend the 90-day period for good cause.

''(B) FINAL RULE.—Notwithstanding any other provision of law, including chapter 5 of title 5, United States Code, the Commission shall promulgate a final consumer product safety standard under this paragraph not later than 12 months after the date on which it initiated the rulemaking. The Commission may extend that 12-month period for good cause.

''(C) EFFECTIVE DATE.—The consumer product safety standard promulgated under this paragraph shall take effect 6 months after the date on which the final standard is promulgated.

''(D) STANDARD REQUIREMENTS.—The standard promulgated under this paragraph shall require locking devices that—

''(i) are sufficiently difficult for children to de-activate or remove; and

''(ii) prevent the discharge of the handgun unless the locking device has been de-activated or removed.

''(2) INAPPLICABLE PROVISIONS.—

''(A) PROVISIONS OF THIS ACT.—Sections 7, 9, and 30(d) shall not apply to the rulemaking proceeding described under paragraph (1). Section 11 shall not apply to any consumer product safety standard promulgated under paragraph (1).

''(B) CHAPTER 5 OF TITLE 5.—Except for section 553, chapter 5 of title 5, United States Code, shall not apply to this section.

''(C) CHAPTER 6 OF TITLE 5.—Chapter 6 of title 5, United States Code, shall not apply to this section.

''(D) NATIONAL ENVIRONMENTAL POLICY ACT.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321) shall not apply to this section.

''(b) NO EFFECT ON STATE LAW.—

''(1) IN GENERAL.—Notwithstanding section 26, this section shall not annul, alter, impair, affect, or exempt any person subject to the provisions of this section from complying with any provision of law of any State or any political subdivision thereof, except to the extent that such provisions of State law are inconsistent with any provision of this section, and then only to the extent of such inconsistency.

''(2) CLARIFICATION.—A provision of State law is not inconsistent with this section if such provision affords greater protection to children from handguns than is afforded by this section.

''(c) ENFORCEMENT.—Notwithstanding subsection (a)(2)(A), the consumer product safety standard promulgated by the Commission pursuant to subsection (a) shall be enforced under this Act as if it were a consumer product safety standard described under section 7(a).

''(d) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) CHILD.—The term 'child' means an individual who has not attained the age of 13 years.

''(2) LOCKING DEVICE.—The term 'locking device' has the meaning given that term in clauses (i) and (iii) of section 921(a)(36) of title 18, United States Code.''.

(b) CONFORMING AMENDMENT.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

''Sec. 39. Child handgun safety locks.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 to carry out the

provisions of section 39 of the Consumer Product Safety Act, as added by this Act.

(2) AVAILABILITY.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

By Mr. BURNS:

S. 867. A bill to designate the facility of the United States Postal Service located at 710 Wick Lane in Billings, Montana, as the ''Ronald Reagan Post Office Building''; to the Committee on Governmental Affairs.

Mr. BURNS. Mr. President, I would like to introduce a bill which names one of our post offices in Billings, Montana, after one of this Nation's greatest leaders and true patriot: former President Ronald Reagan. His legacy extends far beyond his Presidency. I think it's only fitting that I introduce this legislation today, since President Reagan worked tirelessly to end the Cold War and liberate millions of people, and we see the same dedication today to free the people of Iraq. President Reagan spoke about the threat of Saddam Hussein, and asked, ''will we be ready to respond?'' He went on to answer this question by saying, ''In the end, it all comes down to leadership. This is what this country is looking for now. It was leadership here at home that gave us strong American influence abroad and the collapse of imperial communism. Great nations have responsibilities to lead and we should always be cautious of those who would lower our profile because they might just wind up lowering our flag.'' He made these comments not two weeks ago, and not even two months ago. President Reagan, already sensitive to the threat posed by Saddam Hussein, asked this rhetorical question in 1994. This foresight was evident during President Reagan's tenure in the White House. President Reagan played a significant role in framing the modern political landscape, and I am proud to do what I can to commemorate his contribution to America and the world. I can clearly remember President Reagan's visit to Big Sky Country in 1982 for the Centennial celebration for Billings and Yellowstone County. He arrived in the Billings Metra Arena, one of the largest venues in the State, riding in a stagecoach. He embraced the ideals that Montana stood for, and said he was trying to bring a little of it to Washington. I feel much the same way as President Reagan did when he said, ''What we're trying to do in Washington is reawaken the government to the very values that you here in Billings represent—determination, responsibility, confidence, and common sense—the kind of common sense that says if it ain't broke, don't fix it. We are reintroducing the idea that progress is still an American word and that optimism is still an American trait. I believe if we cling to our hopes and dreams, I believe the future will flower just as it did for the founders of Billings, Montana.'' Now more than ever, we need to remember that ''progress'' and ''optimism'' are part of the American vocabulary. The wisdom of President Reagan helped guide us in the right direction, and I am pleased and honored to introduce this legislation today so that we may dedicate a piece of Montana to a great visionary and statesman.

By Mr. SMITH:

S. 868. A bill to amend the Coos, Lower Umpqua, and Siuslaw Restoration Act to provide for the cultural restoration and economic self-sufficiency of the Confederation Tribes of Coos, Lower Umpqua, and Siuslaw Indians of Oregon, and for other purposes; to the Committee on Indian Affairs.

Mr. SMITH. Mr. President, I rise today to introduce legislation that will restore to the members of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians a small portion of their ancestral homelands.

The story of these Tribes' experience is well worth hearing. For many of my colleagues, parts of it will sound familiar, as it reflects the history of the early west. In 1850, gold was discovered at a place known as Eight Dollar Bar, near what we now call Cave Junction, OR. Within months thousands of miners with gold fever moved into the area. Indians struggled to protect their land while miners aggressively pursued their vision of the American dream.

In 1855, Joel Palmer, an Indian Agent for the Oregon Territory was sent in by the Federal Government to negotiate treaties with Oregon tribes. Treaties with the tribes of the Rogue River, Umpqua/Cow Creek, and Calapooyas were established, but not the tribes of the central and southern Oregon coast. Much of this land is now in the Siuslaw National Forest.

The Coos, Lower Umpqua and Siuslaw Indians were not a warring people. They were prepared to share their ancestral homelands, which approximated about 1.6 million acres in the coast mountain range, living on a small portion of the land and receiving compensation for the balance. In 1855 and in good faith the tribes signed the Empire Treaty with the Federal Government. But, somewhere between Empire, Oregon and the floor of the U.S. Senate the treaty was lost. No land was allotted for their reservation and no compensation given.

In 1856 the Rogue River War began and the Coos, Lower Umpqua and Siuslaw Indians were marched north and held prisoner in what was called the Coast Reservation. They were held against their will until the mid-1870s. It was during this dark period in their history that over half their population died.

With their release, tribal members returned to their homelands, only to find they had neither land nor resources left. At this point, the three tribes formed a Confederation. In 1954, by Presidential order the Confederation's tribal status was terminated. These decades were difficult ones for members of this Tribe. Lack of education and economic opportunities in the area, and racism by some of their white neighbors took a heavy toll.

In 1984, the Oregon congressional delegation sought and achieved federal recognition for the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. At the same time, no reservation lands were granted to the tribe and no compensation offered. The Tribe received a donation of approximately 6 acres in Empire, Oregon. This is now the site of their tribal hall where services are provided to their members and tribal council meetings and tribal events are held. Small, additional tracts have been purchased over time.

The Indian Self-Determination Act encourages tribes to develop plans to achieve the goals of cultural restoration, economic self-sufficiency and attain the standard of living enjoyed by other citizens of the United States. The Confederated Tribes have been working diligently since 1954 to attain those goals.

An essential component in this effort is the Reservation Plan and Forest Land Restoration Proposal. It will provide a long-term source of revenue and lessen dependence on federal funding to operate Tribal government programs and to provide economic benefits to local communities. The Plan will revitalize Tribal culture by reconnecting Tribal people to their ancestral homelands and it will provide a net benefit to the environment by improving the health of ancestral watersheds.

My staff and I began meeting with Tribal members soon after I was first elected to the Senate. Years of work with local citizens, communities and governments to gain understanding and support for the land restoration proposal have been successful. Hundreds of individual meetings, workshops and open forums have been held by the Tribes. Development of the Reservation Plan and Forest Land Restoration Proposal has led to a clear understanding of what activities can occur on these lands which is reflected in the legislation that I have introduced today.

I am proud to introduce legislation today that will return approximately 63,000 acres of their ancestral homeland to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. These U.S. Forest Service lands encompass a portion of the Siuslaw National Forest. Under the legislation, management of the restored lands would be transferred to the Bureau of Indian Affairs with title held in trust by the Secretary of the Interior for the Confederated Tribes.

These lands contain significant cultural sites: encampments, spiritual and burial sites. My proposal will allow these people to meet their cultural goals, and provide economic and environmental benefits to all of the citizens of the region. The legislation ensures continued public access to these lands for hunting and fishing, recreation and transportation. Applicable

State and Federal laws will be followed. Payments to county governments will not be impacted under this proposal. Timber harvested from this land will be processed domestically by local mills. Twenty percent of the revenues from the land will be reinvested in watershed management activities to restore habitat. These lands contain some significant environmental sites. They will be preserved. These lands are not suitable for nor will the laws allow gaming to occur on them.

Revenue gained from activities on these lands will help meet the self-sufficiency goals of the Confederated Tribes. It will be used to assist seniors through elder housing programs, youth through scholarships, low income housing for those in need and provide health care benefits for all of the Tribal members.

The Confederated Tribes of the Coos, Lower Umpqua and Siuslaw are the only federally recognized tribe in Oregon that has never received any land or compensation for the loss of their homeland from the United States Government. This legislation works to right that wrong, to restore a Tribe, to restore a forest, and to restore a very special relationship between the two.

By Mr. HARKIN (for himself, Ms. SNOWE, Mr. INOUYE, Mr. GRAHAM of South Carolina, Mrs. MURRAY, Mr. CORZINE, Mr. BIDEN, Mr. SPECTER, Ms. LANDRIEU, Mr. JOHNSON, Mrs. LINCOLN, Mr. HOLLINGS, Ms. MIKULSKI, Mrs. CLINTON, and Ms. COLLINS):

S. 869. A bill to amend title XVIII of the Social Security Act to provide for enhanced reimbursement under the medicare program for screening and diagnostic mammography services, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President. Today I am introducing legislation, the Assure Access to Mammography Act of 2003, on behalf of myself and my colleagues, Senators SNOWE, INOUYE, GRAHAM of South Carolina, MURRAY, CORZINE, BIDEN, SPECTER, LANDRIEU, JOHNSON, LINCOLN, HOLLINGS, MIKULSKI, CLINTON, and Ms. COLLINS to ensure women have full and timely access to preventive breast cancer screenings. As you know, the earlier a woman is diagnosed with breast cancer, the earlier she can begin to receive treatment and the more likely she will survive.

Unfortunately, due to inadequate reimbursement rates for mammograms, women increasingly are having problems getting the mammograms they need. Across the nation, there have been reports of women waiting up to six months for an appointment for this simple procedure. While mammograms often cost up to $150 to administer, Medicare's reimbursement rate is currently set at about $82, barely over half the actual cost of the procedure. This disparity increasingly makes access a real problem, forcing many private centers to shut down and creating a shortage of providers willing to provide services significantly below cost.

The Assure Access to Mammography Act would reverse this growing and alarming trend by correcting the two primary causes of the problem. First, it would increase Medicare reimbursement to radiologists to a reasonable level to ensure health care providers are reimbursed fairly for mammography services. Second, the bill would increase the number of radiologists by increasing the Graduate Medical Education payments to provide for three additional radiologists in each teaching hospital. Finally, the Assure Access to Mammography Act would provide a MEDPAC study on the Medicare reimbursement structure for gender specific medical procedures so that Congress and CMS have the tools we need to make appropriate health policy decisions.

This is an issue that hits close to home for me. Both of my sisters died of breast cancer, at a time when mammograms were not readily available. While imperfect, mammograms are the best-known way to diagnose breast cancer at an early stage in order to reduce mortality. As our society ages, one million additional women each year are needing regular mammograms. The Assure Access to Mammography Act will provide the resources our health care system needs to guarantee all women access to the mammograms they need to ensure that breast cancer is detected early enough to apply appropriate treatments effectively. I look forward to working with my colleagues to pass this needed bipartisan legislation.

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. KENNEDY, Mr. HAGEL, Mr. DOMENICI, and Mr. FEINGOLD):

S. 871. A bill to provide for global pathogen surveillance and response, to the Committee on Foreign Relations.

Mr. President, I am pleased to re-introduce today the ''Global Pathogen Surveillance Act''.

Last year, this bill passed the Senate by unanimous consent on August 1st, but died when the House of Representatives failed to take timely action.

The Global Pathogen Surveillance Act authorizes $150 million over the next two years to help developing nations improve global disease surveillance.

That will go a long way to prevent and contain both biological weapons attacks, if, God forbid, it happens, and naturally occurring infectious disease outbreaks around the world.

I'm happy to announce that Senators LUGAR, KENNEDY, HAGEL, DOMENICI, and FEINGOLD are joining me in cosponsoring this bill.

The mysterious global outbreak of severe acute respiratory syndrome, or SARS, is an unfortunate reminder of why this bill is so important. We've heard a lot about it. We don't know much about it yet.

We know it's a contagious respiratory illness which apparently originated in the Guangdong province of China last November, has stricken more than 2600 individuals in 17 countries, taking the lives of at least 100 individuals.

The World Health Organization is concerned. They've issued a rare global health alert and discouraged travel to certain nations as authorities struggle to determine the cause of this flu-like illness and what viral or infectious agent is involved.

The WHO has not ruled out bioterrorism as a potential cause for the epidemic, although it is unlikely that a disease with only a 4 to 5 percent mortality would be used.

What's so scary about this outbreak is that doctors and nurses taking care of sick patients have fallen ill themselves; initial tests have not revealed evidence of infection with any previously known virus or bacterial agent; and patients are not being cured by standard treatments, although the vast majority do recover.

How would better disease surveillance have helped in dealing with this kind of crisis?

Experts suspect this epidemic first originated in the Guangdong province in southern China in November, but peaked in early February.

A comprehensive surveillance network might have picked up the unique symptoms of this epidemic earlier . . . might have led to quicker diagnosis and better containment measures.

We would have had a better chance to keep this epidemic contained within China, before the pathogen spread to neighboring nations, and now to Canada and the United States.

Over the last eighteen months, Americans have become all too familiar with the threat of bioterrorism and the army of deadly agents capable of spreading death and disease—anthrax, Ebola, and smallpox are only the most sensational examples.

We've had to strengthen our homeland defenses—not just against terrorists armed with bombs and explosives—but against shadowy figures carrying vials of deadly pathogens.

But all in all, this country is making important advances on the domestic front in bioterrorism defense.

Last year, the President signed into law the Bioterrorism Prevention Act of 2002, a comprehensive domestic initiative co-sponsored by Senators Kennedy and Frist.

In January, the Centers for Disease Control announced an initiative to establish electronic surveillance systems in eight American cities as the cornerstone of an eventual national network.

In Delaware, we're developing the very first, comprehensive, state-wide electronic reporting system for infectious diseases.

It'll serve as a prototype for other states by enabling much earlier detection of infectious disease outbreaks.

But a domestic defense against biological weapons isn't sufficient alone.

Biological weapons are a global threat with no respect for borders. A dangerous pathogen released on another continent can quickly spread to the United States in a matter of days, if not hours.

A terrorist group could launch a biological weapons attacks in Mexico in the expectation that the epidemic would quickly spread to the United States.

A rogue state might experiment with new disease strains in another country, intending later to release them here.

And international trade, travel, and migration patterns offer unlimited opportunities for pathogens to spread across national borders and to move from one continent to another.

We should make no mistake: in today's world, all infectious disease epidemics, wherever they occur and whether they are deliberately engineered or are naturally occurring, are a potential threat to all nations, including the United States. Such a threat need not begin in the United States to reach our shores.

For that reason, our response cannot be limited to the United States alone.

Global disease surveillance, a systematic approach to tracking disease outbreaks as they occur and evolve around the world, is essential to any real international response.

Why is disease surveillance so important? A biological weapons attack succeeds partly through the element of surprise.

As Dr. Alan P. Zelicoff of the Sandia National Laboratory testified before the Senate Foreign Relations Committee last spring, early warning of a biological weapons attack can prevent illness and death in all but a small fraction of those infected.

A cluster of flu-like symptoms in a city or region may be dismissed by doctors as just the flu when in fact it may be anthrax, plague, or another biological weapon.

But armed with the knowledge that a suspicious epidemic has emerged, doctors and nurses can examine their patients in a different light and, in many cases, effectively treat them.

Disease surveillance is a fancy phrase for a comprehensive reporting system to quickly identify and communicate abnormal patterns of symptoms and illnesses that can quickly alert doctors across a region that a suspicious disease outbreak has occurred.

Epidemiological specialists can then investigate and combat the outbreak.

And if it's a new disease or strain, we can begin to develop treatments that much earlier.

An effective disease surveillance system helps even in the absence of biological weapons attacks. Bubonic plague is bubonic plague, whether it is deliberately engineered or naturally occurring.

Just as disease surveillance can help contain a biological weapons attack, it can also help contain a naturally occurring outbreak of infectious disease.

According to the World Health Organization, thirty new infectious diseases have emerged over the past thirty years; between 1996 and 2001 alone, more than 800 infectious disease outbreaks occurred around the world, on every continent.

The SARS epidemic is only the most recent such outbreak. With better surveillance, we can do a better job of mitigating the consequences of these disease outbreaks.

A good surveillance system requires trained epidemiological personnel, adequate laboratory tools for quick diagnosis, and working communications equipment to circulate information.

Even here, in the most advanced Nation in the world, many States and cities rely on old-fashioned pencil and paper methods of tracking disease patterns.

Thankfully, the comprehensive bioterrorism legislation enacted into law last year is beginning to correct that.

Now, it is vitally important that we extend these initiatives into the international arena.

In 2000, the World Health Organization established the first truly global disease surveillance system, the Global Alert and Response Network, to monitor and track infectious disease outbreaks everywhere.

The WHO has done an impressive job so far with this initiative, working on a shoestring budget. But this global network is only as good as its components—individual nations.

Unfortunately, developing nations—those nations most likely to experience rapid disease outbreaks—simply don't have the trained personnel, the laboratory equipment, or the public health infrastructure to do the job. . . to track evolving disease patterns or detect emerging pathogens.

According to a January 2000 report by the National Intelligence Council, developing nations in Africa and Asia have established only rudimentary systems, if any at all, for disease surveillance, response, and prevention.

The World Health Organization reports that more than 60 percent of laboratory equipment in developing countries is either outdated or non-functioning.

This lack of preparedness can lead to tragic results. In August 1994 in Surat, a city in western India, a surge of complaints about flea infestation and a growing rat population was followed by a cluster of reports about patients exhibiting the symptoms of pneumonic plague.

But authorities were unable to connect the dots and warn people until the plague had spread to seven states across India, ultimately killing 56 people and costing the Indian economy $600 million.

Had the Indian authorities possessed better surveillance tools, they may well have contained the epidemic, limited the loss of life, and avoided the panic that led to economically disastrous embargoes on trade and travel.

Thanks to improved surveillance, an outbreak of pneumonic plague in India last year was detected more quickly and contained with only few deaths—with no costly panic.

In short, developing nations are the weak links in any comprehensive global disease surveillance network.

Unless we take action to shore up their capabilities to detect and contain disease outbreaks, we leave the entire world vulnerable to a deliberate biological weapons attack or a virulent natural epidemic.

It's for these reasons that I'm reintroducing the Global Pathogen Surveillance Act. This bill will authorize $150 million in FY 2004 and FY 2005 to strengthen the disease surveillance capabilities of developing nations.

First, the bill seeks to ensure in developing nations a greater number of personnel trained in basic epidemiological techniques.

It offers enhances in-country training for medical and laboratory personnel and the opportunity for select personnel to come to the United States to receive training in our Centers for Disease Control laboratories and Master of Public Health programs in American universities.

Second, it provides assistance to developing nations to acquire basic laboratory equipment, including items as basic as microscopes, so they can quickly diagnose pathogens.

Third, it enables developing nations to obtain communications equipment to quickly transmit data on disease patterns and pathogen diagnoses, both inside a nation and to regional organizations and the WHO.

Again, we're not talking about fancy high-tech equipment, but basics like fax machines and internet-equipped computers.

Finally—to create a real incentive for nations to promptly report suspicious disease outbreaks and offer international health authorities prompt access—the bill gives preference to those countries that agree to let international health experts investigate any suspicious disease outbreaks.

If passed, the Global Pathogen Surveillance Act will go a long way in ensuring that developing nations acquire the basic disease surveillance capabilities to link up effectively with the WHO's global network.

It's an inexpensive and common sense solution to a problem of global proportions—the dual threat of biological weapons and naturally occurring infectious diseases.

Make no mistake—this bill will contribute to our homeland security. The funding authorized is only a tiny fraction of what we will spend domestically on bioterrorism defenses, but this investment will pay enormous dividends in terms of our national security.

In a report released only last month on global infectious disease, the National Academies' Institute of Medicine said, ''The United States should

take a leadership role in promoting the implementation of a comprehensive system of surveillance for global infectious diseases that builds on the current global capacity of infectious disease monitoring.'' By introducing this bill, I hope that our nation can begin to assume that mantle of leadership in this critical area.

Let me close with an excerpt of testimony from a Foreign Relations Committee hearing held on September 5, 2001. Dr. D.A. Henderson, the man who spearheaded the successful international campaign to eradicate smallpox in the 1970's, most recently served as the principal advisor to Secretary of Health and Human Services Tommy Thompson in organizing the nation's defenses against bioterrorism.

Dr. Henderson, who at the time of the hearing was a private citizen, was very clear on the value of global disease surveillance: ''In cooperation with the WHO and other countries, we need to strengthen greatly our intelligence gathering capability.

A focus on international surveillance and on scientist-to-scientist communication will be necessary if we are to have an early warning about the possible development and production of biological weapons by rogue nations or groups.''

Dr. Henderson is exactly right. We cannot leave the rest of the world to fend for itself in combating biological weapons and infectious diseases if we are to ensure America's security.

I ask unanimous consent that the text of the ''Global Pathogen Surveillance Act'' be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 871

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 ''Global Pathogen Surveillance Act of 2003''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Bioterrorism poses a grave national security threat to the United States. The insidious nature of the threat, the likely delayed recognition in the event of an attack, and the underpreparedness of the domestic public health infrastructure may produce catastrophic consequences following a biological weapons attack upon the United States.

(2) A contagious pathogen engineered as a biological weapon and developed, tested, produced, or released in another country can quickly spread to the United States. Given the realities of international travel, trade, and migration patterns, a dangerous pathogen released anywhere in the world can spread to United States territory in a matter of days, before any effective quarantine or isolation measures can be implemented.

(3) To effectively combat bioterrorism and ensure that the United States is fully prepared to prevent, diagnose, and contain a biological weapons attack, measures to strengthen the domestic public health infrastructure and improve domestic surveillance and monitoring, while absolutely essential, are not sufficient.

(4) The United States should enhance cooperation with the World Health Organization, regional health organizations, and individual countries, including data sharing with appropriate United States departments and agencies, to help detect and quickly contain infectious disease outbreaks or bioterrorism agents before they can spread.

(5) The World Health Organization (WHO) has done an impressive job in monitoring infectious disease outbreaks around the world, including the recent emergence of the Severe Acute Respiratory Syndrome (SARS) epidemic, particularly with the establishment in April 2000 of the Global Outbreak Alert and Response network.

(6) The capabilities of the World Health Organization are inherently limited by the quality of the data and information it receives from member countries, the narrow range of diseases (plague, cholera, and yellow fever) upon which its disease surveillance and monitoring is based, and the consensus process it uses to add new diseases to the list. Developing countries in particular often cannot devote the necessary resources to build and maintain public health infrastructures.

(7) In particular, developing countries could benefit from—

(A) better trained public health professionals and epidemiologists to recognize disease patterns;

(B) appropriate laboratory equipment for diagnosis of pathogens;

(C) disease reporting is based on symptoms and signs (known as ''syndrome surveillance''), enabling the earliest possible opportunity to conduct an effective response;

(D) a narrowing of the existing technology gap in syndrome surveillance capabilities and real-time information dissemination to public health officials; and

(E) appropriate communications equipment and information technology to efficiently transmit information and data within national and regional health networks, including inexpensive, Internet-based Geographic Information Systems (GIS) and relevant telephone-based systems for early recognition and diagnosis of diseases.

(8) An effective international capability to monitor and quickly diagnose infectious disease outbreaks will offer dividends not only in the event of biological weapons development, testing, production, and attack, but also in the more likely cases of naturally occurring infectious disease outbreaks that could threaten the United States. Furthermore, a robust surveillance system will serve to deter terrorist use of biological weapons, as early detection will help mitigate the intended effects of such malevolent uses.

(b) PURPOSE.—The purposes of this Act are as follows:

(1) To enhance the capability and cooperation of the international community, including the World Health Organization and individual countries, through enhanced pathogen surveillance and appropriate data sharing, to detect, identify, and contain infectious disease outbreaks, whether the cause of those outbreaks is intentional human action or natural in origin.

(2) To enhance the training of public health professionals and epidemiologists from eligible developing countries in advanced Internet-based and other electronic syndrome surveillance systems, in addition to traditional epidemiology methods, so that they may better detect, diagnose, and contain infectious disease outbreaks, especially those due to pathogens most likely to be used in a biological weapons attack.

(3) To provide assistance to developing countries to purchase appropriate public health laboratory equipment necessary for infectious disease surveillance and diagnosis.

(4) To provide assistance to developing countries to purchase appropriate communications equipment and information technology, including, as appropriate, relevant computer equipment, Internet connectivity mechanisms, and telephone-based applications to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis.

(5) To make available greater numbers of United States Government public health professionals to international health organizations, regional health networks, and United States diplomatic missions where appropriate.

(6) To establish ''lab-to-lab'' cooperative relationships between United States public health laboratories and established foreign counterparts.

(7) To expand the training and outreach activities of overseas United States laboratories, including Centers for Disease Control and Prevention and Department of Defense entities, to enhance the disease surveillance capabilities of developing countries.

(8) To provide appropriate technical assistance to existing regional health networks and, where appropriate, seed money for new regional networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE DEVELOPING COUNTRY.—The term ''eligible developing country'' means any developing country that—

(A) has agreed to the objective of fully complying with requirements of the World Health Organization on reporting public health information on outbreaks of infectious diseases;

(B) has not been determined by the Secretary, for purposes of section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), to have repeatedly provided support for acts of international terrorism, unless the Secretary exercises a waiver certifying that it is in the national interest of the United States to provide assistance under the provisions of this Act; and

(C) is a state party to the Biological Weapons Convention.

(2) ELIGIBLE NATIONAL.—The term ''eligible national'' means any citizen or national of an eligible developing country who is eligible to receive a visa under the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(3) INTERNATIONAL HEALTH ORGANIZATION.—The term ''international health organization'' includes the World Health Organization and the Pan American Health Organization.

(4) LABORATORY.—The term ''laboratory'' means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(5) SECRETARY.—Unless otherwise provided, the term ''Secretary'' means the Secretary of State.

(6) SELECT AGENT.—The term ''select agent'' has the meaning given such term for purposes of section 72.6 of title 42, Code of Federal Regulations.

(7) SYNDROME SURVEILLANCE.—The term ''syndrome surveillance'' means the recording of symptoms (patient complaints) and signs (derived from physical examination) combined with simple geographic locators to track the emergence of a disease in a population.

SEC. 4. PRIORITY FOR CERTAIN COUNTRIES.

Priority in the provision of United States assistance for eligible developing countries under all the provisions of this Act shall be given to those countries that permit personnel from the World Health Organization and the Centers for Disease Control and Prevention to investigate outbreaks of infectious diseases on their territories, provide early notification of disease outbreaks, and provide pathogen surveillance data to appropriate United States departments and agencies in addition to international health organizations.

SEC. 5. RESTRICTION.

Notwithstanding any other provision of this Act, no foreign nationals participating in programs authorized under this Act shall have access, during the course of such participation, to select agents that may be used as, or in, a biological weapon, except in a supervised and controlled setting.

SEC. 6. FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established a fellowship program (in this section referred to as the ''program'') under which the Secretary, in consultation with the Secretary of Health and Human Services, and, subject to the availability of appropriations, award fellowships to eligible nationals to pursue public health education or training, as follows:

(1) MASTER OF PUBLIC HEALTH DEGREE.—Graduate courses of study leading to a master of public health degree with a concentration in epidemiology from an institution of higher education in the United States with a Center for Public Health Preparedness, as determined by the Centers for Disease Control and Prevention.

(2) ADVANCED PUBLIC HEALTH EPIDEMIOLOGY TRAINING.—Advanced public health training in epidemiology to be carried out at the Centers for Disease Control and Prevention (or equivalent State facility), or other Federal facility (excluding the Department of Defense or United States National Laboratories), for a period of not less than 6 months or more than 12 months.

(b) SPECIALIZATION IN BIOTERRORISM.—In addition to the education or training specified in subsection (a), each recipient of a fellowship under this section (in this section referred to as a ''fellow'') may take courses of study at the Centers for Disease Control and Prevention or at an equivalent facility on diagnosis and containment of likely bioterrorism agents.

(c) FELLOWSHIP AGREEMENT.—

(1) IN GENERAL.—In awarding a fellowship under the program, the Secretary, in consultation with the Secretary of Health and Human Services, shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

(A) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Secretary and confirmed in regularly scheduled updates to the Secretary from the institution providing the education or training on the progress of the recipient's education or training);

(B) will, upon completion of such education or training, return to the recipient's country of nationality or last habitual residence (so long as it is an eligible developing country) and complete at least four years of employment in a public health position in the government or a nongovernmental, not-for-profit entity in that country or, with the approval of the Secretary in an international health organization; and

(C) agrees that, if the recipient is unable to meet the requirements described in subparagraph (A) or (B), the recipient will reimburse the United States for the value of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Secretary but not higher than the rate generally applied in connection with other Federal loans.

(2) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) and (1)(C) if the Secretary determines that it is in the national interest of the United States to do so.

(d) IMPLEMENTATION.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to enter into an agreement with any eligible developing country under which the country agrees—

(1) to establish a procedure for the nomination of eligible nationals for fellowships under this section;

(2) to guarantee that a fellow will be offered a professional public health position within the country upon completion of his studies; and

(3) to certify to the Secretary when a fellow has concluded the minimum period of employment in a public health position required by the fellowship agreement, with an explanation of how the requirement was met.

(e) PARTICIPATION OF UNITED STATES CITIZENS.—On a case-by-case basis, the Secretary may provide for the participation of United States citizens under the provisions of this section if the Secretary determines that it is in the national interest of the United States to do so. Upon completion of such education or training, a United States recipient shall complete at least five years of employment in a public health position in an eligible developing country or the World Health Organization.

SEC. 7. IN-COUNTRY TRAINING IN LABORATORY TECHNIQUES AND SYNDROME SURVEILLANCE.

(a) IN GENERAL.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, support short training courses in-country (not in the United States) to laboratory technicians and other public health personnel from eligible developing countries in laboratory techniques relating to the identification, diagnosis, and tracking of pathogens responsible for possible infectious disease outbreaks. Training under this section may be conducted in overseas facilities of the Centers for Disease Control and Prevention or in Overseas Medical Research Units of the Department of Defense, as appropriate. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

(b) TRAINING IN SYNDROME SURVEILLANCE.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, establish and support short training courses in-country (not in the United States) for public health personnel from eligible developing countries in techniques of syndrome surveillance reporting and rapid analysis of syndrome information using Geographic Information System (GIS) and other Internet-based tools. Training under this subsection may be conducted via the Internet or in appropriate facilities as determined by the Secretary. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

SEC. 8. ASSISTANCE FOR THE PURCHASE AND MAINTENANCE OF PUBLIC HEALTH LABORATORY EQUIPMENT.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President may determine, to furnish assistance to eligible developing countries to purchase and maintain public health laboratory equipment described in subsection (b).

(b) EQUIPMENT COVERED.—Equipment described in this subsection is equipment that is—

(1) appropriate, where possible, for use in the intended geographic area;

(2) necessary to collect, analyze, and identify expeditiously a broad array of pathogens, including mutant strains, which may cause disease outbreaks or may be used as a biological weapon;

(3) compatible with general standards set forth, as appropriate, by the World Health Organization and the Centers for Disease Control and Prevention, to ensure interoperability with regional and international public health networks; and

(4) not defense articles or defense services as those terms are defined under section 47 of the Arms Export Control Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act or likely be barred or subject to special conditions under the Export Administration Act of 1979 (or successor statutes).

(e) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, maintain, support, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 9. ASSISTANCE FOR IMPROVED COMMUNICATION OF PUBLIC HEALTH INFORMATION.

(a) ASSISTANCE FOR PURCHASE OF COMMUNICATION EQUIPMENT AND INFORMATION TECHNOLOGY.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries for the purchase and maintenance of communications equipment and information technology described in subsection (b), and supporting equipment, necessary to effectively collect, analyze, and transmit public health information.

(b) COVERED EQUIPMENT.—Equipment (and information technology) described in this subsection is equipment that—

(1) is suitable for use under the particular conditions of the area of intended use;

(2) meets appropriate World Health Organization standards to ensure interoperability with like equipment of other countries and international health organizations; and

(3) is not defense articles or defense services as those terms are defined under section 47 of the Arms Export Control Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act or likely be barred or subject to special conditions under the Export Administration Act of 1979 (or successor statutes).

(e) ASSISTANCE FOR STANDARDIZATION OF REPORTING.—The President is authorized to provide, on such terms and conditions as the

President may determine, technical assistance and grant assistance to international health organizations to facilitate standardization in the reporting of public health information between and among developing countries and international health organizations.

(f) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, support, maintain, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 10. ASSIGNMENT OF PUBLIC HEALTH PERSONNEL TO UNITED STATES MISSIONS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Upon the request of a United States chief of diplomatic mission or an international health organization, and with the concurrence of the Secretary of State, the head of a Federal agency may assign to the respective United States mission or organization any officer or employee of the agency occupying a public health position within the agency for the purpose of enhancing disease and pathogen surveillance efforts in developing countries.

(b) REIMBURSEMENT.—The costs incurred by a Federal agency by reason of the detail of personnel under subsection (a) may be reimbursed to that agency out of the applicable appropriations account of the Department of State if the Secretary determines that the relevant agency may otherwise be unable to assign such personnel on a non-reimbursable basis.

SEC. 11. EXPANSION OF CERTAIN UNITED STATES GOVERNMENT LABORATORIES ABROAD.

(a) IN GENERAL.—Subject to the availability of appropriations, the Centers for Disease Control and Prevention and the Department of Defense shall each—

(1) increase the number of personnel assigned to laboratories of the Centers or the Department, as appropriate, located in eligible developing countries that conduct research and other activities with respect to infectious diseases; and

(2) expand the operations of those laboratories, especially with respect to the implementation of on-site training of foreign nationals and regional outreach efforts involving neighboring countries.

(b) COOPERATION AND COORDINATION BETWEEN LABORATORIES.—Subsection (a) shall be carried out in such a manner as to foster cooperation and avoid duplication between and among laboratories.

(c) RELATION TO CORE MISSIONS AND SECURITY.—The expansion of the operations of overseas laboratories of the Centers or the Department under this section shall not—

(1) detract from the established core missions of the laboratories; or

(2) compromise the security of those laboratories, as well as their research, equipment, expertise, and materials.

SEC. 12. ASSISTANCE FOR REGIONAL HEALTH NETWORKS AND EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.

(a) AUTHORITY.—The President is authorized, on such terms and conditions as the President may determine, to provide assistance for the purposes of—

(1) enhancing the surveillance and reporting capabilities for the World Health Organization and existing regional health networks; and

(2) developing new regional health networks.

(b) EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.—The Secretary of Health and Human Services is authorized to establish new country or regional Foreign Epidemiology Training Programs in eligible developing countries.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to subsection (c), there are authorized to be appropriated $70,000,000 for the fiscal year 2004 and $80,000,000 for fiscal year 2005, to carry out this Act.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $50,000,000 for the fiscal year 2004 and $50,000,000 for the fiscal year 2005 are authorized to be available to carry out sections 6, 7, 8, and 9;

(B) $2,000,000 for the fiscal year 2004 and $2,000,000 for the fiscal year 2005 are authorized to be available to carry out section 10;

(C) $8,000,000 for the fiscal year 2004 and $18,000,000 for the fiscal year 2005 are authorized to be available to carry out section 11; and

(D) $10,000,000 for the fiscal year 2004 and $10,000,000 for the fiscal year 2005 are authorized to be available to carry out section 12.

(b) AVAILABILITY OF FUNDS.—The amount appropriated pursuant to subsection (a) is authorized to remain available until expended.

(c) REPORTING REQUIREMENT.—

(1) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report, in conjunction with the Secretary of Health and Human Services and the Secretary of Defense, containing—

(A) a description of the implementation of programs under this Act; and

(B) an estimate of the level of funding required to carry out those programs at a sufficient level.

(2) LIMITATION ON OBLIGATION OF FUNDS.—Not more than 10 percent of the amount appropriated pursuant to subsection (a) may be obligated before the date on which a report is submitted, or required to be submitted, whichever first occurs, under paragraph (1).

By Mr. BINGAMAN:

S. 873. A bill to authorize funding for catalysis science and engineering research and development at the Department of Energy for fiscal years 2004 through 2009; and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill entitled the Department of Energy Catalysis Research and Development Act.

Catalysis is at the heart of fuels production in the petroleum and chemical industries. Catalytic converters help reduce emissions of cars. Catalysis can help reduce carbon dioxide from industrial plants, which can contribute to global warming. The science of catalysis can help our pharmaceutical industry by one day mimicking nature's enzymes which are nature's catalysts. The industries I just mentioned contribute $500 billion to our gross national product; they all rely on catalysis to produce new compounds as efficiently as possible.

The catalysis science program is one of the hidden gems at the Department of Energy's Office of Science. The Department supports over 60 percent of the catalysis research in the Federal Government. I feel it is important that our energy bill highlights its basic research, and recommends a steady increase in funding levels for it.

The bill seeks to help the Department meet what it called the ''grand challenge'' in catalytic chemistry. The ''grand challenge'' which this bill seeks to address is first, the ability to design, at the atom level, catalytic structures to control ''catalytic activity'', or the rate at which a chemical reaction proceeds. The second part of this ''grand challenge'' is to control the ''selectivity'' of a catalytic reaction, or the ability of a catalytic compound to precisely seek out other chemicals through which to start a reaction. To achieve this ''grand challenge'', this bill directs the Department to design new catalytic compounds using the latest advancements in scientific computing. Today's computers are rapidly approaching a point where we can model a chemical reaction by simulating its atom level constituents. This bill directs the Department to utilize its state-of-the-art diagnostic equipment at its national laboratories and universities to analyze catalytic reactions in real time, and at the atomic level. These diagnostics will be used to validate computational models being developed in the advanced scientific computing program. This bill directs the Department to use the emerging field of nanoscience to tailor new catalytic compounds atom by atom, so as to accelerate reactions to produce clean fuels at rates that far exceed what we know today. In that regard, I expect the Department to utilize its nanoscience facilities to help design these new compounds. If we are successful in meeting this grand challenge, we will bring fuels to market quicker to meet increasing energy demands, while using less overall energy to produce them.

Finally, the bill directs the Secretary fund these efforts in multidisciplinary teams including computer scientists, chemists, biochemists, materials scientists and physicists. It requires the Department to transfer its catalysis research to industry so that they can bring to market the full fruits of our Government's advanced energy research in the shortest time possible.

We are currently debating an energy bill in the Energy and Natural Resources Committee. We plan to shortly mark up the research and development section, and, I think it is vitally important that this section address the topic of catalysis to produce future fuels for our Nation.

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. 873

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 ''Department of Energy Catalysis Research and Development Act''.

SEC. 2. FINDINGS.

The Congress finds that catalysis science is critical to the production of fuels for energy generation, the reduction of toxic waste streams, and the development of compounds to reduce global warming.

SEC. 3. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, through the Director of the Office of Science of the Department of Energy, shall establish a program of research and development in catalysis science consistent with the Secretary's statutory authorities related to research and development.

(b) SCOPE OF THE PROGRAM.—The program shall include efforts to—

(1) enable catalyst design using—

(i) combined experimental and mechanistic methodologies, and

(ii) computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for—

(i) high throughout synthesis of catalysts and novel assays for rapid throughout catalyst testing of small quantities of catalysts on diverse processes,

(ii) reducing the analytical cycle time by parallel operation and automation,

(iii) characterizing catalysts at the 0.1 to 2 nanometer scale, and

(iv) characterizing catalysts in-situ under actual operating conditions at high temperature and pressure,

(3) synthesize catalysts with specific site architecture,

(4) conduct research in the use of precious metals for catalysis (excluding platinum, palladium, and rhodium),

(5) translate molecular (picoscale) and nanoscale fundamentals to the design of catalytic compounds.

(c) DUTIES OF THE DIRECTOR OF THE OFFICE OF SCIENCE.—In carrying out the program under this Act, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators that include teams drawing upon the expertise of homogeneous, heterogeneous, and biocatalytic investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators conducting research and development in catalysis science in collaboration with national user facilities such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(d) MERIT REVIEW REQUIRED.— All grants, contracts, cooperative agreements, or other financial assistance awards under this Act shall be made only after independent merit review.

(e) TRIENNAL ASSESSMENT.—The National Academy of Sciences shall review the catalysis program every three years to report on gains made in the fundamental science of catalysis and its progress made towards developing new fuels for energy production, material fabrication processes and methods to reduce global warming.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this Act:

(1) $33,000,000 for fiscal year 2004.
(2) $35,000,000 for fiscal year 2005.
(3) $36,500,000 for fiscal year 2006.
(4) $38,200,000 for fiscal year 2007.
(5) $40,100,000 for fiscal year 2008.
(6) $42,100,000 for fiscal year 2009.

By Mr. TALENT (for himself, Mr. SCHUMER, and Mr. GRAHAM of South Carolina):

S. 874. A bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes; to the Committee on Finance.

Mr. TALENT. Mr. President, today I rise on behalf of myself and my colleagues, Senators CHARLES SCHUMER and LINDSEY GRAHAM, in support of the Sickle Cell Treatment Act of 2003, which will help hundreds of thousands of people who suffer from Sickle Cell Disease. SCD, a genetic disease that affects red blood cells. This bill has bipartisan and bicameral support, as Representatives DANNY K. DAVIS, a Democrat, and RICHARD BURR, a Republican, will introduce the companion bill today.

Sickle Cell Disease is an inherited blood disorder that is a major health problem in the United States, primarily affecting African Americans. People with sickle cell disease have red blood cells that contain an abnormal type of hemoglobin. Sometimes these red blood cells become sickle-shaped—crescent shaped—and have difficulty passing through small blood vessels. When sickle-shaped cells block small blood vessels, less blood can reach that part of the body. Tissue that does not receive a normal blood flow eventually becomes damaged. This is what essentially causes the potentially life-threatening complications of sickle cell disease. There is currently no cure.

More than 2,500,000 Americans, mostly African Americans, have the sickle cell trait. Among newborn American infants, SCD occurs in approximately 1, in 300 African Americans. The most feared complication for children with SCD is a stroke, which may affect infants as young as 18 months of age. While some patients can remain without symptoms for years, many others may not survive infancy or early childhood.

Many adults with SCD have severe physical problems, such as acute lung complications that can result in death. Adults with SCD can also develop chronic problems, including pulmonary disease, pulmonary hypertension, and kidney failure. The average life span for an adult with SCD is the mid-40s. Stroke in the adult SCD population commonly results in both mental and physical disabilities for life.

The Sickle Cell Treatment Act of 2003 helps combat SCD by providing Federal matching funds for SCD-related services under Medicaid, and by allowing States to receive a Federal 50–50 match for nonmedical expenses related to SCD treatment such as genetic counseling. This bill also authorizes a grant program in the amount of $10 million per year for 5 years to fund 40 health centers nationwide. Although I will go into detail about the bill, its focus is to encourage States to partner with SCD providers, who have historically been on the frontlines of this issue, to treat and find a cure for SCD patients.

With regard to the Federal matching funds, this bill allows states to reimburse SCD services beyond current Medicaid law, which only covers physician and laboratory services. For example, if a State wanted to increase reimbursement rates for SCD blood transfusions, it could do so through rate setting for the new SCD benefit without having to increase reimbursement for all Medicaid blood transfusions, therefore, making it easier for a State to reimburse at a higher rate for SCD-related treatment.

The bill also provides Federal reimbursement for education and other services related to the prevention and treatment of SCD. This will allow States to get a Federal 50-50 match for nonmedical, administrative expenses to include outreach and genetic counseling about SCD and its treatment for SCD patients of any age. This is critical to helping this historically underserved population, many of who may not know about SCD or its symptoms until it is too late.

This bill also allows hospitals and clinics to do outreach with non-medical personnel to educate high-risk communities about recognizing SCD. It would also allow nonmedical personnel like counselors to spend time with SCD families to discuss how to manage the disease. Providing this one-stop shop will centralize SCD-related treatment and counseling services to better serve those with SCD.

In addition to the diagnosis and treatment components, this bill creates a grant program for 40 health centers nationally. Specifically, the U.S. Department of Health and Human Services is authorized to distribute grants to up to 40 eligible health centers nationwide for $5 million for the next 5 fiscal years. Grants may be used for purposes including the education, treatment—i.e., genetic counseling and testing—and continuity of care for individuals with SCD, for training health professionals, and to identify and secure additional Federal funds to continue SCD treatment.

This bill also creates a National Coordinating Center to collect, monitor and distribute information on new and innovative practices to prevent and treat SCD, establish a model protocol for the grant recipients to follow as a quality control mechanism, develop educational materials regarding the prevention and treatment of SCD, and submit a report to Congress to ensure fiscal accountability and provide information of recent developments towards a cure for SCD.

The Sickle Cell Treatment Act of 2003 provides tremendous benefits to States. The approach taken in this bill is to add services related to SCD to the list of services covered by Medicaid for those people who are eligible for Medicaid under current eligibility rules.

For example, the bill allows States to use Medicaid funds to work with providers to better serve areas with a high prevalence of SCD in fields such as education and counseling,which are currently not reimbursed by Medicaid. This bill also allows the States to create opportunities to partner with providers to determine ''best practices'' to encourage the most effective and efficient use of medical resources toward SCD treatment and education.

In introducing the Sickle Cell Treatment Act of 2003, we are trying to help thousands of Americans who live with this disease. This legislation will provide many of these patients with access to the essential treatments that they need. It has the support of many important groups representing the SCD, African-American and children's health care communities as well as the providers and researchers who are working to treat and find a cure for this disease. For example, Allan Platt, Program Coordinator, The Georgia Comprehensive Sickle Cell Center at Grady Health System in Atlanta, GA has written me the following letter, which states in part, ''You did a wonderful thing for sickle cell patients and for those who are caring for them. Let us know how we can rally support for this.''

I want to offer my appreciation to the Sickle Cell Disease Association of American Inc., SCDAA, for its vigilant efforts to help find a cure for SCD, and working with my office to help craft this critical piece of legislation. SCDAA President and Chief Operating Officer, Lynda K. Anderson, has provided tireless support on behalf of this effort. Also I would like to acknowledge the efforts of SCDAA Board Member Michael R. DeBaun, M.D., M.P.H, Assistant Professor of Pediatrics and Biostatistics at the Washington University School of Medicine in St. Louis, MO. Lynda and Michael have brought the issues addressed in this bill to my attention and helped to bring the introduction of this bill to fruition.

The SCDAA was founded in 1971 to provide an effective coordinated community-based approach to developing and implementing strategies to resolve issues surrounding sickle cell disease. Through three decades, SCDAA and its member organizations have demonstrated how community-based organizations and comprehensive health and research centers can work with local, State and Federal agencies in furtherance of national health care objectives. To this day, SCDAA continues to pursue legislative initiatives to secure additional government funding for research and community-based services. Moreover, it has demonstrated its capacity to provide continued leadership in this area as a potential national coordinator center, and I look forward to the organization applying for such a designation, once this measure has been enacted into law. My colleagues and I on both sides of the aisle and in both legislative bodies look forward to working with SCDAA to fight this good fight and to secure the resources required to address the very unique needs of patients, families and communities affected by SCD.

I ask that my colleagues in the Senate join Senators SCHUMER and GRAHAM, and Representatives DAVIS and BURR in helping us to find a cure to help the approximately 70,000 Americans who have SCD and the approximately 1,800 American babies who are born with this disease each year in supporting the Sickle Cell Treatment Act of 2003.

I ask unanimous consent that the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 874

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 ''Sickle Cell Treatment Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Sickle Cell Disease (in this section referred to as ''SCD'') is an inherited disease of red blood cells that is a major health problem in the United States.

(2) Approximately 70,000 Americans have SCD and approximately 1,800 American babies are born with the disease each year. SCD also is a global problem with close to 300,000 babies born annually with the disease.

(3) In the United States, SCD is most common in African-Americans and in those of Hispanic, Mediterranean, and Middle Eastern ancestry. Among newborn American infants, SCD occurs in approximately 1 in 300 African-Americans, 1 in 36,000 Hispanics, and 1 in 80,000 Caucasians.

(4) More than 2,500,000 Americans, mostly African-Americans, have the sickle cell trait. These Americans are healthy carriers of the sickle cell gene who have inherited the normal hemoglobin gene from 1 parent and the sickle gene from the other parent. A sickle cell trait is not a disease, but when both parents have the sickle cell trait, there is a 1 in 4 chance with each pregnancy that the child will be born with SCD.

(5) Children with SCD may exhibit frequent pain episodes, entrapment of blood within the spleen, severe anemia, acute lung complications, and priapism. During episodes of severe pain, spleen enlargement, or acute lung complications, life threatening complications can develop rapidly. Children with SCD are also at risk for septicemia, meningitis, and stroke. Children with SCD at highest risk for stroke can be identified and, thus, treated early with regular blood transfusions for stroke prevention.

(6) The most feared complication for children with SCD is a stroke (either overt or silent) occurring in 30 percent of the children with sickle cell anemia prior to their 18th birthday and occurring in infants as young as 18 months of age. Students with SCD and silent strokes may not have any physical signs of such disease or strokes but may have a lower educational attainment when compared to children with SCD and no strokes. Approximately 60 percent of students with silent strokes have difficulty in school, require special education, or both.

(7) Many adults with SCD have acute problems, such as frequent pain episodes and acute lung complications that can result in death. Adults with SCD can also develop chronic problems, including pulmonary disease, pulmonary hypertension, degenerative changes in the shoulder and hip joints, poor vision, and kidney failure.

(8) The average life span for an adult with SCD is the mid-40s. While some patients can remain without symptoms for years, many others may not survive infancy or early childhood. Causes of death include bacterial infection, stroke, and lung, kidney, heart, or liver failure. Bacterial infections and lung injuries are leading causes of death in children and adults with SCD.

(9) As a complex disorder with multisystem manifestations, SCD requires specialized comprehensive and continuous care to achieve the best possible outcome. Newborn screening, genetic counseling, and education of patients and family members are critical preventative measures that decrease morbidity and mortality, delaying or preventing complications, in-patient hospital stays, and increased overall costs of care.

(10) Stroke in the adult SCD population commonly results in both mental and physical disabilities for life.

(11) Currently, one of the most effective treatments to prevent or treat an overt stroke or a silent stroke for a child with SCD is at least monthly blood transfusions throughout childhood for many, and throughout life for some, requiring removal of sickle blood and replacement with normal blood.

(12) With acute lung complications, transfusions are usually required and are often the only therapy demonstrated to prevent premature death.

SEC. 3. INCLUSION OF PRIMARY AND SECONDARY PREVENTATIVE MEDICAL STRATEGIES FOR CHILDREN AND ADULTS WITH SICKLE CELL DISEASE AS MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26), the following:

''(27) subject to subsection (x), primary and secondary preventative medical strategies, including prophylaxes, and treatment and services for individuals who have Sickle Cell Disease; and''; and

(2) by adding at the end the following:

''(x) For purposes of subsection (a)(27), the strategies, treatment, and services described in that subsection include the following:

''(1) Chronic blood transfusion (with deferoxamine chelation) to prevent stroke in individuals with Sickle Cell Disease who have been identified as being at high risk for stroke.

''(2) Genetic counseling and testing for individuals with Sickle Cell Disease or the sickle cell trait.

''(3) Other treatment and services to prevent individuals who have Sickle Cell Disease and who have had a stroke from having another stroke.''.

(b) FEDERAL REIMBURSEMENT FOR EDUCATION AND OTHER SERVICES RELATED TO THE PREVENTION AND TREATMENT OF SICKLE CELL DISEASE.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking ''plus'' at the end and inserting ''and''; and

(2) by adding at the end the following:

''(E) 50 percent of the sums expended with respect to costs incurred during such quarter as are attributable to providing—

''(i) services to identify and educate individuals who have Sickle Cell Disease or who

are carriers of the sickle cell gene, including education regarding how to identify such individuals; or

''(ii) education regarding the risks of stroke and other complications, as well as the prevention of stroke and other complications, in individuals who have Sickle Cell Disease; plus''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and apply to medical assistance and services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 4. DEMONSTRATION PROGRAM FOR THE DEVELOPMENT AND ESTABLISHMENT OF SYSTEMIC MECHANISMS FOR THE PREVENTION AND TREATMENT OF SICKLE CELL DISEASE.

(a) AUTHORITY TO CONDUCT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator, through the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants to up to 40 eligible entities for each fiscal year in which the program is conducted under this section for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease, including through—

(A) the coordination of service delivery for individuals with Sickle Cell Disease;

(B) genetic counseling and testing;

(C) bundling of technical services related to the prevention and treatment of Sickle Cell Disease;

(D) training of health professionals; and

(E) identifying and establishing other efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with Sickle Cell Disease.

(2) GRANT AWARD REQUIREMENTS.—

(A) GEOGRAPHIC DIVERSITY.—The Administrator shall, to the extent practicable, award grants under this section to eligible entities located in different regions of the United States.

(B) PRIORITY.—In awarding grants under this section, the Administrator shall give priority to awarding grants to eligible entities that are—

(i) Federally-qualified health centers that have a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health; or

(ii) Federally-qualified health centers that intend to develop a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health.

(b) ADDITIONAL REQUIREMENTS.—An eligible entity awarded a grant under this section shall use funds made available under the grant to carry out, in addition to the activities described in subsection (a)(1), the following activities:

(1) To facilitate and coordinate the delivery of education, treatment, and continuity of care for individuals with Sickle Cell Disease under—

(A) the entity's collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity that works with individuals who have Sickle Cell Disease;

(B) the Sickle Cell Disease newborn screening program for the State in which the entity is located; and

(C) the maternal and child health program under title V of the Social Security Act (42 U.S.C. 701 et seq.) for the State in which the entity is located.

(2) To train nursing and other health staff who specialize in pediatrics, obstetrics, internal medicine, or family practice to provide health care and genetic counseling for individuals with the sickle cell trait.

(3) To enter into a partnership with adult or pediatric hematologists in the region and other regional experts in Sickle Cell Disease at tertiary and academic health centers and State and county health offices.

(4) To identify and secure resources for ensuring reimbursement under the medicaid program, State children's health insurance program, and other health programs for the prevention and treatment of Sickle Cell Disease, including the genetic testing of parents or other appropriate relatives of children with Sickle Cell Disease and of adults with Sickle Cell Disease.

(c) NATIONAL COORDINATING CENTER.—

(1) ESTABLISHMENT.—The Administrator shall enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program conducted under this section.

(2) ACTIVITIES DESCRIBED.—The National Coordinating Center shall—

(A) collect, coordinate, monitor, and distribute data, best practices, and findings regarding the activities funded under grants made to eligible entities under the demonstration program;

(B) develop a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease;

(C) develop educational materials regarding the prevention and treatment of Sickle Cell Disease; and

(D) prepare and submit to Congress a final report that includes recommendations regarding the effectiveness of the demonstration program conducted under this section and such direct outcome measures as—

(i) the number and type of health care resources utilized (such as emergency room visits, hospital visits, length of stay, and physician visits for individuals with Sickle Cell Disease); and

(ii) the number of individuals that were tested and subsequently received genetic counseling for the sickle cell trait.

(d) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

(e) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Health Resources and Services Administration.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means a Federally-qualified health center, a nonprofit hospital or clinic, or a university health center that provides primary health care, that—

(A) has a collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity with experience in working with individuals who have Sickle Cell Disease; and

(B) demonstrates to the Administrator that either the Federally-qualified health center, the nonprofit hospital or clinic, the university health center, the organization or entity described in subparagraph (A), or the experts described in subsection (b)(3), has at least 5 years of experience in working with individuals who have Sickle Cell Disease.

(3) FEDERALLY-QUALIFIED HEALTH CENTER.—The term ''Federally-qualified health center'' has the meaning given that term in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2004 through 2009.

By Mr. KERRY (for himself, Mr. SANTORUM, Mr. SARBANES, Mr. ALLARD, Mr. DASCHLE, Mr. KENNEDY, Ms. STABENOW, and Mrs. CLINTON):

S. 875. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

• Mr. KERRY. Mr. President, owning your own home is the foundation of the American dream. It encourages personal responsibility, improves child development, provides economic security and gives families a greater stake in the development of their communities. Communities where homeownership rates are highest have lower crime rates, better schools and provide a better quality of life for families to raise their children.

However, too many low- and moderate-income families living in urban and rural areas across our nation have not been able to share in the dream and benefits of homeownership due to the lack of available housing or the high cost of what housing is available.

Today, I am introducing the Community Development Homeownership Tax Credit Act, along with Senators SANTORUM, SARBANES, ALLARD, DASCHLE, KENNEDY, STABENOW and CLINTON to encourage the construction and substantial rehabilitation of 500,000 homes over the next ten years for low- and moderate-income families in economically distressed areas.

The bill will increase the supply of affordable homes for sale in inner-cities, rural areas and low- and moderate-income neighborhoods across the United States. It will bridge the gap that exists today between the cost of developing-affordable housing and the price at which these homes can be sold in many low-income neighborhoods by providing investors with a tax credit of up to 50 percent of the cost of home construction or rehabilitation.

By facing the mounting challenge of producing affordable housing, I strongly believe we can help provide critically needed economic development low- and moderate-income communities across our country and provide an important stimulus in the development of our nation's economy. The production of new homes provided in this legislation will create both construction and construction-related jobs which will both increase economic growth and lower the unemployment rate. New Economic activity can revitalize many inner-city neighborhoods and rural areas where unemployment and crime have been a fact of life for too long.

Buying a new home also leads to the purchase of new appliances and furnishings. Average new homebuyers spend almost $5,000 on appliances and

furnishings during the first year of living in their new home. This will help stimulate the manufacturing section of our economy. It is clear that building new homes creates jobs and moves our economy forward.

Over the past decade, we have made substantial progress in increasing the homeownership rate in the United States. In 2000, the U.S. homeownership rate reached a record high of 67.1 percent with some 71 million U.S. households owning their own home. However, many working families have been struggling to find an affordable home in our nation's cities. Over the past two generations, many families have moved out of cities and into the suburbs, which has depressed the development of housing in the inner-city. In 1999, the homeownership rate in the central-city areas was 50.4 percent, this is more than 20 percent lower than the suburban homeownership rate of 73.6 percent.

Working families with low- and moderate-income have also had difficulties buying a home. Currently, 83.3 percent of households with family income higher than the median family income are homeowners, while only 52.4 percent of households with family income below the median income are homeowners.

Too many communities face a lack of available homes because developers are concerned that the new houses may not be sold for the cost of construction. Many properties or sites that could be developed into affordable homes now sit vacant, and neighborhoods remain undeveloped because the gap between development costs and market prices has not been filled. The lack of affordable single-family homes affect many urban and rural areas where a majority of residents earn less than the median income.

Today, too many minority families face barriers in their attempts to reach the American Dream of homeownership. According to Census data for the fourth quarter of 2002, non-Hispanic whites have a 74.8 percent homeownership rate, while minority groups have just a 55.4 percent homeownership rate. African Americans have only a 47.5 percent homeownership rate, and Hispanics have a 49.5 percent homeownership rate in the same study. The gap between white and African American homeownership rates has been approximately 25 percent to 30 percent for most of the last century. These numbers are simply unacceptable.

Despite our efforts at the federal level to promote homeownership, many minorities also face higher than average denial rates for mortgage applications. A recent study by the University of Massachusetts shows that racial and ethnic lending disparities continue in Boston. For example, African Americans were 2.73 times as likely as whites to be denied in their mortgage applications. Latinos were 2.25 times as likely as whites to be denied in their mortgage applications. Finally, Asians were 1.55 times as likely as whites to be denied in their mortgage applications.

Along with a lack of available homes in urban and rural areas, our nation is also facing an affordable rental housing crisis. Thousands of low-income families with children, the disabled, and the elderly are finding it difficult to obtain or afford privately owned affordable rental housing units. Recent changes in the housing market have limited the availability of affordable housing across the country, while the growth in our economy in the last decade has dramatically increased the cost of the housing that remains. Constructing new housing will help many families move out of rental housing and help increase the number of available rental housing units and help ease the affordable housing crisis we now face.

The story of Benjamin and Rita Okafor shows how working families in Massachusetts have great difficulty obtaining a decent home of their own. For many years, the Okafor's and their two young children were forced to live in a one-bedroom apartment. Benjamin Okafor, who worked full time as a cab driver in Boston, spent days and months looking for a bigger apartment for his family. However, the lack of affordable housing in the Boston area made it impossible for him to find anything appropriate. When his wife Rita became pregnant with their third child, the Okafor's knew something had to change in their living situation. Luckily, Ben was accepted into the Habitat for Humanity program and worked 300 sweat equity hours constructing a house. In August 2000, the Okafor family moved into a new home of their own in Dorchester. Ben says that this new home gives them the hope and stability they need. Yet, there are still far too many working families living a substandard housing and many more families that desperately need assistance to become homeowners. A new tax incentive for developers to build affordable homes in distressed areas will help working families like the Okafor's to afford a home for the first time.

The benefits of owning a home can bring families financial rewards and personal satisfaction with a deep sense of security. Real estate values have historically risen over time. Homeowners may deduct mortgage interest and property taxes as an expense against income. Real estate has generally been seen as marketable, allowing for property to be sold at a predictable price to a dependable group of available buyers.

We know that owning a home instead of renting leads to a better quality of life for its residents, but we are now learning more and more about the impact homeownership has on the cognitive and behavioral outcomes for children. A recent study by Ohio State University shows that children of families who own their home have fewer behavioral problems and are able to learn more effectively. Specifically, a child's cognitive abilities are 9 percent higher in math and 7 percent higher in reading for children living in their own homes. The study also shows that these children also experienced up to 3 percent lower behavioral problems than other children. This study proves that the national goal of homeownership has an added benefit of helping America's children learn and behave better, which helps our schools produce better citizens and will help our economy develop in the long term.

The Community Development Tax Credit Act, which I am introducing today, bridges the gap between development costs and market value to enable the development of new or refurbished homes in urban and rural areas to blossom. The tax credit would be available to developers or investors that build or substantially rehabilitate homes for sale to low- or moderate-income buyers in low-income areas. The credit would generate equity investment sufficient to cover the gap between the cost of development and the price at which the home can be sold to an eligible buyer.

The tax credit volume would be limited to $1.75 per capita for each State and allocated by the States themselves. Credits would be claimed over 5 years, starting when homes are sold. I believe this legislation will result in approximately 50,000 homes built or refurbished annually, assuming about $40,000 per home.

The maximum tax credit equals 50 percent of the cost of construction, substantial rehabilitation, and building acquisition. The eligible cost may not exceed the Federal Housing Administration single-family mortgage limits. The minimum rehabilitation costs is $25,000. Eligible building acquisition costs are limited to one-half of rehabilitation costs. States will allocate only the level of tax credits necessary for financial feasibility of individual projects. Ten percent of the available credit will be set aside for nonprofit organizations.

The eligible areas for the tax credit are defined as Census Tracts with median income below 80 percent of the area or state median. Rural areas that are currently eligible for USDA housing programs will be eligible for the tax credit. Indian tribal lands will be eligible for the tax credit. State-identified areas of chronic economic distress will also be eligible for tax credit, subject to disapproval by the Department of Housing and Urban Development.

Those eligible to buy homes built or refurbished using the tax credit include: individuals with incomes up to 80 percent of the area or state median and up to 100 percent of area median income in low-income/high-poverty Census Tracts.

Individual states will write plans to allocate the available tax credits using the following selection criteria: contribution of the development to community stability and revitalization; community and local government support; need for homeownership development in the area; sponsor capability; and the long-term sustainability of the

project as owner-occupied residences. Then individual developers along with investors can apply to the state to be awarded a tax credit for developing a property in a low- or moderate-income area. If chosen by the state, investors can start to claim the tax credit as the homes are sold to eligible buyers. They can continue to claim the tax credit for five years. Investors are not subject to recapture. If the home owner sells the residence within five years, a scale would determine the percentage of the gain that would be recaptured by the Federal Government. In the first two years, 100 percent of the gain and 80, 70 and 60 percent in the third, fourth, and fifth years, respectively, would be recaptured.

The Community Development Homeownership Tax Credit Act that I am introducing today will positively affect the lives for approximately 500,000 families over the next 10 years, help resolve the affordable rental housing crisis we face, and help create jobs and grow our economy. I ask all of my colleagues to help expand the foundation of the American Dream by supporting this new tax incentive to encourage the construction and rehabilitation of homes for low- and moderate-income families in economically distressed areas.

This legislation is supported by the U.S. Conference of Mayors, Fannie Mae, Freddie Mac, the Enterprise Foundation, Local Initiatives Support Coalition, Mortgage Bankers Association of America, National Association of Home Builders, National Low Income Housing Coalition, National Association of Local Housing Finance Agencies, National Association of Realtors, National Council of La Raza, National Hispanic Housing Conference, Habitat for Humanity International and others.●

By Mr. WYDEN (for himself, Ms. COLLINS, and Mrs. CLINTON):

S. 876. A bill to require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq, and for other purposes; to the Committee on Governmental Affairs.

Mr. WYDEN. Mr. President, Senators COLLINS, CLINTON, BYRD, LIEBERMAN and I want the rebuilding of Iraq to be done in the best way possible—for the Iraqi people and for the American taxpayers who will foot the bill. To ensure that happens, we're introducing bipartisan legislation today to ensure accountability in the awarding of U.S. contracts to rebuild Iraq.

Usually in situations like this, open and competitive bidding is used to get the best deal for the taxpayers. The same needs to hold true here. Contracts to rebuild Iraq should be awarded in the sunshine—not behind a smokescreen. If the Federal Government chooses not to use free market competition to get the most reasonable price from the most qualified contractor, then, at a minimum, they should have to tell the American people why.

The bill we're introducing today is called the Sunshine in Iraq Reconstruction Contracting Act. It's intended to shine light into the secretive practices the United States Agency for International Development, USAID, and other Federal agencies are using to hand out in Iraqi work.

There are dollars-and-cents reasons for doing this. The potential cost of rebuilding Iraq has been estimated at around $100 billion. That's a lot of taxpayer money. And the U.S. General Accounting Office, GAO, reports that sole-source and limited-source contracts aren't usually the best buy. Investigator found that Army officials often just took whatever level of services the contractor gave, without ever asking if it could be done more efficiently or at a lower cost.

Despite that, sole-source and limited-source contracts look like the rule, not the exception, for rebuilding Iraq. And these are costing some big cash. Contracts awarded for oil fire fighting and other projects are so-called ''cost-plus'' contracts. They pay a company's expenses, plus a guaranteed profit of one to eight percent. There are no limits on total costs, so the more a firm charges in expenses, the more profit it makes. If the Federal Government's going to spend my constituents' money that way, without asking for competitive bids, I think my constituents deserve to know why.

Let me give you two concrete examples of the kind of secrecy I'm talking about. A lot of the known details come from press reports. In February and March, USAID invited a handful of companies to bid on $1.7 billion in Iraqi projects—rebuilding highways, bridges, schools. Competition for one $600 million contract was limited to seven large U.S. engineering firms. USAID apparently put out some bid invitations before the war even started.

On March 24, the Army Corps of Engineers announced a sole-source, unlimited contract to two American companies to control Iraqi oil fires. The no-bid contract is still classified. Information that should be available to the public was finalized on March 8 but is still under wraps. What we know is that other firms that had experience putting out oil well fires in Kuwait in 1991 were left out of the process altogether. And we also know that as early as last fall, the parent company of these contractors got an exclusive contract to study how to supply oil services during an invasion of Iraq.

Anybody looking to find an explanation for this closed-door contracting is likely to come up short. So far the agencies haven't said much. Last month, USAID announced that it would limit competition to companies with demonstrated technical ability, proven accounting mechanisms, ability to field a qualified technical team on short notice, and authority to handle classified national security material. The USAID Director told The New York Times that to work in Iraq you have to have a security clearance, and only these few American companies have that clearance.

I sit on the Intelligence Committee, and don't know of any good reason why a contractor bidding to rebuild a school, hospital, sewer system or any other part of Iraq's infrastructure would need a security clearance. In any case, four of USAID's eight reconstruction projects will allow subcontracting to companies that don't have to meet the security requirements. So that argument doesn't hold up.

Our bill has a simple premise to ensure accountability in the awarding process. It says that any Federal entity bypassing competitive bidding for Iraqi reconstruction projects has to disclose some key information. Most importantly, that means revealing the documents used to justify a sole-source or limited contract. Agencies are already required by law to prepare this rationale for sole source bidding. Our bill just makes the information accessible. We've written provisions to protect classified information, while still giving Congress full oversight over the billions in taxpayer money that Americans are being asked to commit in Iraq.

There are too many questions and the stakes are too high for Congress not to demand public disclosure of this information. I am pleased that Senators COLLINS, CLINTON, BYRD and LIEBERMAN are joining me in introducing this legislation to bring greater accountability and openness to the contracting for Iraq reconstruction.

I ask unanimous consent that a copy of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 876

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 ''Sunshine in Iraq Reconstruction Contracting Act of 2003''.

SEC. 2. PUBLIC DISCLOSURE OF NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE IN IRAQ.

(a) DISCLOSURE REQUIRED.—

(1) PUBLICATION AND PUBLIC AVAILABILITY.—The head of an executive agency of the United States that enters into a contract for the repair, maintenance, rehabilitation, or construction of infrastructure in Iraq without full and open competition shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:

(A) The amount of the contract.

(B) A brief description of the scope of the contract.

(C) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents on which was based the determination

to use procedures other than procedures that provide for full and open competition.

(2) INAPPLICABILITY TO CONTRACTS AFTER FISCAL YEAR 2013.—Paragraph (1) does not apply to a contract entered into after September 30, 2013.

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and the House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(c) FISCAL YEAR 2003 CONTRACTS.—This section shall apply to contracts entered into on or after October 1, 2002, except that, in the case of a contract entered into before the date of the enactment of this Act, subsection (a) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(d) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(e) DEFINITIONS.—In this section, the terms ''executive agency'' and ''full and open competition'' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

By Mr. BURNS (for himself, Mr. WYDEN, Mr. STEVENS, Mr. BREAUX, Mr. THOMAS, Ms. LANDRIEU, and Mr. SCHUMER):

S. 877. A bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Thank you, Mr. President. I rise today to introduce the CAN-SPAM bill along with my good friend and colleague Senator WYDEN. The CAN-SPAM bill addresses an issue of critical importance to the further development of commerce on the Internet: how to control the explosion of unsolicited commercial e-mail. I also want to thank the additional original cosponsors of the bill, Senator STEVENS, Senator BREAUX, Senator THOMAS, Senator LANDRIEU and Senator SCHUMER.

While it is obvious to anyone with an e-mail account that the scourge of ''spam'' has continued to worsen, the numbers and the trends they represent paint an even more disturbing picture. According to an article in the Washington Post less than a month ago, spam currently accounts for 40 percent of all e-mail traffic. Spam has become more than just an inconvenience that we have learned to live with; it has now become a fundamental part of any e-mail inbox with serious economic consequences. According to one study done by a consulting group, spam will cost U.S. businesses more than $10 billion this year alone.

Spam also makes working on the Internet less efficient, by clogging up servers on one end and inboxes on the other. I want some accountability brought to bear on this issue, and feel that by introducing this legislation today, we have taken an appropriate and meaningful step to tame a horse we can't seem to break just yet. This problem continues to escalate, and experts warn that more than half of e-mail traffic will be spam by this summer. This point bears repeating: within months, you will waste more than half of your time with unsolicited e-mail.

The CAN-SPAM bill would require e-mail marketers to comply with a straightforward set of workable, common-sense rules designed to give consumers more control over spam. Specifically, the bill would require a sender of marketing e-mail to include a clear and conspicuous ''opt-out'' mechanism so that they could ''unsubscribe'' from further unwanted e-mail. Also, the bill would prohibit e-mail marketers from using deceptive headers or subject lines, so that consumers will be able to tell who initiated the solicitation.

The bill includes strong enforcement provisions to ensure compliance. The Federal Trade Commission would have authority to impose steep civil fines of up to $500,000 on spammers. This fine could be tripled if the violation is found to be intentional. In short, this bill provides broad consumer protection against bad actors, while still allowing Internet advertising a justified means of flourishing.

Spamming is a serious economic problem and I believe it is absolutely critical that we address this now, so that the Internet is allowed to reach its full potential. Because of the vast distances in Montana, many of my constituents are forced to pay long-distance charges for their time on the Internet. Spam makes it nearly impossible for these people to enjoy the experience, and it makes it even harder for them to see how this will help rural America flourish in the 21st century. Also, Internet service providers are bombarded with spam that often corrupts or shuts down their systems. In today's information age where beating the competitor to the next sale is absolutely critical to survival, these shutdowns can cause real economic damage. We may be in a downturn in the American economy and especially in the high technology sector, but the efficiencies created through vast information sharing are here to stay and will help propel our economy to levels beyond our imagination, but in order to reach this potential we must eliminate the bad actors who threaten these efficiencies.

The fact that this bill is strongly supported by pillars of the Internet age such as Yahoo, America Online and eBay is a testament to its common-sense approach. I think these companies for their critical expertise in perfecting this bill which would help to address this scourge of the digital age. I also appreciate the numerous valuable suggestions from the many concerned cyber-citizens who want to see this Pandora's box of digital dreck closed once and for all.

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. 877

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 ''Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003'', or the ''CAN-SPAM Act of 2003''.

SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) There is a right of free speech on the Internet.

(2) The Internet has increasingly become a critical mode of global communication and now presents unprecedented opportunities for the development and growth of global commerce and an integrated worldwide economy.

(3) In order for global commerce on the Internet to reach its full potential, individuals and entities using the Internet and other online services should be prevented from engaging in activities that prevent other users and Internet service providers from having a reasonably predictable, efficient, and economical online experience.

(4) Unsolicited commercial electronic mail can be a mechanism through which businesses advertise and attract customers in the online environment.

(5) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(6) Unsolicited commercial electronic mail may impose significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment in infrastructure.

(7) Some unsolicited commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(8) While some senders of unsolicited commercial electronic mail messages provide simple and reliable ways for recipients to reject (or ''opt-out'' of) receipt of unsolicited commercial electronic mail from such senders in the future, other senders provide no

such ''opt-out'' mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(9) An increasing number of senders of unsolicited commercial electronic mail purposefully disguise the source of such mail so as to prevent recipients from responding to such mail quickly and easily.

(10) An increasing number of senders of unsolicited commercial electronic mail purposefully include misleading information in the message's subject lines in order to induce the recipients to view the messages.

(11) In legislating against certain abuses on the Internet, Congress should be very careful to avoid infringing in any way upon constitutionally protected rights, including the rights of assembly, free speech, and privacy.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is a substantial government interest in regulation of unsolicited commercial electronic mail;

(2) senders of unsolicited commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of unsolicited commercial electronic mail have a right to decline to receive additional unsolicited commercial electronic mail from the same source.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFIRMATIVE CONSENT.—The term ''affirmative consent'', when used with respect to a commercial electronic mail message, means that the recipient has expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient's own initiative.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—

(A) IN GENERAL.—The term ''commercial electronic mail message'' means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

(B) REFERENCE TO COMPANY OR WEBSITE.—The inclusion of a reference to a commercial entity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this Act if the contents or circumstances of the message indicate a primary purpose other than commercial advertisement or promotion of a commercial product or service.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—The term ''electronic mail address'' means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part''), to which an electronic mail message can be sent or delivered.

(6) ELECTRONIC MAIL MESSAGE.—The term ''electronic mail message'' means a message sent to an electronic mail address.

(7) FTC ACT.—The term ''FTC Act'' means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) HEADER INFORMATION.—The term ''header information'' means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address.

(9) IMPLIED CONSENT.—The term ''implied consent'', when used with respect to a commercial electronic mail message, means that—

(A) within the 3-year period ending upon receipt of such message, there has been a business transaction between the sender and the recipient (including a transaction involving the provision, free of charge, of information, goods, or services requested by the recipient); and

(B) the recipient was, at the time of such transaction or thereafter in the first electronic mail message received from the sender after the effective date of this Act, provided a clear and conspicuous notice of an opportunity not to receive unsolicited commercial electronic mail messages from the sender and has not exercised such opportunity.

If a sender operates through separate lines of business or divisions and holds itself out to the recipient, both at the time of the transaction described in subparagraph (A) and at the time the notice under subparagraph (B) was provided to the recipient, as that particular line of business or division rather than as the entity of which such line of business or division is a part, then the line of business or the division shall be treated as the sender for purposes of this paragraph.

(10) INITIATE.—The term ''initiate'', when used with respect to a commercial electronic mail message, means to originate such message or to procure the origination of such message, but shall not include actions that constitute routine conveyance of such message.

(11) INTERNET.—The term ''Internet'' has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(12) INTERNET ACCESS SERVICE.—The term ''Internet access service'' has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(13) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2) of title 18, United States Code.

(14) RECIPIENT.—The term ''recipient'', when used with respect to a commercial electronic mail message, means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(15) ROUTINE CONVEYANCE.—The term ''routine conveyance'' means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has provided and selected the recipient addresses.

(16) SENDER.—The term ''sender'', when used with respect to a commercial electronic mail message, means a person who initiates such a message and whose product, service, or Internet web site is advertised or promoted by the message.

(17) TRANSACTIONAL OR RELATIONSHIP MESSAGES.—The term ''transactional or relationship message'' means an electronic mail message the primary purpose of which is to facilitate, complete, confirm, provide, or request information concerning—

(A) a commercial transaction that the recipient has previously agreed to enter into with the sender;

(B) an existing commercial relationship, formed with or without an exchange of consideration, involving the ongoing purchase or use by the recipient of products or services offered by the sender; or

(C) an existing employment relationship or related benefit plan.

(18) UNSOLICITED COMMERCIAL ELECTRONIC MAIL MESSAGE.—The term ''unsolicited commercial electronic mail message'' means any commercial electronic mail message that—

(A) is not a transactional or relationship message; and

(B) is sent to a recipient without the recipient's prior affirmative or implied consent.

SEC. 4. CRIMINAL PENALTY FOR UNSOLICITED COMMERCIAL ELECTRONIC MAIL CONTAINING FRAUDULENT ROUTING INFORMATION.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1351. Unsolicited commercial electronic mail containing fraudulent transmission information

''(a) IN GENERAL.—Any person who initiates the transmission, to a protected computer in the United States, of an unsolicited commercial electronic mail message, with knowledge and intent that the message contains or is accompanied by header information that is materially false or materially misleading shall be fined or imprisoned for not more than 1 year, or both, under this title. For purposes of this subsection, header information that is technically accurate but includes an originating electronic mail address the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations shall be considered materially misleading.

''(b) DEFINITIONS.—Any term used in subsection (a) that is defined in section 3 of the CAN-SPAM Act of 2003 has the meaning given it in that section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1351. Unsolicited commercial electronic mail containing fraudulent routing information''.

SEC. 5. OTHER PROTECTIONS AGAINST UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) REQUIREMENTS FOR TRANSMISSION OF MESSAGES.—

(1) PROHIBITION OF FALSE OR MISLEADING TRANSMISSION INFORMATION.—It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message that contains, or is accompanied by, header information that is materially or intentionally false or materially or intentionally misleading. For purposes of this paragraph, header information that is technically accurate but includes an originating electronic mail address the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations shall be considered materially misleading.

(2) PROHIBITION OF DECEPTIVE SUBJECT HEADINGS.—It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message with a subject heading that such person

knows would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message.

(3) INCLUSION OF RETURN ADDRESS OR COMPARABLE MECHANISM IN UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission to a protected computer of an unsolicited commercial electronic mail message that does not contain a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that—

(i) a recipient may use to submit, in a manner specified by the sender, a reply electronic mail message or other form of Internet-based communication requesting not to receive any future unsolicited commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

(B) MORE DETAILED OPTIONS POSSIBLE.—The sender of an unsolicited commercial electronic mail message may comply with subparagraph (A)(i) by providing the recipient a list or menu from which the recipient may choose the specific types of commercial electronic mail messages the recipient wants to receive or does not want to receive from the sender, if the list or menu includes an option under which the recipient may choose not to receive any unsolicited commercial electronic mail messages from the sender.

(C) TEMPORARY INABILITY TO RECEIVE MESSAGES OR PROCESS REQUESTS.—A return electronic mail address or other mechanism does not fail to satisfy the requirements of subparagraph (A) if it is unexpectedly and temporarily unable to receive messages or process requests due to technical or capacity problems, if the problem with receiving messages or processing requests is corrected within a reasonable time period.

(4) PROHIBITION OF TRANSMISSION OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—If a recipient makes a request to a sender, using a mechanism provided pursuant to paragraph (3), not to receive some or any unsolicited commercial electronic mail messages from such sender, then it is unlawful—

(A) for the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of an unsolicited commercial electronic mail message that falls within the scope of the request;

(B) for any person acting on behalf of the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of an unsolicited commercial electronic mail message that such person knows or consciously avoids knowing falls within the scope of the request; or

(C) for any person acting on behalf of the sender to assist in initiating the transmission to the recipient, through the provision or selection of addresses to which the message will be sent, of an unsolicited commercial electronic mail message that the person knows, or consciously avoids knowing, would violate subparagraph (A) or (B).

(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—It is unlawful for any person to initiate the transmission of any unsolicited commercial electronic mail message to a protected computer unless the message provides—

(A) clear and conspicuous identification that the message is an advertisement or solicitation;

(B) clear and conspicuous notice of the opportunity under paragraph (3) to decline to receive further unsolicited commercial electronic mail messages from the sender; and

(C) a valid physical postal address of the sender.

(b) PROHIBITION OF TRANSMISSION OF UNLAWFUL UNSOLICITED COMMERCIAL ELECTRONIC MAIL TO CERTAIN HARVESTED ELECTRONIC MAIL ADDRESSES.—

(1) IN GENERAL.—It is unlawful for any person to initiate the transmission, to a protected computer, of an unsolicited commercial electronic mail message that is unlawful under subsection (a), or to assist in the origination of such a message through the provision or selection of addresses to which the message will be sent, if such person knows that, or acts with reckless disregard as to whether—

(A) the electronic mail address of the recipient was obtained, using an automated means, from an Internet website or proprietary online service operated by another person; or

(B) the website or proprietary online service from which the address was obtained included, at the time the address was obtained, a notice stating that the operator of such a website or proprietary online service will not give, sell, or otherwise transfer addresses maintained by such site or service to any other party for the purpose of initiating, or enabling others to initiate, unsolicited electronic mail messages.

(2) DISCLAIMER.—Nothing in this subsection creates an ownership or proprietary interest in such electronic mail addresses.

(c) COMPLIANCE PROCEDURES.—An action for violation of paragraph (2), (3), (4), or (5) of subsection (a) may not proceed if the person against whom the action is brought demonstrates that —

(1) the person has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of such paragraph; and

(2) the violation occurred despite good faith efforts to maintain compliance with such practices and procedures.

SEC. 6. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Director of the Office of Thrift Supervision;

(2) under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the Board of the National Credit Union Administration with respect to any Federally insured credit union, and any subsidiaries of such a credit union;

(3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) by the Securities and Exchange Commission with respect to any broker or dealer;

(4) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) by the Securities and Exchange Commission with respect to investment companies;

(5) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) by the Securities and Exchange Commission with respect to investment advisers registered under that Act;

(6) under State insurance law in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of the Gramm-Bliley-Leach Act (15 U.S.C. 6701);

(7) under part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(8) under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act;

(9) under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and

(10) under the Communications Act of 1934 (47 U.S.C. 151 et seq.) by the Federal Communications Commission with respect to any person subject to the provisions of that Act.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that subtitle is subject to the penalties

and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.

(e) ENFORCEMENT BY STATES.—

(1) CIVIL ACTION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person engaging in a practice that violates section 5 of this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction or in any other court of competent jurisdiction—

(A) to enjoin further violation of section 5 of this Act by the defendant; or

(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of willful, knowing, or negligent violations by an amount, in the discretion of the court, of up to $10 (with each separately addressed unlawful message received by such residents treated as a separate violation). In determining the per-violation penalty under this subparagraph, the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, the extent of economic gain resulting from the violation, and such other matters as justice may require.

(B) LIMITATION.—For any violation of section 5 (other than section 5(a)(1)), the amount determined under subparagraph (A) may not exceed $500,000, except that if the court finds that the defendant committed the violation willfully and knowingly, the court may increase the limitation established by this paragraph from $500,000 to an amount not to exceed $1,500,000.

(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the State shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(4) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein;

(C) to remove the action to the appropriate United States district court; and

(D) to file petitions for appeal.

(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission or other appropriate Federal agency under subsection (b) has instituted a civil action or an administrative action for violation of this Act, no State attorney general may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(f) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

(1) ACTION AUTHORIZED.—A provider of Internet access service adversely affected by a violation of section 5 may bring a civil action in any district court of the United States with jurisdiction over the defendant, or in any other court of competent jurisdiction, to—

(A) enjoin further violation by the defendant; or

(B) recover damages in an amount equal to the greater of—

(i) actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of willful, knowing, or negligent violations by an amount, in the discretion of the court, of up to $10 (with each separately addressed unlawful message carried over the facilities of the provider of Internet access service or sent to an electronic mail address obtained from the provider of Internet access service in violation of section 5(b) treated as a separate violation). In determining the per-violation penalty under this subparagraph, the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, the extent of economic gain resulting from the violation, and such other matters as justice may require.

(B) LIMITATION.—For any violation of section 5 (other than section 5(a)(1)), the amount determined under subparagraph (A) may not exceed $500,000, except that if the court finds that the defendant committed the violation willfully and knowingly, the court may increase the limitation established by this paragraph from $500,000 to an amount not to exceed $1,500,000.

(3) ATTORNEY FEES.—In any action brought pursuant to paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

SEC. 7. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—

(1) Nothing in this Act shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934 (47 U.S.C. 223 or 231, respectively), chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(2) Nothing in this Act shall be construed to affect in any way the Commission's authority to bring enforcement actions under FTC Act for materially false or deceptive representations in commercial electronic mail messages.

(b) STATE LAW.—

(1) IN GENERAL.—This Act supersedes any State or local government statute, regulation, or rule regulating the use of electronic mail to send commercial messages.

(2) EXCEPTIONS.—Except as provided in paragraph (3), this Act does not supersede or pre-empt—

(A) State trespass, contract, or tort law or any civil action thereunder; or

(B) any provision of Federal, State, or local criminal law or any civil remedy available under such law that relates to acts of fraud or theft perpetrated by means of the unauthorized transmission of commercial electronic mail messages.

(3) LIMITATION ON EXCEPTIONS.—Paragraph (2) does not apply to a State or local government statute, regulation, or rule that directly regulates unsolicited commercial electronic mail and that treats the mere sending of unsolicited commercial electronic mail in a manner that complies with this Act as sufficient to constitute a violation of such statute, regulation, or rule or to create a cause of action thereunder.

(c) NO EFFECT ON POLICIES OF PROVIDERS OF INTERNET ACCESS SERVICE.—Nothing in this Act shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

SEC. 8. STUDY OF EFFECTS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this Act and the need (if any) for the Congress to modify such provisions.

(b) REQUIRED ANALYSIS.—The Commission shall include in the report required by subsection (a) an analysis of the extent to which technological and marketplace developments, including changes in the nature of the devices through which consumers access their electronic mail messages, may affect the practicality and effectiveness of the provisions of this Act.

SEC. 9 SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 10. EFFECTIVE DATE.

The provisions of this Act shall take effect 120 days after the date of the enactment of this Act.

Mr. WYDEN. Mr. President, I am pleased today to be teaming up again with my good friend Senator BURNS to reintroduce legislation to address the rising tide of unsolicited commercial e-mail, commonly known as ''spam.''

In the last Congress, our anti-spam legislation was approved unanimously by the Senate Commerce Committee. Since that time—nearly a year ago now—the problem of spam has been increasing at an alarming rate. Roughly

40 percent of all e-mail traffic in the United States is spam, up from 8 percent in late 2001 and nearly doubling in the past six months. By 2004, according to some estimates, a typical company that fails to take defensive action could find that over 50 percent of its e-mail messages will be spam. This isn't just annoying, it's costly: one consulting group has estimated that spam will cost U.S. organizations more than $10 billion this year, due to expenses for anti-spam equipment and manpower and lost productivity.

If nothing is done, the situation is only likely to get worse. The fundamental problem—and what makes spam different from other types of marketing—is that it is so cheap to send huge volumes of messages. With the stroke of a key, the spammer can let fly a massive torrent of e-mails. And since the sender doesn't pay any per-message postage, the incentive is to send as many as possible. The cost of all these extra messages is borne by the Internet service providers, ISPs, and the recipients, not by the sender. So as far as the spammer is concerned, the sky is the limit.

Anyone who uses e-mail should be deeply concerned about this trend. In a few short years, e-mail quickly went from a novelty to a core medium of communication for millions of Americans. They came to rely on it daily, for business and personal communications alike. But just as quickly as e-mail rose to prominence, its usefulness could dwindle—buried under an avalanche of endless ''Get Rich Quick,'' ''Lose Weight Fast,'' and offensive pornographic marketing pitches. As consumers grow frustrated with bloated in-boxes, and as ISP networks and e-commerce websites are slowed by mounting junk e-mail traffic jams, enthusiasm for the entire medium of e-mail and e-commerce could sour.

Right now, e-mail users and ISPs are trying to manage the problem as best they can. They use filtering software, or lists of known spammers, or sign up for special anti-spam services. But these tactics can be burdensome, costly, and only partially effective. The fact is, existing laws do not provide sufficient tools. More help is needed.

Many States have moved to address the issue. But e-mail is not a medium that respects, or even recognizes, State borders. Indeed, e-mail addresses tell nothing about which State the user is located in, so the sender and recipient of an e-mail message may have no clue where the other is located. Therefore, this is one area where a State-by-State patchwork of rules makes no sense. It is time for a nationwide approach.

That is why Senator BURNS and I are reintroducing the ''Controlling the Assault of Non-Solicited Pornography and Marketing Act''—the CAN SPAM Act, for short. This bipartisan legislation says that if you want to send unsolicited marketing e-mail, you've got to play by a set of rules—rules that allow the recipient to see where the messages are coming from, and to tell the sender to stop. The basic goal is simple: give the consumer more control.

Specifically, the bill would prohibit the use of falsified or deceptive headers or subject lines, so that consumers will be able to identify the true source of the message. A sender of unsolicited marketing e-mail would also be required to provide the recipient with a return address or similar mechanism that can be used to tell the sender, ''no more.'' And once a consumer says ''no more,'' a sender would be required to honor that request. Senders of unsolicited commercial messages would also be required to include a clear notification that the message is an advertisement or solicitation, and a valid physical postal address.

The bill includes strong enforcement provisions to ensure compliance. Spammers that intentionally disguise their identities would be subject to misdemeanor criminal penalties. The Federal Trade Commission would have authority to impose civil fines. State attorneys general would be able to bring suit on behalf of the citizens of their states. And ISPs would be able to bring suit to keep unlawful spam off their networks. In all cases, particularly high penalties would be available for true ''bad actors''—the shady, high-volume spammers who have no intention of behaving in a lawful and responsible manner.

Our goal here is not to discourage legitimate online communications between businesses and their customers. Senator BURNS and I have no intention of interfering with a company's ability to use e-mail to inform customers of warranty information, provide account holders with monthly account statements, and so forth. Rather, we want to go after those unscrupulous individuals who use e-mail in an annoying and misleading fashion. I believe this bill strikes that important balance.

Senator BURNS and I have been at this for three years now, and have worked with many different groups in shaping the legislation. We believe we have made real progress in addressing some of the legitimate concerns that were raised about previous versions of the bill. Naturally, there are interested parties who have additional ideas for measures they would like to see. We will be happy to continue to work with them, and I would also point out that the bill calls for a study to evaluate this initial Federal step against spam and to determine whether further provisions are needed. But the bill we are introducing today offers a workable, common-sense approach that should be politically viable this year.

I am pleased that Senators BREAUX, LANDRIEU, SCHUMER, and THOMAS are joining Senator BURNS and me in cosponsoring this legislation. I urge the rest of my Senate colleagues to join with us on moving it forward as promptly as possible, so that the Senate won't still be debating the issue, with no action taken, several years from now.

By Mr. SMITH.

S. 879. A bill to amend the Internal Revenue Code of 1986 to increase and extend the special depreciation allowance, and for other purpose; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Economic Stimulus Act of 2003, legislation that will allow a 50 percent bonus depreciation over a 5 year period. Last year I was proud to introduce and pass a 30 percent bonus depreciation incentive as part of legislation signed into law in March 2002. We had great bipartisan support on this issue and I hope that similar action will take place during consideration of this year's tax bill.

I introduce the Economic Stimulus Act of 2003 in order to build on last year's effort by both increasing that bonus to 50 percent and extending it through 2008. Our economy clearly needs a boost, and this provision will complement many of the provisions in President Bush's economic growth package.

Recently, U.S. Department of Commerce data revealed that private investment in high tech equipment ended it's decline as this provision went into effect last year and has begun to increase modestly in the past year. A significant increase in that bonus along with an extension of its effective date can only boost business investment even further. By extending the effective date past next year, businesses will be able to better plan for sustained increases in technology investment.

This legislation will provide an immediate and broad stimulus to the U.S. economy by encouraging business investment. In my own state of Oregon I can look to both heavy industry and the hi tech sector and see the real return this legislation will have on our economy. Heavy industry in my state will have an ability to save family-wage jobs and put additional employees to work in Oregon. For example, the rail supply industry has been hard hit, and though there is a need for investment, there has been a reluctance to invest significant sums that are necessary to sustain this industry. Bonus depreciation provisions is an additional incentive that will lead institutional investors, leasing companies, shippers and railroads to invest in new rail equipment.

In Oregon's high-tech sector the strong increase in the first year depreciation amount will have a real and positive impact on the investment environment for high-tech equipment, such as computer hardware, software and broadband network infrastructure. This legislation will definitely stimulate the demand for the software and the whole high-tech sector. In Oregon, the hi-tech sector has been a major component of economic growth and I am intent that this engine of growth continue to provide stimulus to the economy.

I note that there are a myriad of bonus depreciation proposals out there. Most don't provide enough lead time however to make real and substantive business decisions. The current downturn is caused in part by a decline in business investment. So what kind of investment can be stimulated by a year-long depreciation incentive? It probably gives business people time to buy a chair and some new wastebaskets.

But a year is not enough time to start a major project that could employ thousands of people. It doesn't allow time to build heavy equipment, modernize a lumber mill, revamp a corporate computer system, repair a railbed, or construct an airplane. It doesn't allow enough time to obtain building permits, perform environmental reviews, or complete architectural or engineering studies.

We need to create a booming economy not just for today, but for the next several years. So I must emphasize that short depreciation proposals lack economic weight.

Bonus depreciation is probably the best idea of any stimulus proposal. I ask that all my colleagues consider and support the Economic Stimulus Act of 2003. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 879

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 ''Economic Stimulus Act of 2003''.

SEC. 2. EXPANSION OF SPECIAL DEPRECIATION ALLOWANCE.

(a) IN GENERAL.—Subsection (k) of section 168 (relating to accelerated cost recovery system) is amended—

(1) by adding at the end of paragraph (1) the following new flush sentence:

''In the case of any qualified property acquired by the taxpayer pursuant to a written binding contract which was entered into after the date of the enactment of the Economic Stimulus Act of 2003, subparagraph (A) shall be applied by substituting '50 percent' for '30 percent'.'',

(2) by redesignating subclauses (III) and (IV) of paragraph (2)(A)(i) as subclauses (IV) and (V), respectively,

(3) by inserting after subclause (II) of paragraph (2)(A)(i) the following new subclause:

''(III) which is a motion picture film or videotape (as defined in section 167(f)(1)(B) for which a deduction is allowable under section 167 without regard to this subsection,'',

(4) by striking clause (iv) of paragraph (2)(A) and inserting the following new clause:

''(iv) which is placed in service by the taxpayer—

''(I) except as provided in subclauses (II) and (III), before April 1, 2010,

''(II) in the case of transportation property described in subparagraph (B), before the later of the date which is 90 days after delivery of such property or which is 10 years after the date of the enactment of the Economic Stimulus Act of 2003, or

''(III) in the case of other property described in subparagraph (B), before January 1, 2011.'',

(5) by inserting ''transportation property which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A), or other'' before ''property'' in the matter preceding subclause (I) of paragraph (2)(B)(i),

(6) by striking ''production before September 11, 2004.'' in paragraph (2)(B)(ii) and inserting ''production—

''(I) with respect to transportation property, before the earlier of the date which is 90 days after delivery of such property or which is 10 years after the date of the enactment of the Economic Stimulus Act of 2003, and

''(II) with respect to other property, before January 1, 2010.'',

(7) by striking ''SEPTEMBER 11, 2004'' in the heading of clause (ii) of paragraph (2)(B) and inserting ''CERTAIN'',

(8) by striking ''subparagraph'' in paragraph (2)(B)(iii) and inserting ''paragraph'',

(9) by striking ''September 11, 2004'' each place it appears in the subsection and inserting ''January 1, 2010'', and

(10) by striking ''SEPTEMBER 11, 2004'' in the heading thereof and inserting ''JANUARY 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for clause (i) of section 1400L(b)(2)(C) of the Internal Revenue Code of 1986 is amended by striking ''30 PERCENT ADDITIONAL'' and inserting ''ADDITIONAL''.

(2) Section 1400L(b)(2)(D) of such Code is amended by inserting ''(as in effect on the day after the date of the enactment of this section)'' after ''section 168(k)(2)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property acquired after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Mrs. LINCOLN, Mr. HATCH, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. DAYTON):

S. 881. A bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the Medicare program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators COCHRAN, LINCOLN, HATCH, JEFFORDS, LANDRIEU, and DAYTON entitled the ''Rural Equity Payment Index Reform Act of 2003'' is designed to reduce the work payment inequity between urban and rural localities under the Medicare physician fee schedule. This legislation is a companion bill to HR 33, introduced by Representative Doug Bereuter, which now has over 65 House cosponsors.

In my own State of New Mexico, recruitment and retention of physicians in rural areas is an ongoing problem, which is contributed to, in a part, by inequities in payments these physicians receive in comparison to their urban counterparts. With only 170 physicians per 100,000 people, New Mexico ranks well behind the national average with regard to primary care and specialist physicians.

Lack of adequate reimbursement, in the face of increasing costs, is a critical factor leading to the shortage of physician services in my state, and in other rural areas. The State of New Mexico ranks 32nd in the nation in terms of Medicare reimbursement, as defined by the geographic adjustment factor used to set reimbursement rates. Yet, an office visit to a rural physician is no different in time, effort, or workload compared to an office visit to an urban physician. Geographically adjusting the quantifiable workload simply makes no sense; physician work should be valued equally, irrespective of where a physician works.

This inequity unfairly ''punishes'' physicians in non-metropolitan areas, where there are often proportionately larger populations of Medicare beneficiaries. In effect, the rural areas subsidize healthcare in urban areas, while they struggle to attract health care professionals. Since Medicare beneficiaries pay into the program on the basis of income and wages, and beneficiaries pay the same premium for part B services, these inequitable physician fee payments result in substantial cross-subsidies from people living in low payment States to people living in higher payment States.

Targeted efforts to provide relief to rural doctors in low payment localities with more equitable payments would improve access to primary and tertiary services. The bill I am introducing would lessen the disparity that currently exists between rural and urban areas. It gradually phases in a floor that upwardly adjusts reimbursement rates for rural providers, without lowering the reimbursement for urban providers, so that the discrepancy will progressively be corrected.

This bill would phase-in a floor of 1.000 for the Medicare ''physician work adjuster'', thereby raising all localities with a work adjuster below 1.000 to that level. This proposed change would be put in place without regard to the budget neutrality agreement in the present law. The phase-in approach softens the budgetary implications by spreading it out over four years.

It is estimated that payment rates to New Mexico physicians will increase by 2.8 million dollars over a 4-year period. In my state, this represents an important increase in reimbursements for physicians, but it also represents a tangible acknowledgement of the hard work and efforts that our physicians commit to patient care, particularly rural based physicians.

Some of the following organizations, which have expressed support for this legislation, include the National Rural Health Association, the American College of Physicians/American Society of Internal Medicine, and the American Physical Therapy association.

I ask unanimous consent that letters of support and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 881

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Equity Payment Index Reform Act of 2003''.

(b) FINDINGS.—Congress makes the following findings:

(1) Variations in the physician work adjustment factors under section 1848(e) of the Social Security Act (42 U.S.C. 1395w–4w(e)) result in a physician work payment inequity between urban and rural localities under the medicare physician fee schedule.

(2) The amount the medicare program spends on its beneficiaries varies substantially across the country, far more than can be accounted for by differences in the cost of living or differences in health status.

(3) Since beneficiaries and others pay into the program on the basis of income and wages and beneficiaries pay the same premium for part B services, these payments result in substantial cross-subsidies from people living in low payment States with conservative practice styles or beneficiary preferences to people living in higher payment States with aggressive practice styles or beneficiary preferences.

(4) Congress has been mindful of these variations when it comes to capitation payments made to managed care plans under the Medicare+Choice program and has put in place floors that increase monthly payments by more than one-third in some of the lowest payment counties over what would otherwise occur. But this change addresses only a very small fraction of medicare beneficiaries who are presently enrolled in Medicare+Choice plans operating in low payment counties.

(5) Unfortunately, Congress has only begun to address the underlying problem of substantial geographic variations in fee-for-service spending under traditional medicare.

(6) Improvements in rural hospital payment systems under the medicare program help to reduce aggregate per capita payment variation as rural hospitals are in large part located in low payment counties.

(7) Many rural communities have great difficulty attracting and retaining physicians and other skilled health professionals.

(8) Targeted efforts to provide relief to rural doctors in low payment localities would further reduce variation by improving access to primary and tertiary services along with more equitable payment.

(9) Geographic adjustment factors in the medicare program's resource-based relative value scale unfairly suppress fee-for-service payments to rural providers.

(10) Actual costs are not presently being measured accurately and payments do not reflect the costs of providing care.

(11) Unless something is done about medicare payment in rural areas, as the baby boom cohort ages into medicare, the financial demands on rural communities to subsidize care for their aged and disabled medicare beneficiaries will progress from difficult to impossible in another 10 years.

(12) The impact on rural health care infrastructure will be first felt in economically depressed rural areas where the ability to shift costs is already limited.

SEC. 2. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraphs (B), (C), and (E)''; and

(2) by adding at the end the following new subparagraph:

''(E) FLOOR FOR WORK GEOGRAPHIC INDICES.—

''(i) IN GENERAL.—Notwithstanding the work geographic index otherwise calculated under subparagraph (A)(iii), in no case may the work geographic index applied for payment under this section be less than—

''(I) 0.976 for services furnished during 2004;

''(II) 0.987 for services furnished during 2005;

''(III) 0.995 for services furnished during 2006; and

''(IV) 1.000 for services furnished during 2007 and subsequent years.

''(ii) EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.—The increase in expenditures attributable to clause (i) shall not be taken into account in applying subsection (c)(2)(B)(ii)(II).''.

NRHA SUPPORTS ''EQUAL PAY FOR EQUAL WORK''

WASHINGTON, DC., Jan. 7.—The National Rural Health Association (NRHA) today strongly endorsed legislation introduced by Representative Doug Bereuter (R.–Neb) that would provide rural physicians with Medicare payments closer to those of their urban counterparts. The Rural Equity Payment Index Reform Act addresses the little known fact that the federal government pays rural doctors at a lower rate.

''An office visit to a rural physician is no different than an office visit to an urban physician,'' NRHA President Wayne Myers, M.D., said. ''The idea that physicians are reimbursed for their work and their skills at a lower rate simply on the basis that they choose to practice in a rural area and serve our rural communities is completely ludicrous.''

The Bereuter bill would lessen the disparity that currently exists between urban and rural areas. By gradually phasing in a floor that upwardly adjusts reimbursement rates for rural providers, without lowering the reimbursement in urban areas, the discrepancy in payment will progressively be corrected. ''These health care providers put as much or even more time, skill and intensity into a patient visit as their urban counterparts,'' Rep. Bereuter said, ''yet they are paid less for their work under the Medicare program. This is a formula that is punishing non-metropolitan areas.''

Under the current Medicare physician payment formula, residents of non-metropolitan areas essentially subsidize the delivery of health care in metropolitan areas. Even though rural areas tend to have larger populations of Medicare beneficiaries, they are subsidizing health care in urban areas, while their own communities are struggling to attract health care professionals.

''This is a top priority issue for the NRHA,'' Myers said. ''In fact, this disparity in health care is among the basic reasons the NRHA exists. ''For far too long, rural American health care has been overlooked in Washington. We applaud Congressman Bereuter for his efforts and look forward to working with him to ensure rural physicians—and rural residents alike—receive an equitable deal.''

The NRHA is a national nonprofit membership organization that provides leadership on rural health issues. The association's mission is to improve the health of rural Americans and to provide leadership on rural health issues through advocacy, communications, education and research. The NRHA membership is made up of a diverse collection of individuals and organizations.

AMERICAN PHYSICAL THERAPY ASSOCIATION,
March 25, 2003.

Hon. DOUG BEREUTER (R–NE),
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN BEREUTER: The American Physical Therapy Association (APTA) would like to express its appreciation for your legislation to correct an inequity in Medicare payments to rural health care providers. APTA strongly supports HR 33, The Rural Equity Payment Index Reform (REPaIR) Act. This legislation is a positive step to ensuring improved access to quality health care services, including those delivered by licensed physical therapists, in rural America. The current inequity of payment to health care providers under the Medicare physician fee schedule and its Geographic Medical Practice Index needs to be corrected to ensure that qualified providers continue to serve the needs of our rural communities.

Physical therapists are highly qualified and recognized providers under Medicare who bill for their services under the Medicare Physician Fee Schedule. Your legislation (HR 33) would improve access and payment for appropriate physical therapy services in rural and underserved areas. This legislation would also go a long way to attract and retain physical therapist to consider rural areas for practice and service. Access to qualified health care providers is a growing problem in rural America and your legislation is one of many steps to reverse this trend.

We applaud your dedication to rural health and express our support that Congress pass HR 33, The Rural Equity Payment Index Reform (REPaIR) Act in this Congress. If you have questions, please feel free to contact Justin Moore at 703–706–3162 or *justinmoore@apta.org.*

Sincerely,

G. DAVID MASON,
Vice President, Government Affairs.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 882. A bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safeguards, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today we are introducing the Tax Administration Good Government Act.

The legislation contains five major components. First, it provides additional safeguards for taxpayers. Second, the legislation significantly simplifies the current interest and penalty regimes. Third, the Act also includes the proposals passed out of the Finance Committee on April 2, 2003 and included in a bill introduced by Senators HATCH and BREAUX to modernize the United States Tax Court.

Fourth, our legislation also includes several provisions, some of which were requested by the Treasury Department and the Joint Committee on Taxation, to strike an appropriate balance in protecting taxpayer confidentiality through disclosure reforms. Finally, the legislation takes a small, but important step toward simplification of the tax code through the elimination of obsolete provisions.

We have worked closely with the Treasury Department, the Internal Revenue Service, the National Taxpayer Advocate and the Joint Committee on Taxation to develop this package of proposals to promote good government in the administration of our tax code.

Congress's responsibility for the tax system does not stop after we pass tax law changes. We have an oversight responsibility to ensure that taxpayer rights are protected, that our tax laws are not administered counter to Congressional intent, that the judicial

body with primary jurisdiction over the tax laws has the tools necessary to provide independent review of controversies between taxpayers and the Internal Revenue Service, and to take steps to simplify the tax code whenever possible.

It is our intention to pass a package of tax administration good government proposals out of the Finance Committee in the coming months. We urge our colleagues to support this important legislation.

We also submit for the RECORD a more detailed description of the specific provisions included in the Tax Administration Good Government Act.

I ask unanimous consent that the text of the bill and the description be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 882

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Administration Good Government Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 102. Partial payment of tax liability in installment agreements.
Sec. 103. Termination of installment agreements.
Sec. 104. Office of Chief Counsel review of offers in compromise.
Sec. 105. Seven-day threshold on tolling of statute of limitations during National Taxpayer Advocate review.
Sec. 106. Increase in penalty for bad checks or money orders.
Sec. 107. Financial management service fees.
Sec. 108. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 111. Explanation of statute of limitations and consequences of failure to file.
Sec. 112. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 113. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 114. Amendment to Treasury auction reforms.
Sec. 115. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 116. IRS Oversight Board approval of use of critical pay authority.
Sec. 117. Low-income taxpayer clinics.
Sec. 118. Enrolled agents.
Sec. 119. Establishment of disaster response team.
Sec. 120. Accelerated tax refunds.
Sec. 121. Study on clarifying record-keeping responsibilities.
Sec. 122. Streamline reporting process for National Taxpayer Advocate.

Subtitle C—Other Provisions

Sec. 131. Penalty on failure to report interests in foreign financial accounts.
Sec. 132. Repeal of personal holding company tax.

TITLE II—REFORM OF PENALTY AND INTEREST

Sec. 201. Individual estimated tax.
Sec. 202. Corporate estimated tax.
Sec. 203. Increase in large corporation threshold for estimated tax payments.
Sec. 204. Abatement of interest.
Sec. 205. Deposits made to suspend running of interest on potential underpayments.
Sec. 206. Freeze of provision regarding suspension of interest where Secretary fails to contact taxpayer.
Sec. 207. Expansion of interest netting.
Sec. 208. Clarification of application of Federal tax deposit penalty.
Sec. 209. Frivolous tax submissions.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

Sec. 301. Jurisdiction of Tax Court over collection due process cases.
Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
Sec. 305. Amendments to appoint employees.
Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle B—Tax Court Pension and Compensation

Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 313. Life insurance coverage for Tax Court judges.
Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 318. General provisions relating to magistrate judges of the Tax Court.
Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
Sec. 320. Retirement and annuity program.
Sec. 321. Incumbent magistrate judges of the Tax Court.
Sec. 322. Provisions for recall.
Sec. 323. Effective date.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Clarification of definition of church tax inquiry.
Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 404. Prohibition of disclosure of taxpayer identifying number with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors and other agents with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Civil damages for unauthorized inspection or disclosure.
Sec. 408. Expanded disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 411. Treatment of public records.
Sec. 412. Investigative disclosures.
Sec. 413. TIN matching.
Sec. 414. Form 8300 disclosures.
Sec. 415. Technical amendment.

TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

Sec. 501. Simplification through elimination of inoperative provisions.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 102. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of

an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 105. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING NATIONAL TAXPAYER ADVOCATE REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 106. INCREASE IN PENALTY FOR BAD CHECKS OR MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after December 31, 2003.

SEC. 107. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 108. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

Subtitle B—Processing and Personnel

SEC. 111. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 112. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

Section 6103(d)(5) is amended to read as follows:

''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.

SEC. 113. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

(2) by amending subparagraph (C) to read as follows:

''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking ''United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia'' and inserting the following: ''United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2003.

SEC. 114. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

SEC. 115. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

''SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

''(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

''(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

''(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

''(3) with respect to a taxpayer or taxpayer representative, the violation of—

''(A) any right under the Constitution of the United States, or

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964,

''(ii) title IX of the Education Amendments of 1972,

''(iii) the Age Discrimination in Employment Act of 1967,

''(iv) the Age Discrimination Act of 1975,

''(v) section 501 or 504 of the Rehabilitation Act of 1973, or

''(vi) title I of the Americans with Disabilities Act of 1990,

''(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

''(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of

retaliating against, or harassing, a taxpayer or taxpayer representative,

''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

''(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

''(c) DETERMINATIONS OF COMMISSIONER.—

''(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

''(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

''(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

''Sec. 7804A. Termination of employment for misconduct.''.

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 116. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

SEC. 117. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION CLINIC.—

''(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A. Return preparation clinics for low-income taxpayers.''.

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking ''$6,000,000'' and inserting ''$10,000,000''.

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

''(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.''.

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting ''qualified'' before ''low-income'', and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 118. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Enrolled agents.''.

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 119. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7508A (relating to authority to postpone certain tax-related deadlines by reason of presidentially declared disaster) is amended by adding at the end the following new subsection:

''(c) DUTIES OF DISASTER RESPONSE TEAM.—

''(1) RESPONSE TO DISASTERS.—The Secretary shall—

''(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as so defined), and

''(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

''(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

''(A) personnel from the Office of the Taxpayer Advocate, and

''(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

''(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

''(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

''(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).''.

(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7804(c)(1)(A) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

(3) providing the information described in section 7804(c)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 120. ACCELERATED TAX REFUNDS.

(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

(1) maintain the same filing characteristics from year to year, and

(2) elect the direct deposit option for any refund under the program.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 121. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.

(a) STUDY.—The Secretary of the Treasury shall study—

(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

(2) the utility of requiring taxpayers to maintain all records indefinitely,

(3) such requirement given the necessity to upgrade technological storage for outdated records,

(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

(5) proposals regarding taxpayer recordkeeping.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 122. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

''(B) ANNUAL REPORT.—

''(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—'',

(2) by striking ''clause (ii)'' in clause (iv) and inserting ''clause (i)'', and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to reports in calendar year 2003 and thereafter.

Subtitle C—Other Provisions

SEC. 131. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 132. REPEAL OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 1 (relating to personal holding companies) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 12(2) is amended to read as follows:

''(2) For accumulated earnings tax, see part I of subchapter G (sec. 531 and following).''.

(2) Section 26(b)(2) is amended by striking subparagraph (G) and by redesignating the succeeding subparagraphs accordingly.

(3) Section 30A(c) is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) Section 41(e)(7)(E) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(6) Section 170(e)(4)(D) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(7) Section 111(d) is amended to read as follows:

''(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531—

''(1) any excluded amount under subsection (a) allowed for purposes of this subtitle (other than section 531) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 for the prior taxable year, and

''(2) where any excluded amount under subsection (a) was not allowed as a deduction for the prior taxable year for purposes of this subtitle other than section 531 but was allowable for the same taxable year under section 531, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531.''.

(8)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 331(b) is amended by striking ''(other than a distribution referred to in paragraph (2)(B) of section 316(b))''.

(9) Section 341(d) is amended—

(A) by striking ''section 544(a)'' and inserting ''section 465(f)'', and

(B) by inserting before the period at the end of the next to the last sentence ''and such paragraph (2) shall be applied by inserting 'by or for his partner' after 'his family' ''.

(10) Section 381(c) is amended by striking paragraphs (14) and (17).

(11) Section 443(e) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(12) Section 447(g)(4)(A) is amended by striking ''other than—'' and all that follows and inserting ''other than an S corporation.''

(13)(A) Section 465(a)(1)(B) is amended to read as follows:

''(B) a C corporation which is closely held,''.

(B) Section 465(a)(3) is amended to read as follows:

''(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual.''

(C) Section 465 is amended by adding at the end the following new subsection:

''(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—

''(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

''(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

''(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

''(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if, but only if, the effect is to make the corporation closely held under subsection (a)(3).

''(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by

a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

''(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

''(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.''

(D) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(E) Section 465(c)(7)(G) is amended to read as follows:

''(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).''

(14) Sections 508(d), 4947, and 4948(c)(4) are each amended by striking ''545(b)(2),'' each place it appears.

(15) Section 532(b) is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(16) Sections 535(b)(1) and 556(b)(1) are each amended by striking ''section 541'' and inserting ''section 541 (as in effect before its repeal)''.

(17)(A) Section 553(a)(1) is amended by striking ''section 543(d)'' and inserting ''subsection (c)''.

(B) Section 553 is amended by adding at the end the following new subsection:

''(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—

''(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

''(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

''(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

''(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

''(B) are attributable to computer software which—

''(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

''(ii) is directly related to such trade or business.

''(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

''(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

''(A) IN GENERAL.—The requirements of this paragraph are met if—

''(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

''(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

''(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

''(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.''

(18) Section 561(a) is amended by striking paragraph (3), by inserting ''and'' at the end of paragraph (1), and by striking '', and'' at the end of paragraph (2) and inserting a period.

(19) Section 562(b) is amended to read as follows:

''(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—

''(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

''(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.''

(20) Section 563 is amended by striking subsection (b).

(21) Section 564 is hereby repealed.

(22) Section 631(c) is amended by striking ''or section 545(b)(5)''.

(23) Section 852(b)(1) is amended by striking ''which is a personal holding company (as defined in section 542) or''.

(24)(A) Section 856(h)(1) is amended to read as follows:

''(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met.''

(B) Section 856(h)(3)(A)(i) is amended by striking ''section 542(a)(2)'' and inserting ''section 465(a)(3)''.

(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(D) Subparagraph (C) of section 856(h)(3), as redesignating by the preceding subparagraph, is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(25) The last sentence of section 882(c)(2) is amended to read as follows:

''The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.''.

(26) Section 936(a)(3) is amended by striking subparagraph (C), by inserting ''or'' at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(27) Section 992(d) is amended by striking paragraph (2) and by redesignating succeeding paragraphs accordingly.

(28) Section 992(e) is amended by striking ''and section 541 (relating to personal holding company tax)''.

(29) Section 1202(e)(8) is amended by striking ''section 543(d)(1)'' and inserting ''section 553(c)(1)''.

(30) Section 1362(d)(3)(C)(iii) is amended by adding at the end the following new sentence: ''References to section 542 in the preceding sentence shall be treated as references to such section as in effect on the day before its repeal.''

(31) Section 1504(c)(2)(B) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(32) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: ''References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal.''

(33) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (12) and paragraphs (3) through (11), respectively.

(34) Section 6501 is amended by striking subsection (f).

(35) Section 6503(k) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(36) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(37) Subsections (d)(1)(B) and (e)(2) of section 6662 are each amended by striking ''or a personal holding company (as defined in section 542)''.

(38) Section 6683 is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part II.

(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2003.

TITLE II—REFORM OF PENALTY AND INTEREST

SEC. 201. INDIVIDUAL ESTIMATED TAX.

(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking ''$1,000'' and inserting ''$2,000''.

(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

''(a) ADDITION TO THE TAX.—

''(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

''(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

''(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

''(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

''(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

''(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

''(2) DETERMINATION OF INTEREST RATE.—

''(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

''(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

''(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

''(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 202. CORPORATE ESTIMATED TAX.

(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking ''$500'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

(1) by striking ''$1,000,000'' in subparagraph (A) and inserting ''the applicable amount'',

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 204. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

(1) by striking ''in performing a ministerial or managerial act'' in subparagraphs (A) and (B),

(2) by striking ''deficiency'' in subparagraph (A) and inserting ''underpayment of any tax, addition to tax, or penalty imposed by this title'', and

(3) by striking ''tax described in section 6212(a)'' in subparagraph (B) and inserting ''tax, addition to tax, or penalty imposed by this title''.

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking ''PENALTY OR ADDITION'' and inserting ''INTEREST, PENALTY, OR ADDITION''; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking ''penalty or addition'' and inserting ''interest, penalty, or addition''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after December 31, 2003.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(G) (relating to suspension of interest and certain penalties where secretary fails to contact taxpayer) is amended by striking ''1-year period (18-month period in the case of taxable years beginning before January 1, 2004)'' both places it appears and inserting ''18-month period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 207. EXPANSION OF INTEREST NETTING.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: ''Solely for purposes of the preceding sentence, section 6611(e) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2003.

SEC. 208. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

SEC. 209. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 7811 (relating to taxpayer assistance orders),

''(II) section 6159 (relating to agreements for payment of tax liability in installments), or

''(III) section 7122 (relating to compromises).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7436(c), and''.

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows ''petition'' and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) LAW CLERKS AND SECRETARIES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's

credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

''(3) DEPUTIES AND OTHER EMPLOYEES.—The clerk may appoint necessary deputies and employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such deputies and employees shall be subject to removal by the clerk.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 20 percent of such average annual salary, divided by the number of such children.

''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 40 percent of such average annual salary, divided by the number of such children.

''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

''(3) TERMINATION OF ANNUITY.—

''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

''(B) the amount of such salary deductions that were actually made before the date of the judge's death.

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''.

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

''(i) DETERMINATIONS BY CHIEF JUDGE.—

''(1) DEPENDENCY AND DISABILITY.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''.

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

''(m) COMPUTATION OF ANNUITIES.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based

upon the average annual salary received by such judge for judicial service.''.

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''.

SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.

SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(k) THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

''(i) retires under subsection (b), or

''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under subsection (a)(5) of that section shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

''(a) APPOINTMENT, TENURE, AND REMOVAL.—

''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

''(2) TREATMENT OF UNUSED LEAVE.—

''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is

deemed to have remained to the individual's credit.

''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

''(b) ELECTION.—

''(1) JUDGES.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

''(A) 6 months after the date of the enactment of this paragraph,

''(B) the date the judge takes office, or

''(C) the date the judge marries.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting ''**AND MAGISTRATE JUDGES**'' after ''**JUDGES**''.

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

(B) in the last sentence, by striking ''subsections (a)(6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

''(C) retired pay under section 7447, or

''(D) retired pay under section 7296 of title 38, United States Code.

''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

''(i) PAYMENTS PURSUANT TO COURT ORDER.—

''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

''(n) LUMP-SUM PAYMENTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

''(2) SPOUSES AND FORMER SPOUSES.—

''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

''(i) if the service covered thereby aggregates 1 year or less, or

''(ii) for the fractional part of a month in the total service.

''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(3) UNFUNDED LIABILITY.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

''(ii) the balance in the Fund as of the date the unfunded liability is determined.

''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay

for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 322. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

''(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

''(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

''(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

''(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

''Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking ''or'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', or'', and by inserting after paragraph (5) the following:

''(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.''.

SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking ''TREASURY.—Returns and return information'' and inserting ''TREASURY.—

''(A) IN GENERAL.—Returns and return information'', and

(2) by adding at the end the following new subparagraph:

''(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFYING NUMBER WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting ''(other than the taxpayer's identifying number)'' after ''Return information''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS AND OTHER AGENTS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

(1) by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

''(1) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new paragraphs:

''(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

''(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (2), see section 7431(i).''.

(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for—

''(1) the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, or

''(2) subject to the safeguards set forth in section 6103, for purposes permitted under section 6103,

shall be treated as a violation of section 6103(a).''.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 taxable years after such date of enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.''.

(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

''(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''.

(c) PAYMENT AUTHORITY CLARIFIED.—

(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

''(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.''.

(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH SECRETARY.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

''In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the Secretary.''.

(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

''(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

''(A) administrative investigations,

''(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

''(C) criminal prosecutions.''.

(c) EFFECTIVE DATES.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date of the enactment of this Act.

(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking ''or State law enforcement agency'' and inserting '', State, or local law enforcement agency''.

(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

(1) by striking ''(i)(3)(B)(i) or (7)(A)(ii)'' and inserting ''(i)(7)(A)(ii)'', and

(2) by striking '', (i)(3)(B)(i),''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking ''taxpayer identity information to the press and other media'' and by inserting ''a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State

officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting ''or any appropriate State officer who has or had access to returns or return information under section 6104(c)'' after ''this section'' in paragraph (2), and

(B) by striking ''or subsection (n)'' in paragraph (3) and inserting ''subsection (n), or section 6104(c)''.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18) or any appropriate State officer (as defined in section 6104(c))''.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS''.

(5) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(7) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. TREATMENT OF PUBLIC RECORDS.

(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

''(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

''(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

''(B) properly made part of the public record.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 412. INVESTIGATIVE DISCLOSURES.

(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) INVESTIGATIVE DISCLOSURES.—Nothing in this section may be construed to prohibit investigative agents of the Internal Revenue Service from identifying themselves, their organizational affiliation, and the criminal nature of an investigation when contacting third parties in writing or in person.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 413. TIN MATCHING.

(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

''(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a taxpayer identifying number (as described in section 6109) to the Secretary whether such information matches records maintained by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 414. FORM 8300 DISCLOSURES.

(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''(15),'' both places it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 415. TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

SEC. 501. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

''(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.''.

(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—Paragraph (2) of section 1(h) is amended by striking ''In the case of any taxable year beginning after December 31, 2000, the'' and inserting ''The''.

(3) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking ''(A) IN GENERAL.—In the case of taxable years beginning after 1995'' and moving the table 2 ems to the left.

(5) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

(6) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(7) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, clause'' and inserting ''Clause''.

(8) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking ''Effective with respect to taxable years beginning after December 31, 1992, this'' and inserting ''This''.

(9) INTANGIBLE DRILLING COSTS.—

(A) Clause (i) of section 57(a)(2)(E) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, this'' and inserting ''This''.

(B) Clause (ii) of section 57(a)(2)(E) is amended by striking ''(30 percent in the case of taxable years beginning in 1993)''.

(10) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

(A) in subsection (c)(4) by striking ''; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954'', and

(B) in subsection (g)(3) by striking ''January 1, 1954, or'' and '', whichever is later''.

(11) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking ''or (d)''.

(12) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking ''Effective on and after January 1, 1997, gross'' and inserting ''Gross''.

(13) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

(A) by striking ''(after June 24, 1950)'' in paragraph (2), and

(B) striking ''such zone;'' and all that follows in paragraph (3) and inserting ''such zone.''.

(14) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (A) by striking ''(A) IN GENERAL.—'' and moving the text 2 ems to the left.

(15) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking ''after December 31, 1965,''.

(16) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(17) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

(18) INTERIM AUTHORITY FOR GOVERNOR.—

(A) Section 146(e) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 42(h)(3)(F) is amended by striking ''(other than paragraph (2)(B) thereof)''.

(19) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

(20) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking ''For taxable years beginning after December 31, 1980, this'' and inserting ''This''.

(21) INTEREST.—

(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(22) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

(23) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

''(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

''(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and''.

(24) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(A) Section 172 is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively,

(ii) by striking subsection (g), and

(iii) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) is amended by striking ''subsection (b)(1)(E)'' each place it appears and inserting ''subsection (b)(1)(D)''.

(C) Section 172(i)(3) is amended by striking ''subsection (b)(1)(G)'' each place it appears and inserting ''subsection (b)(1)(F)''.

(D) Section 172(j) is amended by striking ''subsection (b)(1)(H)'' each place it appears and inserting ''subsection (b)(1)(G)''.

(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking ''subsection (h)'' each place it appears and inserting ''subsection (g)'', and

(iii) by striking ''subsection (i)'' each place it appears and inserting ''subsection (h)''.

(25) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

''(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.''.

(26) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking ''beginning after December 31, 1953''.

(27) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

''(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.''.

(28) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

(29) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) is amended to read as follows:

''(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''.

(C) Paragraph (1) of section 243(c) is amended to read as follows:

''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''.

(D) Section 243(d) is amended by striking paragraph (4).

(E) Section 246 is amended—

(i) by striking '', 244,'' in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears and inserting ''section 243(a)(1),'',

(II) by striking ''244(a),'' the second place it appears therein, and

(III) by striking ''subsection (a) or (b) of section 245, and 247,'' and inserting ''and subsection (a) or (b) of section 245,'', and

(iii) by striking '', 244,'' in subsection (c)(1).

(F) Section 246A is amended by striking '', 244,'' both places it appears in subsections (a) and (e).

(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking '', 244,'' each place it appears.

(H) Section 805(a)(4)(B) is amended by striking '', 244(a),'' each place it appears.

(I) Section 810(c)(2)(B) is amended by striking ''244 (relating to dividends on certain preferred stock of public utilities),''.

(30) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking ''beginning after December 31, 1953,'' and by striking the last sentence.

(31) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking '', in the case of bonds or other evidences of indebtedness issued after February 28, 1913,''.

(32) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking ''(or by reason of section 24(b) of the Internal Revenue Code of 1939)'' in paragraph (1), by striking ''after December 31, 1953,'' in paragraph (2), by striking the second sentence, and by striking ''or by reason of section 118 of the Internal Revenue Code of 1939'' in the last sentence.

(33) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking ''or acquired on or after October 8, 1940,''.

(34) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

(A) by striking ''after December 31, 1967,'' in subsection (a)(2),

(B) by striking ''after October 9, 1969,'' in subsection (b),

(C) by striking ''after October 9, 1969, and'' in subsection (d)(5), and

(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

(35) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking ''In the case of taxable years beginning after December 31, 1984, section'' and inserting ''Section''.

(36) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

(37) FUNDING STANDARDS.—Section 412(m)(4) is amended—

(A) by striking ''the applicable percentage'' in subparagraph (A) and inserting ''25 percent'', and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(38) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

''(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).''.

(39) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking ''after December 31, 1963,''.

(40) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

(A) by striking ''any farming syndicate (as defined in subsection (c))'' both places it appears in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (f) applies'', and

(B) by striking subsection (g).

(41) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

(A) Paragraph (3) of section 465(c) is amended by striking ''In the case of taxable years beginning after December 31, 1978, this'' and inserting ''This''.

(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking ''beginning after December 31, 1978''.

(42) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

(A) by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at a rate of 20 percent'', and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(43) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 is amended by striking subsection (m).

(B) Subsection (b) of section 58 is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(44) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

(45) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (p).

(46) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) is amended to read as follows:

''(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(a) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.''.

(B) Paragraph (2) of section 503(a) is amended by striking ''described in section 501(c)(17) or (18) or paragraph (a)(1)(B)'' and inserting ''described in paragraph (1)''.

(C) Subsection (c) of section 503 is amended by striking ''described in section 501(c)(17) or (18) or subsection (a)(1)(B)'' and inserting ''described in subsection (a)(1)''.

(47) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking ''after December 31, 1953, and''.

(48) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking ''after June 24, 1950''.

(49) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) is amended by striking ''of taxable years beginning after December 31, 1966,''.

(B) Section 832(e)(6) is amended by striking ''In the case of any taxable year beginning after December 31, 1970, the'' and by inserting ''The''.

(50) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

''(B) gains described in subsection (b) or (c) of section 631,''.

(51) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

(52) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(53) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(54) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 is amended by striking ''(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)''.

(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 is repealed.

(55) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking ''beginning after December 31, 1981''.

(56) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

(B) by striking ''(d)'' in subsection (b) and inserting ''(c)''.

(57) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking ''after November 19, 1951,''.

(58) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking ''after December 31, 1962,''.

(59) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking ''after December 31, 1969,'' both places it appears.

(60) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

''(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

''(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

''(A) an amount equal to the original issue discount, or

''(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

''(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

''(3) CROSS REFERENCE.—

''For current inclusion of original issue discount, see section 1272.''.

(61) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(62) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking ''unless'' and all that follows and inserting ''unless the corporation was an S corporation for such taxable year.''.

(63) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''12.4 percent of the amount of the self-employment income for such taxable year.''.

(64) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''2.9 percent of the amount of the self-employment income for such taxable year.''.

(65) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking ''whichever of the following dates is later: (A)'' and by striking ''; or (B)'' and all that follows and by inserting a period.

(66) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking ''gains subject to tax'' and all that follows through ''October 4, 1966'' and inserting ''and gains subject to tax under section 871(a)(1)(D)''.

(67) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking ''for a taxable year which includes any period after December 31, 1984'' in clause (i) and by striking ''in a taxable year beginning after December 31, 1984'' in clause (ii).

(68) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Section 1551(b) is amended—

(i) by striking ''or (2)'' in paragraph (1), and

(ii) by striking ''(a)(3)'' in paragraph (2) and inserting ''(a)(2)''.

(69) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

(70) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) is amended by striking ''subsection—'' and all that follows through ''(A) IN GENERAL.—'', by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

(71) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

(72) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

''(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.''.

(73) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

(A) in paragraph (1) by striking subparagraph (C), and

(B) by striking paragraph (5).

(74) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

(A) by striking subsection (f)(2)(D),

(B) in subsection (g)(2)(A) by striking ''For all taxable years beginning on or after January 1, 1975, subject'' and inserting ''Subject'',

(C) in subsection (g) by striking paragraph (4), and

(D) in subsection (i)(2) by striking ''beginning after December 31, 1969, and''.

(75) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking ''(excluding therefrom any preceding taxable year which begins before January 1, 1970)''.

(76) RETURNS.—Subsection (a) of section 6039D is amended by striking ''beginning after December 31, 1984,''.

(77) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking ''year'' and all that follows and inserting ''year.''.

(78) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

(79) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking ''(or the corresponding provisions of prior law)''.

(80) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'', and inserting ''at 3 percent per annum''.

(81) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) is amended by striking ''or under section 1106 of the Internal Revenue Code of 1939'' and by striking ''or pursuant to section 1106(d) of the Internal Revenue Code of 1939''.

(B) Subsection (g) of section 7448 is amended by striking ''or other than pursuant to section 1106 of the Internal Revenue Code of 1939''.

(C) Subsection (j)(1) and (j)(2) of section 7448 are each amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'' and inserting ''at 3 percent per annum''.

(82) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking ''any nonqualified withdrawal'' and all that follows through ''shall be determined'' and inserting ''any nonqualified withdrawal shall be determined''.

(83) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

(A) by striking ''Not later than December 31, 1989, the'' and inserting ''The'', and

(B) by striking ''thereafter'' in the last sentence thereof.

(84) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(85) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking ''chapter 21'' and all that follows and inserting ''chapter 21.''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment, nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

TAX ADMINISTRATION GOOD GOVERNMENT ACT

INTRODUCED APRIL 10, 2003

I. IMPROVE TAX ADMINISTRATION AND ESTABLISH TAXPAYER SAFEGUARDS

Collection

Waiver of user fee for installment agreements using automated withdrawals. The IRS imposes a $43 user fee on taxpayers entering into an installment agreement. The proposal would waive the user fee if the taxpayer agrees to automated withdrawal of installment payments from a bank account. This proposal will help facilitate collection through automated withdrawals.

Authorize partial pay installment agreements. The proposal restores authority that the IRS had prior to 1998 to allow IRS to enter into installment agreements with taxpayers that want to resolve their tax liability but cannot afford to make payments large enough to fully pay the liability at the end of the term of the installment agreement. The proposal would permit the collection of taxes from cases that are otherwise placed in the currently not collectible inventory.

Terminate installment agreements for failure to file returns and failure to make tax deposits. The proposal would stop the downward spiral where taxpayers owe more and the Government collects less. Although a significant number of taxpayers violate the terms of their installment agreements by failing to timely file their tax returns or make required Federal tax deposits, the IRS is not permitted to terminate installment agreements for these reasons.

Remove $50,000 threshold requirement for office of chief counsel review of offers in compromise—IRC section 7122(b). The proposal would remove the dollar threshold and give IRS discretion in determining when a Chief Counsel opinion is necessary. IRS attorneys are presently required to review offers where the tax assessed, including penalties and interest, exceeds $50,000. As a practical matter, IRS lawyer offer little in the way of review and often contribute to the delay in processing OICs.

Seven-day threshold on tolling of statute of limitations during National Taxpayer Advocate review. The proposal provides additional time, without tolling the statute of limitations, for review by the National Taxpayer Advocate for taxpayer assistance orders.

Increase Penalty for Bad Checks. Proposal would increase penalty for bad checks to $20 or 2 % of amount over $1,000.

Allow the Financial Management Service to Retain Transaction Fees from Levied Amounts. Proposal would allow FMS to retain directly a portion of the levied funds as payment of FMS fees. A delinquent taxpayer, however, would receive full credit for the amount levied upon (i.e., the amount credited to a taxpayer's account would not be reduced by FMS's fee). The IRS pays FMS fees out of its own appropriations. The proposal would alter internal government accounting and allow the use of appropriated funds to administer the tax system.

Elimination or Restriction on Offsetting Refunds from former residents. The proposal would allow States to offset Federal tax refunds owed by former residents. In 1998, Congress authorized the state refund offset program. However, the provision did not authorize states to offset Federal tax refunds for State tax debts owed by former residents who had subsequently moved to another State. Former residents have the same safeguards as residents in these situations and there is strong precedence that clearly gives States authority to impose and collect taxes on former residents.

Processing and Personnel

Explanation of Statute of Limitations and Consequences of Failure to Timely File. The proposal would require the IRS to provide taxpayers with an explanation of the consequences of failing to timely file refund claims.

Disclosure of tax information to facilitate combined employment tax reporting. The proposal would expand and make permanent the disclosure authority of the IRS to permit disclosures of name, address, taxpayer identification number, and signature to any State entity for purposes of carrying out a combined federal and state employment tax reporting program. Under current law, no tax information may be furnished by the Internal Revenue Service to another agency except as permitted under section 6103 which requires the other agency to establish procedural safeguards satisfactory to the IRS. A pilot program was established in 1997 in the State of Montana to assess the feasibility and desirability of expanding combined reporting. Reports from Montana were very positive about the program.

Expansion of declaratory judgment remedy to tax-exempt organizations. The proposal would extend declaratory judgment procedures similar to those currently available only to charities under section 7428 to other section 501(c) determinations. The proposal would limit jurisdiction over controversies involving such determinations to the United States Tax Court. In addition, the proposal would modify the present-law declaratory judgment procedures to provide that an organization is deemed to have exhausted its administrative remedies under the declaratory judgment procedures at the expiration of (1) 270 days after the date on which the request for a determination was made, or (2) in the case of a failure by any office of the IRS to make a determination (other than the office responsible for initial determinations with respect to the issue), 450 days after the date on which the request for a determination was made. The proposal would also require the organization to take, in a timely manner, all reasonable steps to secure such determination.

Amendment to Treasury auction reforms. The proposal would permit earlier disclosure upon the release by the Secretary of the minutes of the meeting. Under current law, members of the Treasury Borrowing Advisory Committee are prohibited from disclosing anything relating to the securities to be auctioned in a midquarter refunding by the Secretary until the Secretary makes a public announcement of the refunding.

Revisions relating to termination of employment of IRS employee misconduct. Proposal would modify section 1203 by removing the late filing of refund returns from the list of violations and removing employee versus employee acts (i.e. for violation of an employee's rather than a taxpayer's Constitutional or civil rights) from the list of violations.

IRS Oversight Board approval of use of critical pay authority. The proposal would require IRS Oversight Board review and approve the use of critical pay authority. Critical pay allows the IRS to hire employees critical to the mission of the IRS as well as allow the IRS to hire up to 40 individuals for four year terms under streamlined procedures.

Low-income taxpayer clinics. The proposal would increase the authorization for low-income taxpayer controversy clinics to $10 million and authorize a similar grant program for low-income taxpayer preparation clinics for $10 million. The proposal would specify that grants may not be used for any purpose other than those specified in the Code (this restriction would be inapplicable to funds from other sources). The proposal would also authorize the IRS to promote the benefits and encourage the use of low-income taxpayer clinics.

Enrolled agents. The proposal would add a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation ''enrolled agent'', ''EA'', or ''E.A.''.

Establishment of disaster response team. Proposal would require the IRS to establish a permanent Disaster Response Team which, in coordination with the Federal Emergency Management Agency, is to assist taxpayers in clarifying and resolving tax matters associated with a Presidentially declared disaster or a terroristic or military action. The Team is to be staffed by IRS employees with a relevant knowledge and experience, including a representative from the Office of the Taxpayer Advocate.

Accelerated tax refunds. Proposal would require the Secretary of Treasury to study and report to the tax writing committees on options to accelerate tax refunds for taxpayers who maintain the same filing characteristics and elect the direct option for any refund.

Study on clarifying record-keeping responsibilities. The proposal would require the Secretary of the Treasury to study the scope of records required to be maintained by taxpayers, the utility of requiring taxpayers to maintain records indefinitely, the taxpayer burden incurred by such requirement given the necessity to upgrade technological storage for outdated records, the number of negotiated records retention agreements requested by taxpayers and the number entered into by the IRS, and proposals regarding taxpayer record-keeping. Under current law, every person liable for any tax imposed by the Code, or for any collection thereof, shall keep such records as the Secretary of the Treasury may from time to time prescribe.

Streamline National Taxpayer Advocate Annual Reports. Each year, the National Taxpayer Advocate is required to issue two reports to Congress: (1) an annual report on

objectives of the Advocate for the year due June 30 and (2) an annual report on the Advocate's activities including the 20 most serious problems confronting taxpayers. The Advocate's office spends an enormous amount of time and effort preparing these reports. The proposal would streamline the reporting process by requiring the Advocate to issue only one report each year.

Penalty on failure to report interests in foreign financial accounts. The proposal would establish a $5,000 penalty for non-willful failure to report interest in foreign bank accounts. Under present law there is only a penalty of $25,000 for willful failures.

Repeal of personal holding company tax. The proposal would repeal the personal holding company (PHC) tax. Subsequent changes in the tax code resulted in the provisions ineffectiveness as originally intended.

II. SIMPLIFICATION OF INTEREST AND PENALTY REGIMES

Individual estimated tax. The proposal simplifies the individual estmated tax penalty including, increase the penalty threshold for individuals to $2,000 from $1,000; apply one interest rate per estimated tax underpayment; and adopt 365-day year.

Corporate estimated tax. The proposal simplifies the corporate estimated tax penalty by increasing the exception for small amount of tax shown on the return from less than $500 to less than $1,000.

Increase in large corporation threshold for estimated tax payments. The proposal simplifies the corporate estimated tax by expanding the safe harbor exception used by small corporations by increasing the threshold from $1 million to $1.5 million of taxable income.

Expansion of interest abatement. The proposal would: (1) expand the circumstances in which interest may be abated to include periods attributable to any unreasonable IRS error or delay and (2) allow the abatement of interest to the extent interest is attributable to the taxpayer's reliance on written statement by the IRS.

Deposits made to stop the running of interest. Proposal would permit deposits to be made to an interest bearing account within Treasury to cover tax underpayments related to issues potentially subject to dispute with the IRS.

Freeze provision regarding suspension of interest where Secretary fails to contact taxpayer. The proposal would repeal current law which requires the suspension of interest on taxes owed until 21 days after the IRS sends a notice of deficiency. The suspension is triggered if the IRS fails to contact the taxpayer within 1 year for taxable years after January 1, 2004 or 18 months for taxable years before January 1, 2004. The proposal is unnecessary with expanded interest abatement.

Expansion of interest netting. Applies interest netting rules without regard to the 45-day period in which the Secretary may refund an overpayment of tax without the payment of interest.

Clarification of application of Federal tax deposit penalty. The proposal would clarify that the 10 percent penalty rate only applies in cases where the failure to deposit extends for more than 15 days.

Frivolous tax submissions. The proposal would increase the penalty for frivolous tax returns from $500 to $5,000. In addition, the proposal would permit the IRS to dismiss requests for Collection Due Process hearings, installment agreements, offers-in-compromise, and taxpayer assistance orders if they are based on frivolous arguments or are intended to delay or impede tax administration. Individuals submitting such requests are subject to a $5,000 penalty for repeat behavior or failure to withdraw the request after being given the opportunity to do so.

III. U.S. TAX COURT MODERNIZATION

Jurisdiction of Tax Court over collection due process cases. Currently, if a taxpayer's underlying tax liability does not relate to income taxes or a type of tax over which the Tax Court normally has deficiency jurisdiction, there is no opportunity for Tax Court review and the taxpayer must file in a District Court to obtain review. This provision consolidates judicial review of collection due process activity in the Tax Court.

Authority for special trial judges to hear and decide certain employment status cases. This provision clarifies that the Tax Court may authorize its special trial judges to enter decisions in employment status cases that are subject to small case proceedings under section 7436(c).

Confirmation of authority of Tax Court to apply doctrine of equitable recoupment. The common-law principle of equitable recoupment permits a party to asset an otherwise time-barred claim to reduce or defeat an opponent's claim if both claims arise from the same transaction. This provision confirms statutorily that the Tax Court may apply equitable recoupment principles to the same extent as District Court and the Court of Federal Claims.

Tax Court filing fee in all cases commenced by filing petition. This provision clarifies, in keeping with current Tax Court procedure, that the Tax Court is authorized to impose a $60 filing fee for all cases commenced by petition. The proposal would eliminate the need to amend section 7451 each time the Tax Court is granted new jurisdiction.

Amendments to appoint employees. Currently, the Tax Court has to go to the executive branch, the Office of Personnel Management, to change a position. It is inappropriate to require the Tax Court to seek permission from the executive since that branch is a party (Commissioner of Internal Revenue) before the Tax Court. This change would allow the Tax Court to be independent in fact and perception from the Executive Branch while ensuring that basic employee rights, protections, and remedies are retained or required in an appropriate way (e.g., whistleblower protection, civil rights, merit system principles, etc.).

Expanded use of Tax Court practice fee for pro se taxpayers. The Tax Court is authorized to charge practitioners a fee of up to $30 per year and to use these fees to pursue disciplinary matters. The provision expands use of these fees to provide services to pro se taxpayers. Fees could be used for education programs for pro se taxpayers.

Annuities for survivors of Tax Court judges who are assassinated. The reality is that many people do not like to pay taxes. there is as much risk of a Tax Court judge being assassinated as any other Federal judge. The proposal would conform the treatment of Tax Court judges to District Court judges.

Cost-of-living adjustments for Tax Court judicial survivor annuities. All Federal employees have this provision except the Tax Court. Survivors of Tax Court judges are subject to an obsolete method of indexing.

Life insurance coverage for Tax Court judges. This simply codifies current Office of Personnel Management interpretation, as was previously done for District Court judges.

Cost of life insurance coverage for Tax Court judges age 65 or over. Congress established the Tax Court in 1969 and required that Tax Court judges receive the same compensation as District Court judges. The District Court judges were given this benefit to ensure that there was no diminution of their compensation (as required by the Constitution). This provision is in keeping with the original intent of Congress.

Modification of timing of lump-sum payment of judge's accrued annual leave. District Court judges are allowed to receive a lump-sum payment due to the life-time tenure of Article III judges. Tax Court judges, while they have a 15 year term, effectively have a life-time term because they are always subject to recall.

Participation of Tax Court judges in the Thrift Savings Plan. The proposal would allow Tax Court judges to participate in Thrift Savings Plan. Currently, only 19 federal government employees are left out of the Thrift Savings Plan (i.e., Tax Court judges).

Exemption of teaching compensation of retired judges for limitation on outside earned income. After retirement, Tax Court judges should have the same ability to teach as District Court judges.

General provisions relating to magistrate judges of the Tax Court. ''Magistrate'' is more recognizable to the American public because it is the term used by Article III courts. The provision changes the term ''Special Trial Judge'' to ''Magistrate Judge of the United States Tax Court'' and provides for alignment of term of office and removal applicable to District Court magistrate judges.

Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court. This section gives Magistrates/Special Trial Judges the same advantages as Tax Court judges, thus ensuring a greater pool of participants in the fund.

Retirement and annuity program for magistrate judges. A retirement and annuity program more aligned with District Court Magistrates and the Tax Court judges is key for attracting and retaining qualified judges.

Incumbent magistrate judges of the Tax Court. The provision provides transition rules similar to those given to the District Court magistrate judges.

Provisions for recall. Article III judges are ''self-recalling'' (i.e., they decide for themselves whether they are recalled or not). In contrast, Tax Court judges are subject to provisions that authorize mandatory recall by the Chief Judge. These provisions authorize the recall of Magistrates/Special Trial judges in a manner similar to those now applicable to the regular judges of the Court.

IV. CONFIDENTIALITY AND DISCLOSURE REFORMS

Clarification of definition of church tax inquiry. The proposal would clarify that the present-law church tax inquiry procedures do not apply to contacts made by the IRS for the purpose of educating churches with respect to the law governing tax-exempt organizations. For example, the proposal clarifies that the IRS does not violate the church tax inquiry procedures when written materials are provided to a church or churches for the purpose of educating such church or churches with respect to the types of activities that are not permissible under section 501(c)(3).

Collection activities with respect to joint return disclosable to either spouse based on oral request. The proposal would eliminate the requirement for former spouses to make a written request for disclosure of collection activities with respect to a joint return. Under present law, section 6103(e)(7) permits the IRS to disclose return information to the same persons who may have access to a return under the other provisions of section 6103(e), thus either spouse may obtain return information regarding a joint return upon oral request.

Taxpayer representatives not subject to examination on sole basis of representation of taxpayers. The proposal would clarify that

an IRS employee conducting an examination of a taxpayer is not authorized to inspect a taxpayer representative's return or return information solely on the basis of the representative relationship to the taxpayer. Under the proposal, the supervisor of the IRS employee would be required to approve such inspection after making a determination that other grounds justified such an inspection. The proposal would not affect the ability of employees of the IRS Director of Professional Responsibility, or other employees whose assigned duties concern the regulation of practice before the IRS, to access returns and return information of a representative.

Prohibition of disclosure of taxpayer identifying number with respect to disclosure of accepted offers-in-compromise. The proposal would prohibit the disclosure of the taxpayer identification number as part of the publicly available summaries of accepted offers in compromise.

Compliance by contractors with confidentiality safeguards. The proposal would require that a State or Federal agency conduct on-site reviews of all of its contractors receiving Federal returns and return information every three years. This review is intended to cover secure storage, restricting access, computer security, and other safeguards deemed appropriate by the Secretary. Under the proposal, the State or Federal agency would be required to submit a report of its findings to the IRS and certify annually that all contractors are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information.

Higher standards for requests for and consents to disclosure. The proposal would render invalid a consent that does not designate a recipient or is not dated at the time of execution. The person submitting the consent to the IRS would be required to verify under penalties of perjury that the form was complete and dated at the time it was signed by the taxpayer. Inspection or disclosure of a return or return information pursuant to an invalid consent would be unauthorized under section 6103. Thus, a person making such unauthorized disclosure or inspection could be liable for civil damages under section 7431, and criminal penalties under section 7213 or 7213A for willful unauthorized disclosure or inspection.

Civil damages for unauthorized inspection or disclosure. The proposal would require the IRS to notify a taxpayer at the point of proposed administrative action as to disciplinary or adverse action against an employee arising from the unauthorized inspection or disclosure of the taxpayer's return or return information.

Expanded disclosure in emergency circumstances. The proposal would permit disclosure to local law enforcement authorities emergency situations including suicide threats.

Disclosure of taxpayer identity for tax refund purposes.—On April 15, 2002, about 1.7 million people who did not file their 1998 income tax return who lose more than $2.3 billion in tax refunds. When the IRS is unable to find a taxpayer due a refund, present law provides that it may use ''the press or other media'' to notify the taxpayer of the refund. The IRS believes the current statutory framework in Section 6103(m) does not permit disclosure via the Internet. The proposal would allow the IRS to use any means of ''mass communicating,'' including the Internet to notify a taxpayer of an undelivered refund.

Disclosure to State officials of proposed actions related to section 501(c) organizations. The proposal provides that upon written request by an appropriate State officer, the Secretary may disclose: (1) a notice of proposed refusal to recognize an organization as a section 501(c)(3) organization; (2) a notice of proposed revocation of tax-exemption of a section 501(c)(3) organization; (3) the issuance of a proposed deficiency of tax imposed under section 507, chapter 41, or chapter 42; (4) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as section 501(c)(3) organizations; and (5) returns and return information of organizations with respect to which information has been disclosed under (1) through (4) above. Disclosure or inspection is permitted for the purpose of, and only to the extent necessary in, the administration of State laws regulating section 501(c)(3) organizations, such as laws regulating tax-exempt status, charitable trusts, charitable solicitation, and fraud.

Treatment of public records. The proposal clarifies that public record data (e.g., press releases re criminal cases) does not retain 6103 protections in the files of the IRS.

Investigative disclosures. The proposal permits the IRS Criminal Investigation agents to identify themselves, organizational affiliation, and criminal nature of investigation when contacting third parties in writing or in person.

TIN matching. The proposal permits taxpayer identification number (TIN) verification by persons required to provide the information to the IRS (limited to whether information matches) to permit early error resolution and enhance compliance. Under present law, over 30 million information returns are received by the IRS from payors that contain missing or incorrect name and TIN information. However, the IRS is only permitted to disclose the error to the payor at the point at which the payment is subject to backup withholding.

Form 8300 disclosures. The proposal ensures that the Form 8300 (for reporting transactions in excess of $10,000) can be disclosed to law enforcement in the same manner as financial reporting documents required under the Bank Secrecy Act (under Title 31).

V. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

1. Adjustments in tax tables so that inflation will not result in tax increases. Paragraph (7) of section 1(f) is amended to read as follows: ''(7) Special rule for certain brackets—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent bracket begins or at which the 39.6 rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.''

2. Reduced capital gain rates for qualified 5-year gain. Paragraph (2) of section 1(h) is amended by striking ''In the case of taxable years beginning after December 31, 2000, the'' and inserting ''The''.

3. Credit for producing fuel from nonconventional source. Section 29 is amended by striking subsection (e).

4. Earned income credit. Paragraph (1) of section 32(b) is amended by striking subparagraphs (B) and (C) and by striking ''(A) In General. In the case of taxable years beginning after 1995:''.

5. General business credits. Subsection (d) of section 38 is amended by striking paragraph (3).

6. Carryback and carryforward of unused credits. Section 39 is amended by striking subsection (d).

7. Adjustments based on adjusted current earnings. Clause (ii) of section 56(g)(4)(F) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, clause'' and inserting ''Clause''.

8. Items of tax preference; Depletion. Paragraph (1) of section 57(a) is amended by striking ''Effective with respect to taxable years beginning after December 31, 1992, this'' and inserting ''This''.

9. Intangible drilling costs. Clause (i) of section 57(a)(E) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, this'' and inserting ''This''. Clause (ii) of section 57(a)(2)(E) is amended by striking ''(30 percent in the case of taxable years beginning in 1993''.

10. Annuities; certain proceeds of endowment and life insurance contracts. Paragraph (4) of section 72(c) is amended by striking ''under the contract'' and all that follows and inserting'' under the contract.'' Paragraph (3) of section 72(g) is amended by striking ''January 1, 1954, or''.

11. Accident and health plans. Section 105(f) is amended by striking ''or (d)''.

12. Flexible spending arrangements. Section 106(c)(1) is amended by striking ''Effective on and after January 1, 1997, gross'' and inserting ''Gross''.

13. Certain combat zone compensation of members of the Armed Forces. Subsection (c) of section 112 is amended by striking ''(after June 24, 1950)'' in paragraph (2), and striking ''such zone,'' and all that follows in paragraph (3) and inserting ''such zone.''

14. Principal residence. Section 121(b)(3) is amended by striking subparagraph (B).

15. Certain reduced uniformed services retirement pay. Section 112(b)(1) is amended by striking ''after December 31, 1965,''.

16. Great plains conservation program. Section 126(a) is amended by striking paragraph (6).

17. Mortgage revenue bonds—Federal disaster area modifications. Eliminate special qualified mortgage bond rules or residences located in Federal disaster areas. (utility expired January 1, 1999).

18. Interim authority for governors regarding allocation of private activity bond volume limits. Eliminate temporary gubernatorial authority to allocate the volume limit.

19. Treble damage payments under the antitrust law. Section 162(g) is amended by striking the last sentence.

20. State legislators' travel expenses away from home. Paragraph (4) of section 162(h) is amended by striking ''For taxable years beginning after December 31, 1980, this'' and inserting ''This''.

21. Interest. Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) of subsection (h). Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii) respectively.

22. Charitable, etc., contributions and gifts. Section 170 is amended by striking subsection (k).

23. Amortizable bond premium. Subparagraph (B) of section 171(b)(1) is amended to read as follows:

''(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

''(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period to earlier call date, with reference to the amount payable on earlier call date), and''

24. Net operating loss carrybacks and carryovers. Section 172 is amended by striking subparagraph (D) of subsection (b)(1), subsection (g), and subparagraph (F) of the paragraph (h)(2).

25. Research and experimental expenditures. Subparagraph (A) of section 174(a)(2) is amended to read as follows: ''(A) Without

consent.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (l) are paid or incurred.''

26. Amortization of certain research and experimental expenditures. Paragraph (2) of section 174(b)(2) is amended by striking ''beginning after December 31, 1953''.

27. Soil and water conservation expenditures. Paragraph (1) of section 175(d) is amended to read as follows: ''(1) Without consent.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.''

28. Activities not engaged in for profit. Section 183(e)(1) is amended by striking the last sentence.

29. Dividends received on certain preferred stock; and Dividends paid on certain preferred stock of public utilities. Sections 244 and 247 are repealed. Paragraph (5) of section 172(d) is amended to read as follows:

''(5) Computation of deduction for dividends received. The deductions allowed by section 243 and 245 shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''

Paragraph (1) of section 243(c) is amended to read as follows:

''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''

Section 243(d) is amended by striking paragraph (4).

Section 246 is amended—

(i) by striking '', 244,'' in subsection (a)(1),

(ii) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears in subsection (b)(1) and inserting ''section 243(a)(1),'' and by striking ''244(a),'' the second place it appears therein, and

(iii) by striking in subsection (c)(1).

Section 246A is amended by striking ''244'' in subsections (a) and (e).

Sections 277(a), 301(e), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking '', 244,'' each place it appears.

Section 805(a)(4)(B) is amended by striking '', 244(a),'' each place it appears.

Section 810(c)(2) is amended by striking ''244 (relating to dividends on certain preferred stock of public utilities),''.

30. Organization expenses. Section 248(c) is amended by striking ''beginning after December 31, 1953,'' and by striking the last sentence.

31. Bond repurchase premium. Section 249(b)(1) is amended by striking '', in the case of bonds or other evidences of indebtedness issued after February 28, 1913,''.

32. Amount of gain where loss previously disallowed. Section 267(d) is amended by striking ''(or by reason of section 24(b) of the Internal Revenue Code of 1939)'' in paragraph (1), by striking ''after December 31, 1953,'' in paragraph (2), by striking the second sentence, and by striking ''or by reason of section 118 of the Internal Revenue Code of 1939'' in the last sentence.

33. Acquisitions made to evade or avoid income tax. Paragraphs (1) and (2) of section 269 are each amended by striking ''or acquired on or after October 8, 1940,''.

34. Interest on indebtedness incurred by corporations to acquire stock or assets of another corporation. Section 279 is amended—(A) by striking ''after December 31, 1967,'' in subsection (a)(2), (B) by striking ''after October 9, 1969,'' in subsections (b), (C) by striking ''after October 9, 1969, and'', and (D) by striking subsection (i) and redesignating subsection (j) as subsection (i).

35. Special rules relating to corporate preference items. Paragraph (4) of section 291(a) is amended by striking ''In the case of taxable years beginning after December 31, 1984, section'' and inserting ''Section''.

36. Qualifications for tax credit employee stock ownership plan. Section 409 is amended by striking subsections (a), (g), and (p).

37. Funding standards. Section 412(m)(4) is amended by striking ''the applicable percentage'' in subparagraph (A) and by inserting ''25 percent'', and by striking subparagraph (C).

38. Retiree health accounts. Section 420 is amended by striking subsections (b)(4) and (c)(2)(B).

39. Employee stock purchase plans. Section 423(a) is amended by striking ''after December 31, 1963,''.

40. Limitation on deductions for certain farming. Section 464 is amended by striking ''any farming syndicate (as defined in subsection (c))'' in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (f) applies'', and by striking subsections (c) and (g).

41. Deductions limited to amount at risk. Paragraph (3) of section 465(c)(3) is amended by striking ''In the case of taxable years beginning after December 31, 1978, this'' and inserting ''This''. Paragraph (2) of section 465(e)(2)(A) is amended by striking ''beginning after December 31, 1978''.

42. Nuclear decommissioning costs. Section 468A(e)(2) is amended by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at a rate of 20 percent'', and by striking subparagraph (B).

43. Passive activity losses and credits limited. Section 469 is amended by striking subsection (m). Subsection (b) of section 58 is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

44. Adjustments required by changes in method of accounting. Section 481(b)(3) is amended by striking subparagraph (C).

45. Exemption from tax on corporations, certain trusts, etc. Section 501 is amended by striking subsection (p).

46. Requirements for exemption. Section 503(a)(1) is amended to read as follows: ''(1) General rule.—An organization described in paragraph (17) or (18) of section 501(a) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.'' Paragraph (2) of section 503(a) is amended by striking ''described in section 501(c)(17) or (18) or paragraph (a)(1)(B)'' and inserting ''described in paragraph (1)''. Subsection (c) of section 503 is amended by striking ''described in section 501(c)(17) or (18) or subsection (a)(1)(B)'' and inserting ''described in subsection (a)(1)''.

47. Amounts received by surviving annuitant under joint and survivor annuity contract. Subparagraph (A) of section 691(d)(1) is amended by striking ''after December 31, 1953, and''.

48. Income taxes of members of Armed Forces on death. Section 692(a)(1) is amended by striking ''after June 24, 1950''.

49. Insurance company taxable income. Section 832(e)(1) is amended by striking ''of taxable years beginning after December 31, 1966,'' Section 832(e)(6) is amended by striking ''In the case of any taxable year beginning after December 31, 1970, the'' and by inserting ''The''.

50. Tax on nonresident alien individuals. Subparagraph (B) of section 871(a)(1) is amended to read as follows: ''(B) gains described in section 631(b) or (c),''.

51. Property on which lessee has made improvements. Section 1019 is amended by striking the last sentence.

52. Involuntary conversion. Section 1033 is amended by striking subsection (j).

53. Property acquired during affiliation. Section 1051 is repealed.

54. Holding period of property. Paragraphs (5) of section 1223 is amended by striking ''(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)''. Paragraph (7) of section 1223 is amended by striking the last sentence. Paragraph (9) of section 1223 is repealed.

55. Property used in the trade or business and involuntary conversions. Paragraph (2) of section 1231(c) is amended by striking ''beginning after December 31, 1981''.

56. Sale or exchange of patents. Section 1235 is amended by striking subsection (c) and redesignating subsections (d) and (e) as (c) and (d) respectively.

57. Dealers in securities. Subsection (b) of section 1236 is amended by striking ''after November 19, 1951,''.

58. Sale of patents. Subsection (a) of section 1249 is amended by striking ''after December 31, 1962,''.

59. Gain from disposition of farm land. Subparagraph (a) of section 1252 is amended by striking ''after December 31, 1969,''.

60. Treatment of amounts received on retirement or sale or exchange of debt instruments. Subsection (c) of section 1271 is amended by striking paragraph (1).

61. Amount and method of adjustment. Section 1314 is amended by striking subsection (d).

62. Election; revocation; termination. Clause (iii) of section 1362(d)(3) is amended by striking ''unless'' and all that follows and inserting ''unless the corporation was an S corporation for such taxable year.''

63. Old-age, survivors, and disability insurance. Subsection (a) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''12.4 percent of the amount of the self-employment income for such taxable year.''

64. Hospital insurance. Subsection (b) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''2.9 percent of the amount of the self-employment income for such taxable year.''

65. Ministers, members of religious orders, and Christian Science practitioners. Paragraph (3) of section 1402(e) is amended by striking ''whichever of the following dates is later: (A)'' and by striking ''; or (B)'' and all that follows and by inserting a period.

66. Withholding of tax on nonresident aliens. The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking the ''gains subject to tax'' and all that follows through ''October 4, 1966'' and inserting ''and gains subject to tax under section 871(a)(1)(D)''

67. Affiliated group defined. Subparagraph (A) of section 1504(a)(3) is amended by striking ''for a taxable year which includes any period after December 31, 1984'' in clause (i) and by striking ''in a taxable year beginning after December 31, 1984'' in clause (ii).

68. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit. Subsection (a) of section 1551 is amended—

(1) by striking paragraph (1) and designating paragraphs (2) and (3) as (1) and (2) respectively, and

(2) by striking ''(2) or (3)'' and inserting ''(1) or (2)''.

Subsection (b) of section 1551 is amended by striking ''or (2)''.

69. Definition of wages. Section 3121(b) is amended by striking paragraph (17).

70. Credits against tax. Section 3302(f) is amended by striking paragraphs (4)(B) and (5)(D).

71. Domestic service employment taxes. Section 3510(b) is amended by striking paragraph (4).

72. Tax on fuel used in commercial transportation on inland waterways. Section 4042(b)(2)(A) is amended to read as follows: ''(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.''

73. Transportation by air. Section 4261(e) is amended by striking paragraphs (1)(C) and (5).

74. Taxes on failure to distribute income. Section 4942 is amended—

(1) by striking subsection (f)(2)(D),

(2) by striking ''For all taxable years beginning on or after January 1, 1975, subject'' and inserting ''Subject'' in subsection (g)(2)(A),

(3) by striking subsection (g)(4), and

(4) by striking ''after December 31, 1969, and'' in subsection (i)(2).

75. Taxes on taxable expenditures. Section 4945(f) is amended by striking ''(excluding therefrom any preceding taxable year which begins before January 1, 1970)''.

76. Returns. Subsection (a) of section 6039D is amended by striking ''beginning after December 31, 1984,''

77. Information returns. Subsection (c) of section 6060 is amended by striking ''year'' and all that follows and inserting ''year.''.

78. Abatements. Section 6404(f) is amended by striking paragraph (3).

79. Failure by corporation to pay estimated income tax. Clause (i) of section 6655(g)(4)(A) is amended by striking ''(or the corresponding provisions of prior law)''.

80. Retirement. Section 7447(i)(3)(B)(ii) is amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'', and inserting ''at 3 percent per annum''.

81. Annuities to surviving spouses and dependent children of judges. Paragraph (2) of section 7448(a) is amended by striking ''or under section 1106 of the Internal Revenue Code of 1939''.

Subsectin (g) of section 7448 is amended by striking ''or other than pursuant to section 106 of the Internal Revenue Code of 1939''.

Subsection (j)(1)(B) and (j)(2) of section 7448 are each amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'' and inserting ''at 3 percent per annum''.

82. Merchant Marine capital construction funds. Paragraph (4) of section 7518(g) is amended by striking ''any nonqualified withdrawal'' and all that follows through ''shall be determined'' and inserting ''any nonqualified withdrawal shall be determined''.

83. Valuation tables. Paragraph (3) of section 7520(c) is amended by striking ''not later than December 31, 1989, the'' and inserting ''The''.

84. Administration and collection of taxes in possessions. Section 7561 is amended by striking paragraph (4).

85. Definition of employee. Section 7701(a)(20) is amended by striking ''chapter 21'' and all that follows and inserting ''chapter 21.''.

Effective Date.—

General Rule.—Except as otherwise provided in this part, the amendments made by this part shall take effect of the date of enactment of this Act.

Savings Provision.—If

(1) any provision amended or repealed by this part applied to—

(a) any transaction occurring before the date of the enactment of this Act,

(b) any property acquired before such date of enactment, or

(c) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect the liability for tax for periods ending after such date of enactment, nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

By Mr. BREAUX (for himself, Mr. CHAFEE, Mr. BINGAMAN, Ms. LANDRIEU, Mr. LIEBERMAN, Mrs. CLINTON, Mr. MILLER, and Mr. GRAHAM of Florida):

S. 883. A bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program; to the Committee on Finance.

Mr. BREAUX. Mr. President, I ask unamimous 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. 883

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 ''Transitional Medical Assistance Improvement Act of 2003''.

SEC. 2. REVISION AND SIMPLIFICATION OF THE TRANSITIONAL MEDICAL ASSISTANCE PROGRAM (TMA).

(a) OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; OPTION OF CONTINUING COVERAGE FOR UP TO AN ADDITIONAL YEAR.—

(1) OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS BY MAKING REPORTING REQUIREMENTS OPTIONAL.—Section 1925(b) of the Social Security Act (42 U.S.C. 1396r–6(b)) is amended—

(A) in paragraph (1), by inserting '', at the option of a State,'' after ''and which'';

(B) in paragraph (2)(A), by inserting ''Subject to subparagraph (C):'' after ''(A) NOTICES.—'';

(C) in paragraph (2)(B), by inserting ''Subject to subparagraph (C):'' after ''(B) REPORTING REQUIREMENTS.—'';

(D) by adding at the end the following new subparagraph:

''(C) STATE OPTION TO WAIVE NOTICE AND REPORTING REQUIREMENTS.—A State may waive some or all of the reporting requirements under clauses (i) and (ii) of subparagraph (B). Insofar as it waives such a reporting requirement, the State need not provide for a notice under subparagraph (A) relating to such requirement.''; and

(E) in paragraph (3)(A)(iii), by inserting ''the State has not waived under paragraph (2)(C) the reporting requirement with respect to such month under paragraph (2)(B) and if'' after ''6-month period if''.

(2) STATE OPTION TO EXTEND ELIGIBILITY FOR LOW-INCOME INDIVIDUALS FOR UP TO 12 ADDITIONAL MONTHS.—Section 1925 of such Act (42 U.S.C. 1396r–6) is further amended—

(A) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(B) by inserting after subsection (b) the following new subsection:

''(c) STATE OPTION OF UP TO 12 MONTHS OF ADDITIONAL ELIGIBILITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, each State plan approved under this title may provide, at the option of the State, that the State shall offer to each family which received assistance during the entire 6-month period under subsection (b) and which meets the applicable requirement of paragraph (2), in the last month of the period the option of extending coverage under this subsection for the succeeding period not to exceed 12 months.

''(2) INCOME RESTRICTION.—The option under paragraph (1) shall not be made available to a family for a succeeding period unless the State determines that the family's average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) as of the end of the 6-month period under subsection (b) does not exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(3) APPLICATION OF EXTENSION RULES.—The provisions of paragraphs (2), (3), (4), and (5) of subsection (b) shall apply to the extension provided under this subsection in the same manner as they apply to the extension provided under subsection (b)(1), except that for purposes of this subsection—

''(A) any reference to a 6-month period under subsection (b)(1) is deemed a reference to the extension period provided under paragraph (1) and any deadlines for any notices or reporting and the premium payment periods shall be modified to correspond to the appropriate calendar quarters of coverage provided under this subsection; and

''(B) any reference to a provision of subsection (a) or (b) is deemed a reference to the corresponding provision of subsection (b) or of this subsection, respectively.''.

(b) STATE OPTION TO WAIVE RECEIPT OF MEDICAID FOR 3 OF PREVIOUS 6 MONTHS TO QUALIFY FOR TMA.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r–6(a)(1)) is amended by adding at the end the following: ''A State may, at its option, also apply the previous sentence in the case of a family that was receiving such aid for fewer than 3 months, or that had applied for and was eligible for such aid for fewer than 3 months, during the 6 immediately preceding months described in such sentence.''.

(c) ELIMINATION OF SUNSET FOR TMA.—

(1) Subsection (g) of section 1925 of such Act (42 U.S.C. 1396r–6), as redesignated under subsection (a)(2), is repealed.

(2) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended by striking ''(A) Notwithstanding'' and all that follows through ''During such period, for'' in subparagraph (B) and inserting ''For''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by subsections (a)(2)(A) and (c)(1), is amended by inserting after subsection (f) the following:

''(g) ADDITIONAL PROVISIONS.—

''(1) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—Each State shall—

''(A) collect and submit to the Secretary, in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section; and

''(B) make such information publicly available.

Such information shall be submitted under subparagraph (A) at the same time and frequency in which other enrollment information under this title is submitted to the Secretary. Using such information, the Secretary shall submit to Congress annual reports concerning such rates.''.

(e) COORDINATION OF WORK.—Section 1925(g) of such Act (42 U.S.C. 1396r–6(g)), as added by subsection (d), is amended by adding at the end the following new paragraph:

''(2) COORDINATION WITH ADMINISTRATION FOR CHILDREN AND FAMILIES.—The Administrator of the Centers for Medicare & Medicaid Services, in carrying out this section, shall work with the Assistant Secretary for the Administration for Children and Families to develop guidance or other technical assistance for States regarding best practices in guaranteeing access to transitional medical assistance under this section.''.

(f) ELIMINATION OF TMA REQUIREMENT FOR STATES THAT EXTEND COVERAGE TO CHILDREN AND PARENTS THROUGH 185 PERCENT OF POVERTY.—

(1) IN GENERAL.—Section 1925 of such Act (42 U.S.C. 1396r–6) is further amended by adding at the end the following:

''(h) PROVISIONS OPTIONAL FOR STATES THAT EXTEND COVERAGE TO CHILDREN AND PARENTS THROUGH 185 PERCENT OF POVERTY.—A State may meet (but is not required to meet) the requirements of subsections (a) and (b) if it provides for medical assistance under section 1931 to families (including both children and caretaker relatives) the average gross monthly earning of which (less such costs for such child care as is necessary for the employment of a caretaker relative) is at or below a level that is at least 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.''.

(2) CONFORMING AMENDMENTS.—Section 1925 of such Act (42 U.S.C. 1396r–6) is further amended, in subsections (a)(1) and (b)(1), by inserting '', but subject to subsection (h),'' after ''Notwithstanding any other provision of this title,'' each place it appears.

(g) REQUIREMENT OF NOTICE FOR ALL FAMILIES LOSING TANF.—Subsection (a)(2) of section 1925 of such Act (42 U.S.C. 1396r–6) is amended by adding at the end the following flush sentences:

''Each State shall provide, to families whose aid under part A or E of title IV has terminated but whose eligibility for medical assistance under this title continues, written notice of their ongoing eligibility for such medical assistance. If a State makes a determination that any member of a family whose aid under part A or E of title IV is being terminated is also no longer eligible for medical assistance under this title, the notice of such determination shall be supplemented by a 1-page notification form describing the different ways in which individuals and families may qualify for such medical assistance and explaining that individuals and families do not have to be receiving aid under part A or E of title IV in order to qualify for such medical assistance. Such notice shall further be supplemented by information on how to apply for child health assistance under the State children's health insurance program under title XXI and how to apply for medical assistance under this title.''.

(h) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT APPLICATIONS FOR TRANSITIONAL MEDICAL ASSISTANCE.—Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by inserting ''and under section 1931'' after ''(a)(10)(A)(ii)(IX)''.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 2002.

(2) NOTICE.—The amendment made by subsection (g) shall take effect 6 months after the date of enactment of this Act.

(3) DELAY PERMITTED FOR STATE PLAN AMENDMENT.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

By Ms. LANDRIEU (for herself, Mr. NELSON of Nebraska, Mr. SHELBY, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. JOHNSON, Mr. BUNNING, and Mr. REID):

S. 884. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. 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. 884

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 ''Consumer Rental-Purchase Agreement Act of 2003''.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the rental-purchase industry provides a service that meets and satisfies the demands of many consumers;

(2) each year, approximately 2,300,000 United States households enter into rental-purchase transactions, and over a 5-year period, approximately 4,900,000 United States households will do so;

(3) competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions; and

(4) the informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSES.—The purposes of this Act are to assure the availability of rental-purchase transactions; and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following new title:

''TITLE X—RENTAL-PURCHASE TRANSACTIONS

''Sec. 1001. Short title; definitions.
''Sec. 1002. Exempted transactions.
''Sec. 1003. General disclosure requirements.
''Sec. 1004. Rental-purchase disclosures.
''Sec. 1005. Other agreement provisions.
''Sec. 1006. Right to acquire ownership.
''Sec. 1007. Prohibited provisions.
''Sec. 1008. Statement of accounts.
''Sec. 1009. Renegotiations and extensions.
''Sec. 1010. Point-of-rental disclosures.
''Sec. 1011. Rental-purchase advertising.
''Sec. 1012. Civil liability.
''Sec. 1013. Additional grounds for civil liability.
''Sec. 1014. Liability of assignees.
''Sec. 1015. Regulations.
''Sec. 1016. Enforcement.
''Sec. 1017. Criminal liability for willful and knowing violation.
''Sec. 1018. Relation to other laws.
''Sec. 1019. Effect on Government agencies.
''Sec. 1020. Compliance date.

''SEC. 1001. SHORT TITLE; DEFINITIONS.

''(a) SHORT TITLE.—This title may be cited as the 'Rental-Purchase Protections Act'.

''(b) DEFINITIONS.—For purposes of this title, the following definitions shall apply:

''(1) ADVERTISEMENT.—The term 'advertisement' means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement, but does not include price tags, window signs, or other in-store merchandising aids.

''(2) AGRICULTURAL PURPOSE.—The term 'agricultural purpose' includes—

''(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

''(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

''(3) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(4) CASH PRICE.—The term 'cash price' means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

''(5) CONSUMER.—The term 'consumer' means a natural person who is offered or enters into a rental-purchase agreement.

''(6) DATE OF CONSUMMATION.—The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

''(7) INITIAL PAYMENT.—The term 'initial payment' means the amount to be paid before or at the time of consummation of the agreement, or the time of delivery of the property covered by the agreement if delivery occurs after consummation, including—

''(A) the rental payment;

''(B) service, processing, or administrative charges;

''(C) any delivery fee;

''(D) refundable security deposit;

''(E) taxes;

''(F) mandatory fees or charges; and

''(G) any optional fees or charges agreed to by the consumer.

''(8) MERCHANT.—The term 'merchant' means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom the initial payment by the consumer under the agreement is payable.

''(9) PAYMENT SCHEDULE.—The term 'payment schedule' means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

''(10) PERIODIC PAYMENT.—The term 'periodic payment' means the total payment that a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

''(11) PROPERTY.—The term 'property' means property that is not real property under the laws of the State in which the property is located when it is made available under a rental-purchase agreement.

''(12) RENTAL PAYMENT.—The term 'rental payment' means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

''(13) RENTAL PERIOD.—The term 'rental period' means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

''(14) RENTAL-PURCHASE AGREEMENT.—

''(A) IN GENERAL.—The term 'rental-purchase agreement' means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

''(B) EXCLUSIONS.—The term 'rental-purchase agreement' does not include—

''(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

''(ii) a consumer lease (as defined in section 181(1) of the Truth in Lending Act); or

''(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

''(15) RENTAL-PURCHASE COST.—

''(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term 'rental-purchase cost' means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, including—

''(i) any service, processing, or administrative charge;

''(ii) any fee for an investigation or credit report; and

''(iii) any charge for delivery required by the merchant.

''(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

''(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

''(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

''(16) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

''(17) TOTAL COST.—The term 'total cost' means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

''SEC. 1002. EXEMPTED TRANSACTIONS.

''This title does not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with agencies or instrumentalities of the Federal Government or a State or political subdivision thereof.

''SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

''(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

''(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement, and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

''(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

''SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

''(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer, to the extent applicable—

''(1) the date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer;

''(2) a brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used;

''(3) a description of any fee, charge, or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount;

''(4) a clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership;

''(5) the amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer;

''(6) the amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement;

''(7) the amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement;

''(8) the total cost, using that term, and a brief description, such as 'This is the amount that you will pay the merchant if you make all periodic payments to acquire ownership of the property.';

''(9) a statement of the right of the consumer to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term; and

''(10) substantially the following statement: '**OTHER IMPORTANT TERMS**: See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage, or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.'.

''(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall—

''(1) be segregated from other information at the beginning of the rental-purchase agreement;

''(2) contain only directly related information; and

''(3) be identified in boldface, upper-case letters as follows: '**IMPORTANT RENTAL-PURCHASE DISCLOSURES**'.

''(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

''(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

''(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

''(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

''(B) the consumer signs an affirmative written request for such coverage after receiving the disclosures required under paragraph (1) and subparagraph (A) of this paragraph.

''(d) ACCURACY OF DISCLOSURE.—

''(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date on which the disclosures are made, based on the information available to the merchant.

''(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

''SEC. 1005. OTHER AGREEMENT PROVISIONS.

''(a) IN GENERAL.—Each rental-purchase agreement shall—

''(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

''(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

''(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

''(4) contain a provision for reinstatement of the agreement, which at a minimum—

''(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

''(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits

the consumer to reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

''(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

''(D) permits the consumer, upon reinstatement of the agreement, to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition, except that the Board may, by regulation or order, exempt any independent small business (as defined by regulation of the Board) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines appropriate, that the reinstatement right provided in subparagraph (C) would provide excessive hardship for the independent small business;

''(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

''(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

''(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

''(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the right of the consumer to reinstatement under subsection (a)(4).

''SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

''(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted by regulation of the Board.

''(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement, as defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

''(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

''(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as applicable, the merchant shall—

''(1) deliver, or mail to the last known address of the consumer, such documents or other instruments which the Board has determined, by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

''(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

''SEC. 1007. PROHIBITED PROVISIONS.

''A rental-purchase agreement may not contain—

''(1) a confession of judgment;

''(2) a negotiable instrument;

''(3) a security interest or any other claim of a property interest in any goods, except those goods, the use of which is provided by the merchant pursuant to the agreement;

''(4) a wage assignment;

''(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

''(6) a provision requiring the consumer, in the event that the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

''(A) the fair market value of the property, as determined by regulation of the Board;

''(B) any early purchase option amount provided in the rental-purchase agreement; or

''(C) the actual cost of repair, as appropriate;

''(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the dwelling of the consumer or other premises without obtaining the consent of the consumer, or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

''(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by regulation of the Board; or

''(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

''SEC. 1008. STATEMENT OF ACCOUNTS.

''Upon request of a consumer, a merchant shall provide a statement of the account of the consumer. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements requested in excess of 4 times during that 12-month period.

''SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

''(a) RENEGOTIATIONS.—For purposes of this section, a 'renegotiation' occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures under this title, except as provided in subsection (c).

''(b) EXTENSIONS.—For purposes of this section, an 'extension' is an agreement by the consumer and the merchant to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

''(c) EXCEPTIONS.—New disclosures under this title are not required for the following, even if they meet the definition of a renegotiation or an extension under this section:

''(1) A reduction in payments.

''(2) A deferment of 1 or more payments.

''(3) The extension of a rental-purchase agreement.

''(4) The substitution of property with property that has a substantially equivalent or greater economic value, provided that the rental-purchase cost does not increase.

''(5) The deletion of property in a multiple-item agreement.

''(6) A change in the rental period, provided that the rental-purchase cost does not increase.

''(7) An agreement resulting from a court proceeding.

''(8) Any other event described in regulations prescribed by the Board.

''SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

''(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses—

''(1) a brief description of the property;

''(2) whether the property is new or used;

''(3) the cash price of the property;

''(4) the amount of each rental payment;

''(5) the total number of rental payments necessary to acquire ownership of the property; and

''(6) the rental-purchase cost.

''(b) FORM OF DISCLOSURE.—

''(1) IN GENERAL.—A merchant may make the disclosures required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the showroom of the merchant, or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

''(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

''SEC. 1011. RENTAL-PURCHASE ADVERTISING.

''(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement for the item or set of items advertised—

''(1) that the transaction advertised is a rental-purchase agreement;

''(2) the amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement;

''(3) the amount of the rental-purchase cost;

''(4) that to acquire ownership of the property, the consumer must pay the rental-purchase cost plus applicable taxes; and

''(5) whether the stated payment amount and advertised rental-purchase cost is for new or used property.

''(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item or set of items is available at specific amounts or terms, unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

''(c) CLEARLY AND CONSPICUOUSLY.—

''(1) IN GENERAL.—For purposes of this section, the term 'clearly and conspicuously' means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different media for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

''(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard, as appropriate to print, video, audio, and computerized advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

''(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the disclosures required by this section shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the required disclosures.

''SEC. 1012. CIVIL LIABILITY.

''(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term 'creditor' as used in section 130 shall include a 'merchant', as defined in section 1001.

''(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

''(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date on which the last payment was made by the consumer under the rental-purchase agreement.

''(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

''SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

''(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirement imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

''(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

''(1) an order to cease and desist from such practices; and

''(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

''SEC. 1014. LIABILITY OF ASSIGNEES.

''(a) ASSIGNEES INCLUDED.—For purposes of section 1013 and this section, the term 'merchant' includes an assignee of a merchant.

''(b) LIABILITIES OF ASSIGNEES.—

''(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

''(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

''(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability under this section in a case in which the assignment is involuntary.

''(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

''(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

''SEC. 1015. REGULATIONS.

''(a) IN GENERAL.—The Board shall prescribe regulations, as necessary to carry out this title, to prevent its circumvention, and to facilitate compliance with its requirements.

''(b) MODEL DISCLOSURE FORMS.—

''(1) BOARD AUTHORITY.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.

''(2) CONTENT.—In devising forms described in paragraph (1), the Board shall consider the use by merchants of data processing or similar automated equipment.

''(3) USE NOT MANDATORY.—Nothing in this title may be construed to require a merchant to use any model form or clause published by the Board under this section.

''(4) DETERMINATION OF COMPLIANCE.—A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

''(A) uses any appropriate model form or clause published by the Board under this section; or

''(B) uses any such model form or clause, and changes it by deleting any information which is not required by this title or rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

''(c) EFFECTIVE DATE OF REGULATIONS.—

''(1) IN GENERAL.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months.

''(2) AUTHORITY TO MODIFY.—The Board may, at its discretion—

''(A) lengthen the period of time described in paragraph (1) to permit merchants to adjust to accommodate new requirements; or

''(B) shorten that period of time, if the Board makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices.

''(3) VOLUNTARY COMPLIANCE.—Notwithstanding paragraph (1) or (2), a merchant may comply with any newly prescribed disclosure requirement prior to its effective date.

''SEC. 1016. ENFORCEMENT.

''(a) FEDERAL ENFORCEMENT.—Compliance with this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test under the Federal Trade Commission Act.

''(b) STATE ENFORCEMENT.—

''(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

''(2) PRIOR WRITTEN NOTICE.—

''(A) IN GENERAL.—The State attorney general shall provide prior written notice of any civil action described in paragraph (1) to the Federal Trade Commission, and shall provide the Commission with a copy of the complaint.

''(B) EMERGENCY ACTION.—If prior notice required by this paragraph is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

''(3) FTC INTERVENTION.—The Commission may—

''(A) intervene in an action described in paragraph (1);

''(B) upon intervening—

''(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

''(ii) be heard on all matters arising in the action; and

''(C) file a petition for appeal.

''SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

''Whoever willfully and knowingly gives false or inaccurate information, or fails to provide information which that person is required to disclose under the provisions of this title or any regulation issued under this title shall be subject to the penalty provisions as provided in section 112.

''SEC. 1018. RELATION TO OTHER LAWS.

''(a) RELATION TO STATE LAW.—

''(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to rental-purchase agreements, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

''(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed by regulation of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent with

a provision of this title, merchants located in that State shall not be required to comply with that term or provision, and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

''(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for purposes of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title, as determined by the Board, on its own motion or upon the petition of any interested party.

''(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding subsection (a), this title shall supersede any State law, to the extent that such law—

''(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale, or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit; or

''(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

''(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

''SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

''No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision thereof, or any agency of a State or political subdivision thereof.

''SEC. 1020. COMPLIANCE DATE.

''Compliance with this title shall not be required until 6 months after the date of enactment of this title. In any case, a merchant may comply with this title at any time after such date of enactment.''.

By Mr. KYL (for himself and Mr. CORNYN):

S. 887. A bill to amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today to introduce the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003, ISCRAA. This legislation will restore to the States billions of dollars in revenue due to them from a massive lawsuit recently conducted on their behalf the tobacco-Related Medicaid expenses litigation. ISCRAA amends an existing provision of the Federal tax code in order to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. By applying these standards to the attorneys who represented the states in the tobacco settlement, ISCRAA reasonably can be expected to restore to the states income with a present value of approximately $9 billion. I have included at the end of my statement a chart detailing how much each state can expect to recover.

ISCRAA's tax formula is borrowed from the 1996 Tax Act's Intermediate Sanctions Tax, IST, which applies a two-step excise tax to any excessive or unreasonable compensation that the managers of a trust pay to themselves from the assets of the trust. The IST framework encourages the trustee to restore the excessive portion of any fee to the trust—when he does so, the IST's punitive taxes do not apply.

ISCRAA extends the IST to another type of trust relationship: that between a lawyer and his client. ISCRAA applies the IST tax formula to any unreasonable or excessive income that a lawyer collects from litigation resulting in a judgment or settlement in excess of $100 million. To avoid IST taxes, an attorney must restore the excessive portion of the fee to the client.

As my colleague Senator CORNYN will explain today, the ethical and legal abuses that resulted from the 1998 State tobacco settlement make the need for this legislation manifest. Senator CORNYN also will discuss the law of attorneys' fiduciary obligations, which establishes that a fee award is the property of the client—and that any unethical fee must be restored to the client, regardless of how the fee award is structured.

I will discuss today how ISCRAA will affect massive litigations generally. In order to gauge the reasonableness of a lawyer's fee award, ISCRAA adopts and codifies a liberal version of the lodestar-multiplier system. As I will later explain in greater detail, ISCRAA allows fee multipliers of up to 500 percent of reasonable hourly rates. This limit is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA's fee formula guarantees that attorneys' fiduciary obligations will be respected, while providing plaintiff's lawyers with ample incentive to provide high-quality legal representation in these types of cases.

Federal supervision of fee awards resulting from $100 million litigations is appropriate for several reasons. First, because of their sheer size, these types of lawsuits inevitably operate as a tax on the consuming public. Few defendants actually can afford to pay such judgments with cash on hand. Instead, the affected industries simply will raise the prices that they charge to their customers.

This is exactly what has happened in the State Medicaid tobacco settlement—according to the leading proponents of that litigation. The first State attorney general to file suit against the tobacco companies has admitted that ''what always happens in these cases is the industry passes the costs to the consumer.'' Other commentators agree that this has occurred in the tobacco litigation. As one law-review article notes, ''the [tobacco] settlement * * * is a tax because it's a set of payments made by tobacco companies that depend on how many packs they sell; in short, it looks like a tax and quacks like a tax.''

Because of the way that these massive judgments typically are satisfied, it is particularly important to ensure that attorneys are paid in proportion to the services that they provided—rather than solely on the basis of the size of the recovery. Again, the State tobacco settlement highlights the nature of the problem. As two of the leading academic commentators have noted, it is ''very troubl[ing]'' that under that agreement, ''a group of private citizens [are] getting paid a percentage of a tax increase they helped pass.'' The sheer size of the tobacco settlement—and the fact that attorneys fees were based on this size, rather than on the attorneys' actual efforts—has given the fee awards an uncanny resemblance to the medieval practice of tax farming. In all but name, the government has licensed a group of private individuals to collect a tax from the consuming public.

I would emphasize at this point that ISCRAA is not an attack on the State tobacco lawsuits. The bill does not pass judgment on the merits or the appropriateness of this type of litigation. ISCRAA simply is designed to ensure that when such lawsuits are brought on the public's behalf, the public receive its fair share of the proceeds. If a State chooses to seek compensatory revenue from industry for past harms, then the resulting tax on the public—minus the reasonable value of the legal services actually provided—must go to the State treasury.

There are several reasons why $100 million is an appropriate threshold for applying ISCRAA's fee formula. First, the courts themselves have indicated that fee agreements based primarily on the size of the recovery tend to become unreasonable when judgements reach this size. As one court has stated, ''in much smaller cases, a fee award of 33 percent does not present the danger of providing the plaintiff's counsel with the windfall that would accompany a 'megafund' settlement of $100 million or upwards. But it is quite different when the figures hit the really big time.'' Or as the Third Circuit notes, ''courts have generally decreased the percentage awarded [for attorneys fees] as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement.''

The logic of avoiding judgment-based awards in these very large cases is straightforward. As one court explains, ''it is not 150 times more difficult to prepare, try, and settle a $150 million case than it is to try a $1 million case, but the application of a percentage comparable to that in a smaller case may yield an award 150 times greater.'' Thus, according to another court, ''there is considerable merit'' to disallowing standard percentage awards as the ''size of the [recovery] fund increases. In many instances the increase [in the recovery] is merely a factor of the size of the class and has no direct relationship to the efforts of counsel.''

It also bears mention that because of its $100 million threshold, ISCRAA applies to a fairly limited universe of cases. As courts have remarked, ''there are few so-called 'megafund' cases with settlements over $100 million.'' In 2001, the U.S. Court of Appeals for the Third Circuit attempted to catalogue all common-fund cases in federal court that resulted in recoveries greater than $100 million. Though such litigations have been more frequent in recent years, the Third Circuit identified only 22 such cases since 1985. See in re Cendant Corp. PRIDES Litig., 243 F.3d 722, 737 (3d Cir. 2001).

ISCRAA is somewhat broader than the criteria that Cendant Corp. employed to collect cases. ISCRAA is not limited to common-fund cases—it also applies to judgments won on behalf of tax-exempt entities or even single individuals. ISCRAA also applies to cases brought in State court, and it aggregates identical claims that are brought against common defendants in separate actions, in order to prevent evasion of its limits through the subdivision of actions. Nevertheless, ISCRAA's scope remains fairly narrow. An academic specialist who is familiar with developments in this field has reviewed the bill and concluded that because of its ''relatively high threshold,'' ISCRAA probably would apply only to about 15–20 litigations per year. I will include a copy of this professor's letter to me in the CONGRESSIONAL RECORD.

Finally, a $100 million threshold also is appropriate because it limits ISCRAA's reach to litigations that are a natural subject of congress's authority to regulate interstate commerce. It is well-established that ''Congress' commerce authority includes the power to regulate . . . those [economic] activities that substantially affect interstate commerce.'' United States v. Morrison, 529 U.S. 598, 609 (2000). See also *United States* v. *Lopez*, 514 U.S. 549 (1995). Both the executive and the legislative branches previously have identified $100 million as guideline for determining whether a matter has a significant impact on interState commerce. See, e.g. Executive Order 12866; Congressional Review Act, 5 U.S.C. § 804(2); Unfunded Mandates Act, 2 U.S.C. § 1532(a). Because it is limited to litigations of this size, ISCRAA is consistent with congress's power and obligation to protect the flow of commerce between states.

Another point that I would like to emphasize today is that ISCRAA is not an anti-plaintiffs' lawyer bill. It is not stingy toward trial attorneys. ISCRAA is carefully designed to protect fiduciary interests while providing plaintiffs' lawyers with ample incentives to provide high-quality legal representation in large litigations. ISCRAA's fee formula is as generous as the limits set by the most liberal State courts that engage in meaningful review of attorneys fees, and is considerably more generous than the Federal courts' practices in $100 million cases. Moreover, the multiplier criteria that ISCRAA employs universally are recognized as legitimate prerequisites for a contingency fee—even by trial lawyers' professional associations.

Federal courts primarily rely on two systems for calculating attorneys fees in cases, such as class actions, in which they are required to set ''reasonable fees:'' the percentage method and the lodestar-multiplier method. The percentage method, as its name implies, calculates fees as a percentage of the total recovery. The lodestar system, by contrast, requires a court to first calculate a fee based on the number of hours that the lawyer worked multiplied by prevailing hourly rates, the ''lodestar''. The court then multiplies this lodestar fee again in order to reward the attorney for the risk of nonpayment of fees that he assumed and for any exceptional services that he provided.

Over the last thirty years, courts have moved back and forth between these two systems. Only a few courts make lodestar-multipliers the exclusive means of awarding attorneys fees. But as one academic commentator has noted, ''lodestar, or hours-based methods, have been adopted in every [federal judicial] circuit.''

And more importantly, in large-recovery cases, there has been very little difference between lodestar and percentage systems. This is because even when courts apply a percentage to calculate fees, and as judgements become very large, courts typically also calculate a reasonable lodestar in order to determine what constitutes a reasonable percentage. Thus, again, as the Third Circuit notes, ''courts have generally decreased the percentage awarded as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement.''

Courts have been wary of awarding fees based on percentages alone. As one State supreme court explains: ''to begin the assessment by arbitrarily picking a percentage amount without any reliance on a cognizable structure invites decisions that are nonobjective and inconsistent. What constitutes a reasonable percentage may differ from one judge to another depending on each judge's predilections, background, and geographical location in the state.''

Thus ''courts that employ the percentage approach appear to be motivated in part by a lodestar dynamic. Because courts are reluctant to give fee awards totally incommensurate with the efforts of the attorneys, percentage awards generally decrease as the amount of the recovery increases.''

One result of the cross-use of the lodestar and percentage systems is that even when courts use the percentage system, those awards overwhelmingly tend to reflect a reasonable lodestar multiplier. Therefore, even percentage-based cases tend to provide evidence of the range of multipliers that the courts consider to be reasonable.

In 2001, the Third Circuit ''set forth a chart of fee awards given in Federal courts since 1985 in class actions in which the settlement fund exceeded $100 million and in which the percentage of recovery method was used.'' Cendant Corp. The court identified 17 such cases. In almost every case, the Third Circuit could calculate the multiplier that was used, and ''the lodestar multiplier in those cases never exceeded 2.99.'' And in the direct lodestar-multiplier cases that court identified, the multiplier ranged from 1.2 to 3.25.

Other courts, surveying smaller cases than the $100 million recoveries examined in Cendant Corp., have identified larger multipliers. One Federal district court has ''observe[d] that in virtually every case where the court notes a lodestar but awards fees based upon a percentage, the lodestar multiplier converted from this percentage is in the range of 1 to 4.'' Another Federal district court has found that ''the range of lodestar multipliers in large and complicated class actions runs from a low of 2.26 to a high of 4.5.''

By contrast, some courts have declared that they would allow only lower multipliers. One Federal court has stated that ''only in the most exceptional circumstances would this court award a multiplier of 3 or greater. . . . this court believes that lodestars enhanced by multipliers less than 3 should adequately compensate even the most talented counsel.'' And the Seventh Circuit has suggested that ''it may be that a doubling of the lodestar would provide a sensible ceiling.''

On the other hand, the Florida Supreme Court—which is generally regarded as one of the more plaintiff-friendly courts in the United States—has announced that: ''we set the maximum multiplier available in this common-fund category of cases at 5. . . . [A] multiplier which increases fees to five times the accepted hourly rate is sufficient to alleviate the contingency risk factor involved and attract high level counsel to common fund cases while producing a fee that remains within the bounds of reasonableness. We emphasize that 5 is a maximum multiplier.''

ISCRAA adopts this more liberal standard. It allows fees as high as 500 percent of reasonable hourly rates. ISCRAA awards multipliers based on two criteria: it allows up to 300 percent to be added onto the amount of reasonable hourly fees if a case that involved a substantial risk of nonrecovery of fees, and allows an additional 100 percent add-on if the attorney provided exceptional services that improved the plaintiff's recovery.

The criteria that ISCRAA employs universally are recognized as necessary prerequisites to the legitimacy of a contingency fee. ''Courts in general have insisted that a contingent fee be

truly contingent. The typically elevated fee reflecting the risk to the lawyer of receiving no fee will be permitted only if the representation indeed involves a significant degree of risk.'' Charles W. Wolfram, Modern Legal Ethics § 9.4, at 532 (1986). The risk requirement has been recognized ever since contingency fees first were allowed in the United States. The American Bar Association even noted at that time that ''a contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation.'' ABA Canons of Professional Ethics, Canon 13 (1908). Indeed, even the professional associations of plaintiffs' attorneys have, at times, acknowledged that contingent fees should be based on an actual contingency. In a guide to its members, the Association of Trial Lawyers of America has ''recommend[ed]'' that attorneys ''exercise sound judgment in using a percentage in the contingent fee contract that is commensurate with the risk, cost and effort required.'' ATLA, Keys to the Courthouse: Quick Facts on the Contingency Fee System 13 (1994).

The criteria that ISCRAA employs are universally accepted—and the limits that it sets should be universally acceptable. ISCRAA is not intended to alter the considered standards of any jurisdiction. Rather, it is intended to enforce those standards—and to correct the occasional extreme outlier. Because ISCRAA incorporates a fee formula that is substantially more liberal than the usual practices of the federal courts in $100 million cases, we can be confident that high-quality legal representation will remain available to plaintiffs in these large litigations. See, e.g. in re Sumitomo Copper Litig., 74 F. Supp. 2d 393, S.D.N.Y. 1999, RICO and Commodities Exchange Act case resulting in $116 million recovery; attorneys reviewed millions of pages of documents located throughout the world, many requiring translation from Japanese; Federal district court awards multiplier of 250 percent for total fee of $32 million.

Another issue that I will address today is the argument—occasionally raised in opposition to proposals to limit attorneys fees—that such restrictions violate attorneys' rights to freedom of contract.

The first principle to keep in mind when questions of attorneys fees are considered is that ''a fiduciary relationship exists as a matter of law between attorney and client.'' (Illinois Supreme Court.) As one academic commentator has noted: ''[I]t is uncontroverted today that a lawyer is a fiduciary for, and therefore has a duty to deal fairly with, the client. . . . Lawyers are fiduciaries because retention of an attorney to exercise 'professional judgment' on the client's behalf necessarily involves reposing trust and confidence in the attorney. Exercising professional judgment requires that the lawyer advance the client's interests as the client would define them if the client were well-informed.''

The lawyer's status as fiduciary places limits on his dealings with his client—including with regard to his fee. ''An attorney's freedom to contract with a client is subject to the constraints of ethical considerations.'' New Jersey Supreme Court. ''In setting fees, lawyers are fiduciaries who owe their clients greater duties than are owed under the general law of contracts.'' Massachusetts Appeals Court. ''As a result of lawyers' special role in the legal system, contracts between lawyer and client receive special scrutiny. . . . While freedom of contract is the guiding principle underlying contract law, contractual freedom is muted in the lawyer-client and lawyer-lawyer contexts.'' Joseph M. Perillo, law professor.

The unique status of attorney fee contracts has led courts to reject analogies between such agreements and other business or service contracts. Perhaps the fullest exposition is provided by the Arizona Supreme Court: ''We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable or harsh. However, a fee agreement between lawyer and client is not an ordinary business contract. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client. Thus, in fixing and collecting fees the profession must remember that it is a branch of the administration of justice and not a mere money getting trade.' ABA Canons of Professional Ethics, Canon 12.''

The same principle has been identified by the Florida Supreme Court: There is but little analogy between the elements that control the determination of a lawyer's fee and those which determine the compensation of skilled craftsmen in other fields. Lawyers are officers of the court. The court is an instrument of society for the administration of justice. Justice should be administered economically, efficiently, and expeditiously. The attorney's fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact it results in a species of social malpractice that undermines the confidence of the public in the bench and bar. It does more than that. It brings the court into disrepute and destroys its power to perform adequately the function of its creation.''

In order to protect the lawyer's public role and to enforce his fiduciary obligations, the courts read a reasonableness requirement into every attorney fee contract. ''[T]he requirement that a fee be reasonable in amount overrides the terms of the contract, so that an 'unreasonable' fee cannot be recovered, even if agreed to by the client.'' G. Hazard, Jr. & W. Hodes, The Law of Lawyering 1. 5:205 Fee Litigation and Arbitration 120 (1998 Supp.).

As one court has stated, ''[A]n attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true no matter what fee is specified in the contract, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have the right to demand if no contract had been made. Therefore, as a matter of public policy, reasonableness is an implied term in every contract for attorney's fees.''

Finally, when assessing whether a fee is reasonable, courts ask whether the fee is proportional to the services that were actually provided. ''Fees must be reasonably proportional to the services rendered and the situation presented.'' (Arizona Supreme Court.) ''If an attorney's fee is grossly disproportionate to the services rendered and is charged to a client who lacks full information about all of the relevant circumstances, the fee is 'clearly excessive' . . . even though the client consented to such fee.'' West Virginia Supreme Court.

Because attorneys are fiduciaries, they simply do not have complete freedom of contract in negotiating their fees. An attorney's dealings with his client always must reflect that the client comes to him in a position of trust—and therefore, the attorney's fee always must be reasonable. ISCRAA will help ensure that this important obligation is respected.

Another subject that I would like to address today is ISCRAA's effective date. ISCRAA applies to attorney fee payments received after June 1, 2002. This effective date is appropriate under the circumstances of the State tobacco settlement for several reasons: first, Congress routinely enacts major tax legislation with effective dates that look back much further than does ISCRAA. The Supreme Court has ''repeatedly upheld [such moderately] retroactive tax legislation against a due process challenge.'' United States v. Carlton, 512 U.S. 26, 30–31, 1994; see id. at 33, upholding tax whose ''actual retroactive effect . . . extended for a period only slightly greater than one year''.

Second, ISCRAA is not even truly retroactive. ISCRAA does not change the substantive law governing attorneys fee awards. Rather, it simply enforces established, pre-existing fiduciary standards that already bind every attorney in every state. The Model Rules of Professional Conduct, at Rule 1.5(a), contain a clear, direct command that ''a lawyer's fee shall be reasonable.'' Similarly, the Model Code of Professional Responsibility, at DR 2–106, directs that an attorney ''shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.'' The Model Code further explains that an attorneys fee is ''clearly excessive when, after a review of the facts, a

lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee.'' Finally, as academic commentators point out, in addition to the model rules, ''all State rules of professional conduct prohibit attorneys from charging excessive fees.''

As I described earlier, to enforce fiduciary standards, ISCRAA codifies and applies a very generous version of the fee multiplier system, allowing attorneys fees as high as 500 percent of reasonable hourly rates. This is considerably more generous than what Federal courts typically allow in large-judgment cases. No attorney can be heard to complain that he is subjected to a law that is more generous than his existing fiduciary obligations.

Further, none of the tobacco-settlement attorneys can reasonably maintain that they have a vested right to see their fiduciary duties to the states go unenforced. Nevertheless, in order to be fair to all parties, ISCRAA's excise taxes are applied only to fees that were paid after June 1, 2002. By this date, all of the tobacco lawyers twice had received notice from George W. Bush that he intended to enact legislation to enforce their fiduciary obligations. In February 2000, then-candidate Bush promised that he would ''extend[] the 'excess benefits' provision of the tax code to private lawyers who contract with states and municipalities,'' with ''the reasonableness of the fees * * * [to] be determined by the standard judicial 'lodestar' method.'' And as early as February 2001, the current Administration announced that it anticipated providing ''additional public health resources for the States from the President's proposal to extend fiduciary responsibilities to the representatives of States in tobacco lawsuits.'' See A Blueprint for New Beginnings: A Responsible Budget for America's Priorities 80, Office of Management and Budget, February 28, 2001.

Under ISCRAA, all of the attorneys who participated in the State tobacco settlement still will be very liberally compensated. Because ISCRAA does not apply to the first three-and-a-half years of fee payments under the settlement, it exempts the first two-and-a-half billion dollars that these lawyers received. Every one of the tobacco lawyers will have more than enough money left to pay for the yachts, luxury cars, and vacation homes that were purchased with the tobacco proceeds. ISCRAA might simply be described as the one-yacht-per-lawyer rule.

But most importantly, because ISCRAA applies to the last year's worth of tobacco fee payments, and to all future payments, it will return a substantial amount of funds to the States—money that already should belong to the States under any reasonable interpretation of fiduciary standards. It is critical that these funds be restored in this time of widespread fiscal crisis. Today a large number of the States face massive budget deficits that threaten their ability to provide health care to the indigent, to fully fund public education, and to guarantee adequate and effective law enforcement. When such needs risk going unmet, fee abuses that cost the States billions of dollars simply can no longer be ignored. The States must receive their fair share of the tobacco settlement proceeds—funds that are badly needed to support basic public services.

Under the terms of the November 1998 Master Settlement Agreement, MSA, between the States and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators—estimated to total $15 billion—the $500-million-a-year income stream, which is not adjusted for inflation, may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream—discounting all future payments for the time value of money—has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the States an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the States virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the States can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the States on a per capita basis, ISCRAA guarantees every State a very substantial recovery. Based on the estimates that I have described, even our Nation's smallest State, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small States, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest State, California, can expect to recoup at least $1 billion. Other large States would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each State can expect to recover:

Alabama	$142,220,272
Alaska	20,046,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961
South Dakota	24,140,253
Tennessee	181,945,847
Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

I ask unanimous consent that the text of the bill and the following four articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 887

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 ''Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003'' (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

''SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

''(a) INITIAL TAXES.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

''(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the

taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

''(c) EXCESS FEE TRANSACTION; EXCESS FEE.—For purposes of this section—

''(1) EXCESS FEE TRANSACTION.—

''(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

''(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

''(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

''(ii) a reasonable fee based on—

''(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

''(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

''(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

''(C) ADJUSTMENT RATE.—

''(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

''(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

''(I) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees, not more than 100 percent,

''(II) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

''(III) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

''(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

''(iv) LIMITATION.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

''(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

''(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

''(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

''(2) EXCESS FEE.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

''(d) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

''(e) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

''(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

''(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

''(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

''(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

''(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

''(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(3) CORRECTION.—

''(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

''(B) PAYMENT OF EXCESS FEES.—

''(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

''(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the 50 States in proportion to each State's share of the United States population.

''(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

''(g) DISCLOSURE REQUIREMENTS.—

''(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

''(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

''(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

''(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

''(h) LEGAL AUDITING FIRM.—

''(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

''(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

''(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

''(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

''(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

''(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

''(E) whether particular tasks were staffed appropriately,

''(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

''(G) whether the collecting attorney exercised billing judgment, and

''(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

''(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

''(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting ''4959,'' after ''4958,''.

(2) Subsection (e) of section 6213 of such Code is amended by inserting ''4959 (relating to excess fee transactions),'' before ''4971''.

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting ''4959,'' after ''4958,''.

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

''Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.''.

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

''SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.''.

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

''Sec. 4959. Taxes on excess fee transactions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

''SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

''(a) IN GENERAL.—In a case of actual controversy involving—

''(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

''(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

''(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

''(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

''(2) SECOND REPORT.—

''(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

''(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

''(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

''Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.

''Sec. 7438. Cross references.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

[From the Connecticut Law Review, Summer, 2001]

A MOST DANGEROUS INDISCRETION: THE LEGAL, ECONOMIC, AND POLITICAL LEGACY OF THE GOVERNMENTS' TOBACCO LITIGATION

(By Margaret A. Little)

In 1997 and 1998, the tobacco companies settled with four states who were approaching trial under agreements valued at around $40 billion. This was followed in late 1998 by a Master Settlement Agreement (''MSA'') wherein forty-six states entered into a massive $206 billion settlement agreement with the tobacco companies. In addition, the tobacco companies agreed to contribute $1.5 billion to an anti-smoking ''education and advertising campaign'' and $250 million ''for a foundation dedicated to reducing teen smoking.'' These agreements which total $246 billion are reported to represent the largest privately negotiated redistribution of wealth in world history. MSA further obligates the tobacco companies to pay the private practice attorneys hired by the settling states what has been variously estimated at $8 to $10 billion in net present value. Each state's legislature must pass a ''Qualifying Statute'' to be eligible for the ''damage'' payments. The agreement could not be fully implemented until courts in eighty percent of the states ''in number and aggregate damages'' has approved the settlement. The most significant difference between the settlement with the states and the 1997 federal settlement is that the MSA confers no protections on the tobacco companies from suits by smokers.

[From the Economist, February 13, 1999]

KNIGHTS IN GOLDEN ARMOUR

For Americans, lawyers seem to embody extremes of both heroism and greed, sometimes at the same time. A film currently playing to packed cinemas across the country, ''A Civil Action'', tells the true story of one crusading lawyer (played by John Travolta) who bankrupted himself trying to sue two big companies which had polluted a small town's drinking water. But when they win, even lawyer-heroes expect to be well paid. The small group of contingency-fee lawyers who helped state governments bring the tobacco industry to heel are about to collect fees so colossal that they dwarf even the excesses of Wall Street investment bankers in the mad, bad 1980s.

Tobacco remains a bonanza for lawyers in all kinds of ways. On February 10th, a Californian jury awarded $51.5m in damages against Philip Morris to a woman with inoperable lung cancer. The award, by far the largest in a smoking-related lawsuit, was a brusque reminder that, despite last year's settlement with the states, tobacco companies remain vulnerable to suits brought by individuals; and that as long as smokers want compensation, lawyers will reap fortunes.

The legal profession is still trying to digest the implications of the staggering $8.1 billion a three-man arbitration panel awarded in December to lawyers for the work they did in helping Florida, Mississippi and Texas win a settlement from the tobacco industry for health-care costs. Over the next six months, the panel is expected to use the same criteria to set fees for the lawyers who represented dozens of other states in the negotiations which led to a national settlement last November. If they do, 250–450 lucky lawyers could collect between $20 billion and $25 billion in fees.

''These amounts are grotesque and absurd,'' says Lester Brickman, a law professor at New York's Cardozo School of Law. ''Most

of this money should have gone to the states.'' Mr Brickman, an expert on legal fees, predicts that the flood of cash going to a small group of trial lawyers will finance a wave of mass litigation against other industries, including alcohol and fast food, on similar public-health grounds. This approach is already being pursued by big-city mayors against gun manufacturers and distributors with the help of some of the same law firms which represented the states in their suits against the tobacco companies.

The lawyers involved in the tobacco suits insist that the awards are fair, reflecting the risk they ran by taking on the tobacco firms when no one, including the state attorneys-general, thought they had much chance of winning. The lawyers worked without pay, and as part of the settlement have now agreed to submit to arbitration rather than insist on a share of the money the states will receive, which is what the contracts they signed with many state governments would have given them. ''The fees are huge,'' admits Philip Anderson, the president of the American Bar Association. ''But these lawyers were able to do something that governments have never been able to achieve on their own—assemble enough evidence to bring the tobacco industry to account. And the fees were agreed by sophisticated parties on both sides.''

Too much sophistication, in fact, may be the problem. Unusually, neither plaintiffs nor defendants in these cases seem to have had much interest in limiting the lawyers' fees. Officially, these fees are being paid by the tobacco firms, which spares the state attorneys-general the politically embarrassing task of having to pay the lawyers huge amounts of money out of their state's share of the settlement. The lawyers agreed to arbitration because they knew that state politicians could never have honoured their contingency contracts, which would themselves have become the subject of prolonged litigation. Most judges would have reduced the amounts the lawyers would get.

In any case, the arbitration is a mere figleaf. The money going tot he lawyers was clearly part of the overall amount that the tobacco companies were willing to pay to settle the case. Whatever the lawyers get, the states do not.

The reaction of the tobacco companies has also been suspiciously muted. Brown & Williamson, one of the firms, called the fee award ''obscene'', but the other companies said little. One reason may be that they do not really care about the size of the total fee award. Their deal with the states caps the amount they must pay all the states' lawyers of $500m a year. This will be divided by the lawyers according to their proportions of the overall fee award. Tobacco companies will also shell out another $1.25 billion over the next five years to pay off those lawyers who do not want to wait years to receive all their money. So the companies' exposure is limited, no matter what the lawyers get.

In effect, the lawyers are becoming joint business partners with the states and the tobacco companies in leaving a tax on smokers. The overall settlement has been widely misreported as giving the states $206 billion. But this is only the amount that they will receive in the first 25 years. The settlement actually runs in perpetuity, turning the tobacco firms into permanent tax-collection agencies for the states. The firms have already raised prices by about 50 cents a pack to pay for the settlement. The $500m they will be handing over to the lawyers annually will also be paid for by smokers.

If the total fee award to lawyers reaches $25 billion, these annual payments will continue for the next 50 years. If the outstanding fees are inflation-adjusted, as the arbitrators decided they should be in Florida, Mississippi and Texas, the payments to the lawyers and their heirs could go on for ever, because the $500m annual cap will not be inflation-adjusted. The tobacco firms are threatening to challenge the inflation-adjustment provision in the courts because they say it is not part of the national settlement agreement.

But inflation-adjusted or not, today's smokers—70% of whom earn less than $40,000 a year—will be paying the lawyers as well as the states, via the tobacco companies, for the rest of their (abbreviated) lives. Tobacco companies' bottom-lines will barely be affected. This is why tobacco shares rose after the settlement with the states was announced in November and barely reacted when the first gigantic fee awards to lawyers were made in December.

How the arbitrator came up with such a huge figure is something of a mystery. The awards range from 20–35% of what the three states will receive. But this is far more than the 8% fee agreed last May by the lawyers in Minnesota, the only state actually to take its tobacco case all the way to trial.

MORALES, FRIEND INDICTED IN TEXAS TOBACCO CASE—FORMER AG HAS DENIED WRONGDOING; FEDERAL CHARGES INCLUDE TAX EVASION

[From the Dallas Morning News, March 7, 2003]

(By George Kuempel)

AUSTIN.—Former Texas Attorney General Dan Morales and a lawyer friend were indicted on federal charges Thursday, accused of trying to defraud the state of hundreds of millions in legal fees from its suit against the tobacco industry.

Mr. Morales, a Democrat who lost a bid for governor last year, also was charged with illegally converting campaign funds to personal use, filing bogus income tax information and falsifying a bank loan application.

He and Marc Murr of Houston, who also was indicted, are expected to surrender to the FBI on Friday. They previously have denied wrongdoing.

U.S. Attorney Johnny Sutton called it ''a case of an elected official charged with abusing the public trust.''

''This indictment alleges he violated that trust by backdating contracts, forging government records and converting campaign contributions to personal use,'' Mr. Sutton said at the federal courthouse.

The 12-count indictment issued by a federal grand jury stemmed from a long-running investigation into payment of legal fees from the state's $17.3 billion settlement with tobacco companies when Mr. Morales was attorney general in 1998.

It's a case that has been at the center of a political wrangling for several years between Mr. Morales and Republicans. And it comes just weeks after his brother, San Antonio musician Michael Morales, pleaded guilty to attempting to extort $280,000 from Democrat Tony Sanchez during the campaign against Gov. Rick Perry.

Dan Morales, now a private lawyer in Austin, is accused of fraudulently trying to secure millions of dollars in fees for Mr. Murr for work on the tobacco case that he did not do by backdating contracts and forging government documents.

The indictments of Dan Morales and Marc Murr are another chapter in Texas' landmark $17.3 billion settlement with tobacco companies that has included twists, turns and reversals.

Initial debate: Gov. George W. Bush and state Attorney General John Cornyn, both Republicans, complained about $3.3 billion paid to five attorneys for their work on the 1998 settlement. Added intrigue: Mr. Morales said his friend Marc Murr of Houston was also among the state's tobacco lawyers and was due about $500 million. Mr. Morales had publicly hired the five private attorneys and disclosed their contracts; the deal with Mr. Murr was initially secret.

The Murr deal: Mr. Morales said Mr. Murr was hired to be a watchdog over the other lawyers and to advise him during the litigation. The other lawyers initially said that they had never heard of Mr. Murr, and later said he did little or no work on the case.

The initial inquiries: Mr. Cornyn, who succeeded Mr. Morales as attorney general in 1999, began investigating the Murr contract. Federal investigators started their inquiry into the deals and the documents.

The Murr money: In December 1998, Mr. Murr went before a national arbitration panel and was awarded $1 million over 30 years from tobacco companies. Unbeknownst to the other tobacco lawyers, Mr. Morales and Mr. Murr also formed a state arbitration panel in September 1998 that gave Mr. Murr $260 million—an award he contended was binding. He cited a Jan. 31, 1997, contract with the state as evidence.

Cornyn objects: In May 1999, Mr. Cornyn said that the Jan. 31, 1997, contract between Mr. Morales and Mr. Murr was a fake and did not exist when it supposedly was signed.

Sudden reversal: In U.S. District Court, Mr. Murr's attorney dropped the $260 million claim on May 6, 1999. Mr. Murr's attorney also told the court that at least one of the contracts signed by his client and Mr. Morales was backdated by as much as a year. Mr. Morales had denied any manipulation of the contract. He said the investigations are spawned by partisan political attacks.

Mr. Morales is reported to have hired Mr. Murr without the knowledge of the team of five high-profile trial lawyers he contracted to represent the state in its lawsuit against the big tobacco companies.

At one time, Mr. Murr stood to receive $520 million as his share of the $3.3 billion in fees awarded to the lawyers in the case.

His share was later reduced to $1 million, but he gave up his claim to the money when allegations arose that he had done no work on the case.

According to the indictment, Mr. Morales and Mr. Murr ''fabricated an outside counsel agreement, backdated to January 31, 1997, which purportedly required the State to pay a reasonable fee to Defendant Murr's corporation.''

As part of the ''scheme,'' the two men fabricated another outside counsel agreement, backdated to Oct. 17, 1996, which assigned 3 percent of the state's recovery to Mr. Murr's corporation.

''Defendant Morales directed a state employee to type and then backdate the bogus agreement. Three percent of the state's recovery was estimated to be $520 million,'' according to the indictment.

In May 1999, two forensic experts hired by The Dallas Morning News said that the Morales-Murr contract shows evidence of ''severe document manipulation.''

The private lawyers who handled the tobacco case were John Quinn and John Eddie Williams of Houston, Walter Umphrey and Wayne Reaud of Beaumont, and Harold Nix of Daingerfield. They have defended their actions in the case.

Mr. Morales surprised some when he announced plans in 1995 to sue several big tobacco companies to help recover the state's cost of treating patients suffering from tobacco-related illnesses.

But questions were raised about the fees by Republicans, including John Cornyn, who became attorney general in 1999 after Mr. Morales decided not to run again.

Mr. Cornyn began a state investigation, and Andy Taylor, a former assistant attorney general who headed that said of Mr. Morales: ''He's toast.

''We looked at the computer hard drives and could tell to the second when the backdating on the contracts occurred.''

Mr. Taylor, a Houston lawyer, said prosecutors have informed him that he will be called as a witness in the case. He said delays in the indictment probably were because of the lack of a permanent U.S. attorney for months before Mr. Sutton's appointment and confirmation.

Mr. Morales had slammed the inquiry as politically motivated. ''There's not one shred of evidence or a single document to support these lurid accusations.'' he said in 1999.

Micheal Ramsey, an attorney for Mr. Murr, said Thursday of the charges, ''My initial take is that it's unfair.''

Both men are accused of conspiracy and mail fraud, which can carry a penalty of up to five years in prison and a $250,000 fine.

The indictment also charges that Mr. Morales used $400,000 in campaign donations to buy a $775,000 house in Travis County and he is accused of understating by $400,000 his liabilities in applying for a $600,000 loan in 1999.

Making a false application on a loan application is a charge punishable by up to 30 years in prison and a $1 million fine.

According to the indictments, Mr. Morales defrauded the state, the Texas Ethics Commission, his contributors and others from 1997 and 1999 by converting political donations to personal use.

He is charged in another court with making false statements on his 1998 federal income tax return.

The indictment alleges that in his joint return filed with his wife, Mr. Morales listed their taxable income as $39,734 when he knew full well that ''their joint taxable income was substantially in excess'' of that amount.

THE CHARGES

Charges against former Attorney General Dan Morales include accusations that he:

Fraudulently tried to funnel $260 million in legal fees from the state tobacco case to a friend, who also was indicted.

Illegally converted nearly $400,000 in campaign contributions to his personal use.

Made false statements to get a $600,000 mortgage for his Travis County house.

Filed a false tax return that understated his taxable income for 1998.

[From the Wall Street Journal, March 10, 2003]

FAUST IN TEXAS II

The indictment of former Texas Attorney General Dan Morales lifts the lid ever so slightly over one of the mysteriously ignored scandals of the 1990s. We mean the national tobacco settlement that turned into a $500 million-a-year tax for the benefit of private tort lawyers.

That's the amount the tobacco companies agreed to pay in ''fees'' to private attorneys appointed by the state politicos on contingency. Four years later, an itinerant panel of three ''arbitrators'' is still moving from state to state to decide how this revenue stream, roughly a present value of $8 billion, will be divvied up.

Texas was crucial to starting the landslide toward a national settlement, and Mr. Morales selected the five lawyers who handled the state's case and would eventually receive an astounding $3.3 billion in fees. How these five were picked, though no part of last week's indictment, is an untold story in itself. Houston lawyer Joe Jamail, who waved off a chance to participate, told a grand jury Mr. Morales had demanded a $1 million gratuity to be named to the case.

Never mind. A million bucks would soon appear a hilariously trivial sum compared to the monumental fees the tobacco lawyers would receive. Seeing the sums that were up for grabs after the settlement was reached, Mr. Morales produced out of the blue a friend, lawyer Marc Murr, whom he claimed was entitled to $520 million. Mr. Morales even turned up a document, never seen before, testifying to a fee agreement.

The five private lawyers were apoplectic, insisting Mr. Murr had done little work and implying the contract was a forgery. Mr. Morales quickly retreated. He did not seek a third term as attorney general.

The Murr episode had not been forgotten, however, and last week the U.S. Attorney's office in Austin brought charges against Mr. Morales for making false statements and concealing documents in an effort to enrich his friend. Mr. Murr was also indicted.

Hallelujah. We can only hope this proves a sideshow to the main event. Mr. Jamail's allegations about how Mr. Morales picked the other five attorneys reportedly have been seconded by two other witnesses before a grand jury. Virtually overlooked has been the role of lawyer Walter Umphrey, one of the biggest beneficiaries of the tobacco settlement, in naming the supposedly ''independent'' chairman of the national arbitration panel that is still awarding millions of dollars in fees.

A shameful episode, the tobacco settlement essentially enacted a national sales tax outside any legislature and awarded a big chunk of the proceeds to private campaign contributors of the attorneys general who brought the suit. So vast have been the rewards, in publicity and money, that the AGs have now turned themselves into full-time buccaneers-in-arms of the private tort bar, preying on one industry after another in search of more such triumphs.

Belated accountability is better than none. We just hope prosecutors and grand juries won't stop with the Murr case.

Mr. CORNYN. Mr. President, I am pleased to join my colleague, Senator KYL, to introduce today this landmark legislation to clean up our civil justice system. This legislation would enact a badly needed reform to the way in which attorneys are paid in some of the Nation's largest cases. It is designed to address some of the worst abuses of our civil justice system that I have witnessed in my nearly thirty years in the legal profession as a lawyer in private practice, as a state trial and appellate judge, and as state attorney general.

This legislation, the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003, ISCRAA, will combat the gross abuse of attorney contingent fee agreements, abuses which we have been witnessing at an increasing rate in recent years. The legislation will enforce attorneys' fiduciary duties to their clients in a small but important category of cases—those resulting in judgments greater than $100 million.

Contingent fee agreements can have an important role to play in our civil justice system. Sometimes, when people are injured but cannot afford to hire lawyers out of their own pockets, attorneys will accept the case with the expectation that, if their clients prevail, the attorney will be paid for his or her services out of the judgment or settlement that the attorney is able to secure for the client. Such agreements between attorneys and their clients are called contingent fee agreements, because the attorney's fee is contingent on the client obtaining a money judgment or settlement. Contingent fee agreements, properly understood and utilized, reward attorneys for their work in obtaining monetary recovery for their clients, and the risk that they take that, despite their hard work and best efforts, they are unable to obtain any recovery for the client at all.

Contingent fees can thus help ensure that plaintiffs with legitimate claims have the opportunity to obtain justice from our courts through the assistance of counsel. But contingent fees also present serious ethical problems for our legal system—particularly in cases in which the dollar amounts at stake are extraordinary, and result in a contingent fee award that overwhelmingly exceeds the relatively light or even negligible effort and risk actually undertaken by the attorneys.

Under the time-tested traditions of our legal system, clients hire attorneys with the understanding and expectation that the attorney is ethically, legally, and morally obliged to represent their best interests, and that the attorney will use his or her legal skills in order to produce the best possible result—not for the attorney, but for the client.

Thus, as my colleague has noted, contingent fee agreements are no ordinary agreements between consumers and businesses. It is a bedrock principle and well-established tenet of our Anglo-American system of justice that attorneys are not ordinary businessmen who can engage in hard bargaining with their customers, as courts have made clear on countless occasions. Rather, attorneys are officers of the court who bear a fiduciary duty to their clients. As fiduciaries, attorneys occupy a position of trust in their dealings with their clients, a trust which attorneys may not lawfully abuse.

One obligation that flows from this status as a fiduciary is the attorney's obligation not to charge an unreasonable or excessive fee. This obligation is a fundamental part of an attorney's ethical duties, universally recognized in the ethics rules of all 50 States. Courts have made clear, time and time again, that every attorney fee contract automatically and necessarily includes the requirement that the fee be a reasonable one, a fundamental and basic duty of all attorneys, and one that no provision of such agreements may abrogate.

ISCRAA affirms and reinforces the longstanding substantive law of attorneys' fiduciary duties, by providing a special mechanism to enforce those duties in a particularly high risk category of cases—a category that the courts themselves have singled out as posing special risks of unethical, windfall fees. Courts have noted that allowing standard contingency fee agreements in cases involving judgments of

$100 million or more have a distinct tendency of grossly overcompensating attorneys for their actual services rendered.

ISCRAA prevents attorneys from evading their obligation to charge a reasonable fee in extraordinarily large recovery cases, by effectively limiting awards to a generous multiple of reasonable hourly fees. State courts, Federal courts, and even trial lawyers' themselves have all recognized that a reasonable fee must be proportional to the attorney's actual efforts. ISCRAA codifies and enforces this principle, while continuing to guarantee lawyers ample and generous compensation for their efforts—using fee multipliers that are as generous as the most liberal limits adopted by state courts, and which are considerably more generous than the limits set by federal courts in $100 million cases.

This legislation thus promises to clean up our civil justice system and to repudiate the grossest abuses of our legal system. Make no mistake: Although all attorneys are supposed to uphold a strict ethical code, under which they are strictly forbidden from charging their clients unreasonable or excessive attorney fees, the temptation to abuse contingent fee agreements is a strong one, and even more so when the dollar amounts are truly extraordinary—such as in the $100 million cases that would be covered by this legislation. And make no mistake: the victim of such attorney fee abuse, and the beneficiary of this legislation, is not the defendant who pays the judgment—after all, the defendant pays the same total amount whether the money goes to the attorney or to the client. Rather, the real victim of this abuse, and the real beneficiary of this legislation, is the injured client, whose money is being taken away from the lawyer through an abusive contingent fee arrangement.

As my colleague has also noted, ISCRAA is unquestionably an appropriate exercise of Congress's power to regulate and protect interstate commerce, considering the large size of the litigations to which it applies. $100 million is a standard threshold used by the federal government to determine whether an economic transaction significantly affects interstate commerce.

But the most important reason for federal intervention in this area I have not yet mentioned, and I would like to take a moment to discuss it here: the gross abuses that we have already witnessed in large litigation fee awards. Recent experience amply demonstrates that, if the Federal Government does not act to prevent unethical and grossly abusive fee awards in massive, nationwide lawsuits, no one will. Moreover, recent experience further demonstrates that unreasonable fee payments in such suits threaten not just the attorneys' fiduciary obligations; they also place at risk the integrity of our governmental institutions. The unwholesome incentives created by windfall, unethical fee awards in large-scale litigations have induced some public officials to abandon their civic obligations.

The textbook example of the types of abuses that make ISCRAA necessary is the attorney fee arrangement awarded in the State lawsuits to recover tobacco-related Medicaid expenses. Individual law firms that represented the States in that litigation have been given hundreds of millions and sometimes even billions of dollars in fees. To date, approximately $15 billion in fees has been awarded to the tobacco settlement lawyers, to be paid out in $500-million-a-year increments. Attorneys representing just three of the States—Mississippi, Texas, and Florida—were awarded $8.2 billion in fees. In many cases, such fees were paid to attorneys who filed duplicate, copycat lawsuits at a time when settlement negotiations had already begun and the risk that the states would not recover any money was negligible. Yet these lawyers nevertheless received massive contingency fees, for suits that involved no real contingency. And for most of the tobacco settlement lawyers, the size of the fee awards bears no reasonable relation to the actual effort expended or risk involved.

There is widespread agreement that the fees awarded in the tobacco settlement are excessive and unreasonable. Perhaps the most damning indictments come from those who took the plaintiffs' side in this litigation—including from plaintiff lawyers themselves. For example, Michael Ciresi, a pioneer in the tobacco litigation who represented the state of Minnesota in its lawsuit, and who is no doubt familiar with what these lawsuits actually require, has said that the Texas, Florida, and Mississippi lawyers' fee awards ''are far in excess of these lawyers' contribution to any of the state results.'' Similarly, former Food and Drug Administration Commissioner David Kessler, another leader in the fight against tobacco, has said that the states' private lawyers ''did a real service, but I think the fee is outrageous. All the legal fees are out control.'' Washington, D.C. lawyer and tobacco-industry opponent John Coale has denounced the fee awards as ''beyond human comprehension'' and stated that ''the work does not justify them.'' Even the Association of American Trial Lawyers, the nation's premier representative of the plaintiffs bar, has condemned attorney fees requested in the state tobacco settlement. The President of ATLA has noted: ''Common sense suggests that a one billion dollar fee is excessive and unreasonable and certainly should invite the scrutiny, of the courts. ATLA generally refrains from expressing an institutional opinion regarding a particular fee in a particular case, but we have a strong negative reaction to reports that at least one attorney on behalf of the plaintiffs in the Florida case is seeking a fee in excess of one billion dollars.''

This letter, written in 1997, only concerned one of the Florida lawyers' request for attorney fees. Ultimately, Florida's private counsel was awarded a total of $3.4 billion in fees. These statements demonstrate beyond all doubt that there is real abuse going on here, and that the victim of this abuse is the client, the plaintiff—and not the defendant.

Perhaps the best gloss on the tobacco fee awards is that provided by Professor Lester Brickman, a professor of law at Cardozo Law School and noted authority on legal ethics and attorney fees. Professor Brickman has stated:

''Under the rules of legal ethics, promulgated partly as a justification for the legal profession's self-governance, fees cannot be 'clearly excessive.' Indeed, that standard has now been superseded in most States by an even more rigorous standard: fees have to be 'reasonable.' Are these fees, which in many cases amount to effective hourly rates of return of tens of thousands—and even hundreds of thousands—of dollars an hour, reasonable? I think to ask the question is to answer it.''

The attorney fees awarded in the state tobacco settlement are simply indefensible. And the process by which the fees were awarded partly explains how they came to be so. Outside counsel fees were determined by a private arbitration panel established by the Master Settlement Agreement, MSA, that resolved 46 of the states' litigation. Four other states had settled their suits earlier. Their lawyers, however, also were paid out of the accounts created by the MSA. Amazingly, the settlement agreement explicitly immunized all fee awards from judicial review. Even more amazingly, one of the three arbitrators who made the awards had a clear conflict of interests: he was the father of a South Carolina lawyer whose law firm has received the largest fee awards of all, believed to amount to over $2 billion. Another one of the arbitrators had no background in fee arbitrations or any related matter, and simply ignored the law in order to make outrageous awards, using the salaries of sports stars and entertainers as a basis of measure. Revealingly, the third arbitrator, a retired Federal judge appointed by President Carter, dissented from the key fee decisions.

As incredible as the MSA fee awards and the arbitration procedures may seem, even more dubious is the process by which many of the law firms that participated in this lucrative litigation were selected in the first place to represent the states.

In my home State of Texas, trial lawyers have accused the then-state attorney general of demanding $1 million in campaign contributions in exchange for their being hired to represent the state in the tobacco litigation. One prominent lawyer—a former president of the Texas Trial Lawyers Association—has since said that the attorney general's solicitation was so blatant that ''I knew th[at] instant . . . that I

could not be involved in the matter.'' He even later wondered if the meeting had been a ''sting operation.'' Another lawyer simply characterized his encounter with the attorney general as a bribery solicitation.

This former Texas attorney general was recently indicted on Federal charges of attempting to fraudulently divert $260 million in tobacco-settlement legal fees to one of his personal friends. He had given a sworn affidavit that this lawyer had served as Texas' ''primary adviser'' in its tobacco lawsuit—despite the apparent fact that the lawyer had attended no court hearings, depositions, or strategy meetings, wrote no memos or legal briefs about the case, and apparently never even spoke to any of the other attorneys. The attorney general even went so far as to forge and fraudulently backdate documents in order to win his friend a share of the tobacco settlement fee.

As for the five law firms that actually did represent Texas in the tobacco litigation, they filed relatively late lawsuits that were based on other lawyers' work—and yet, despite the minimal energy expended on those suits, were awarded $3.3 billion in attorney fees. This award amounts to compensation that, even assuming that the attorneys worked all day every day during the entire period of the litigation, remains well in excess of $100,000 an hour. As one newspaper editorial has noted, for the amount of money that these lawyers were awarded, Texas could hire 10,000 additional teachers or policemen for ten years. Instead, four of these firms gave the attorney general $150,000 in campaign contributions in recent years.

Texas' experience is not an isolated example. In other states as well, lawyers' participation in the tobacco litigation appears to have been the product of political favoritism—and to have resulted in unfathomable fees that bear no reasonable relation to the services provided. For example: New Jersey: The private in-state lawyers who represented this state in the tobacco litigation have admitted that they had no mass-tort litigation experience and played no role in the state settlement talks. They have also admitted that all the key work in the state's lawsuit was done by out-of-state firms—the in-state firms' principal work was drafting pro hac vice motions to have these outside lawyers admitted in New Jersey courts. Any work that the New Jersey lawyers did was submitted to the outside lawyers, who made all of the substantive arguments. Result: these in-state lawyers were awarded $350 million in the MSA fee arbitration. Connections: the New Jersey lawyers were an inside group of past presidents of the New Jersey trial lawyers' association. The State refused to even consider hiring a nonprofit firm to conduct the New Jersey lawsuit.

Pennsylvania: Settlement talks had already begun, the states' tobacco litigation was being resolved, and all of the legal theories already had been developed long before the Pennsylvania state suit was filed. Result: Pennsylvania's private lawyers were awarded $50 million in the MSA arbitration—equivalent to 1000 percent of a reasonable hourly rate. As one expert has noted, ''there's not $50 million of work in there.'' Connections: the two law firms that the state Attorney General selected to conduct the litigation were among his top campaign contributors. The firms were awarded no-bid contracts. As one Pennsylvania commentator has noted, ''obviously, it was a political kind of thing.''

Maryland: Billionaire tort lawyer Peter Angelos demanded a one billion dollar fee for his work on that State's case, even though, according to the State Senate President, the State legislature had retroactively ''changed centuries of precedent to ensure [Angelos] a win in the case.'' Angelos ultimately received an accelerated $150 million payment for this no-risk lawsuit.

Louisiana: The private law firms that represented the State in the tobacco litigation were awarded $575 million. The MSA arbitration panel actually increased this award on the ground that the State government—the lawyers' supposed client—was opposed to suing tobacco companies. The Louisiana fee award amounts to almost $7,000 an hour, based on the lawyers' estimate that they worked a total 85,000 hours. Moreover, this estimate is unverifiable, because the state's private lawyers kept no billing records—as the attorney general explained, ''I wasn't that big on hourly or written reports.'' The dissenting member of the arbitration panel simply noted that the Louisiana fee award ''shocks the conscience'' The single biggest beneficiary of this largesse—receiving $115 million in attorney fees—was a law firm based in Lake Charles, the hometown of the state's attorney general. This firm and the next largest fee recipient had donated over $42,000 to the attorney general's political campaigns. Together, all of the firms that represented Louisiana gave more than $100,000 to the attorney general in the years before they were selected to participate in the state's tobacco team.

Ohio: The lawyers representing this State received fees estimated to exceed $50,000 per hour, despite the fact that, according to independent observers, ''all of the legal issues were resolved long before these Ohio lawyers stepped up to the plate.'' The state's outside counsel had donated $26,000 in campaign contributions to the State attorney general prior to their appointment to the state's tobacco team. After the attorney general chose one private lawyer to serve as the state's ''lead special counsel,'' that lawyer hired one of the attorney general's top aides for an undisclosed sum in order to—in the lawyer's own words—''help me get acquainted with a technique called PowerPoint.'' When told that ''there were many people in Ohio capable of doing a PowerPoint presentation,'' the state's outside counsel responded that this particular attorney general's aide ''was the only one I knew of.''

Massachusetts: According to other tobacco plaintiffs' lawyers, Massachusetts's suit piggybacked on the work of other lawyers and was not pivotal to the outcome of the tobacco litigation. Result: $775 million was awarded to the Massachusetts lawyers in the MSA arbitration.

New York: When this State's then-attorney general hired private counsel to represent the State in its tobacco lawsuit, tobacco companies already had paid $15 billion to Florida and Mississippi for identical claims and a national settlement agreement already was under discussion. As one local anti-tobacco leader has noted, ''these were copycat lawsuits, there wasn't all that much work to do.'' The firms' primary job was to collect New York-specific data in order to calculate damages. Ultimately, the New York firms represented the State for just 13 months. And they received a fee award of $625 million. This amounts to at least $14,000 an hour, for a lawsuit that by all accounts involved no risk. The dissenting member of the arbitration panel has denounced the award as ''an astronomical sum unrelated to, the attorneys', efforts or achievements.'' The New York firms had contributed more than $250,000 to New York politicians and their campaign organizations in the years preceding their selection - and another $200,000 after the State settlement.

Wisconsin: The Wisconsin lawyers' tobacco litigation work has been described as chiefly consisting of media and public relations efforts on their own behalf. Their billing records included time spent selecting office space and buying furniture. One lawyer effectively billed $3,000 to the State for reading an article in a Madison newspaper. The lawyers also billed the State for limousine rides around the state, trips on private jets, and stays at luxury hotels. Result: $75 million was awarded to the Wisconsin lawyers. Based on the law firms' records of the total number of hours they devoted to the case—including work by paralegals—this fee amounts to $3,000 per hour.

Missouri: A State supreme court justice in Missouri resigned his post in order to join one of the private law firms expected to receive a portion of the MSA arbitrators' fee award. Ultimately, the firms representing the State spent just 5 months on the state's lawsuit. They received a fee award of $111 million. One State leader has described the award as ''the biggest rip-off in the 180-year history of the state.'' The law firms receiving these fees had donated more than $500,000 to State politicians and parties in the years leading up to their selection as the State's outside counsel.

These examples are too numerous to dismiss. In State after State, the temptations created by the massive, windfall fees awarded in the Medicaid tobacco settlement corrupted not only lawyers involved, but the government as well. The fee awards poisoned everything that they touched. No one who examines these events closely—who surveys the obscene fee awards, and the political cronyism that determined who benefited—can disagree that this must never be allowed to happen again.

As a final point, I would like to address a question that has been raised with regard to remedy. Some have argued that nothing can be done to correct the excesses of the tobacco settlement fee awards—even with regard to fees that are still being or have yet to be paid. On several occasions, State judges who were called upon to approve their State's tobacco settlement have also, on their own initiative, inquired into the apparent unreasonableness of the fees awarded. In each case, both the plaintiffs' lawyers—and in some cases, even State officials—have challenged the State courts' authority to act. They have argued that these courts lack jurisdiction to review a national settlement, and that excessive fees cannot be restored to the State. One state's attorney general implicated in these events has argued that it is a ''misconception'' that the tobacco settlement ''attorneys' fees are coming out of the public's pocket. That is not the case. They [sic] defendants have agreed to pay these fees.''

Because of the way that the MSA fee payments are structured, no lawyer's award comes out of any one particular, identifiable State's recovery. Instead, all of the lawyers are being paid from one of two separate accounts, each of which is funded by the tobacco companies.

It is a mistake, however, to contend that, because the MSA fee payments are made directly from defendants to plaintiffs' lawyers—without ever formally or actually passing through the plaintiffs' hands—they are immunized against ethical scrutiny or correction. It is well and long established in our law that fee awards originate as the property of the client regardless of how the fee agreements are structured. The courts have been very clear on this point. As they have stated: ''The allowance of attorney fees in a judgment gives the attorneys no interest and ownership in the judgment to the extent of the amount of the fee allowed, but the judgment in its entirety is the property of the client. The award for fees is for the client, not the attorney.''

''[A]ttorneys' fee provisions exist for the benefit of parties and not the attorneys. . . . Several jurisdictions have noted that the real party in interest with regard to fees is the client and not the attorney.''

''A judgment for costs is a judgment in favor of the party, and not of his attorney, and the money represented by the costs is the property of the party.''

''[T]he award of attorney fees [is] made not to the attorneys but to the litigant who was personally liable to the attorneys. This is also the view in other states when the courts award attorney fees.''

''An award of attorney's fees belongs to the client and not the attorney.''

Indeed, an award of attorney fees is generally taxable as income to the client. In a recent case, the U.S. Court of Appeals for the Ninth Circuit noted that a plaintiff's obligation to compensate the law firm that represented him ''was satisfied by [the defendant]. The payment was therefore to [the client]. The discharge by a third person of an obligation to him is equivalent to receipt by the person taxed.'' The Ninth Circuit emphasized that the fact ''[t]hat [the client] never laid hands on the money paid to the lawyers does not obliterate their constructive receipt.'' In other words, the fee award belongs to the client, regardless of how the award is made.

The rule that fee awards belong to the client is strongly supported by important policy considerations. It is necessary because any other rule would be an invitation to collusion and self-dealing between plaintiffs' lawyers and defendants. Again, the courts have been very clear on this point. As the Third Circuit has noted: ''[A] defendant is interested only in disposing of the total claims asserted against it, and the allocation between the [plaintiff's] payment and the attorneys' fees is of little or no interest to the defense. Moreover, the divergence in class members' and class counsel's financial incentives creates the danger that the lawyers might urge a class settlement at a low figure or on a less-than-optimal basis in exchange for red-carpet treatment for fees.''

The Second Circuit has made the same point, noting: ''Defendants, once the settlement amount has been agreed to, have little interest in how it is distributed and thus no incentive to oppose the [attorneys] fee. Indeed, the same dynamic creates incentives for collusion—the temptation for lawyers to agree to a less than optimal settlement in exchange for [generous fees].''

The Ninth Circuit has also addressed the question of ''whether a class member has standing to appeal class counsel's attorney fee and cost award when that award is payable by the defendant independently, and not out of the class settlement.'' The court concluded that ''[e]ven if class counsel's attorney fees are not to be paid from the class settlement . . . , the aggregate amount of the attorney fees and the class settlement payments may be viewed as ''a constructive common fund.'' The court reasoned that ''[i]f . . . class counsel agreed to accept excessive fees and costs to the detriment of class plaintiffs, then class counsel breached their fiduciary duty to the class. If that were the case, any excessive award could be considered property of the class plaintiffs, and any injury they suffered could be at least partially redressed by allocating to them a portion of that award.''

As several commentators have noted, the policy considerations underpinning the rule that fee awards belong to the client apply with full force to the State tobacco settlement. Indeed, that settlement could serve as a textbook example for why this rule exists. As Professor Brickman has noted: ''To the tobacco companies, dollars are dollars, whether paid to States or paid to lawyers. So the real amount on the bargaining table was not the $246 billion that the states settled for, but a larger sum, including the amount to be paid to the attorneys. . . . Stated simply, because dollars are fungible, the fees are coming out of the settlements.''

Even foreign commentators have noted that the State tobacco settlement's ''arbitration is a mere figleaf. The money going to the lawyers was clearly part of the overall amount that the tobacco companies were willing to pay to settle the case. Whatever the lawyers get, the states do not.''

And this point has not been lost upon members of Congress. Representative CHRIS COX, R–CA, has testified on the matter: ''It is specious to argue that, billions of dollars, in fees are not being diverted out of funds available for public health and taxpayers. The tobacco industry is willing to pay a certain sum to get rid of these cases. That sum is the total cost of the payment to the plaintiffs and their lawyers. It is a matter of indifference to the industry how that sum is divided—75 percent for the plaintiffs and 25 percent for their lawyers, or vice versa. That means that every penny paid to the plaintiffs' lawyers—whether it is technically ''in'' the settlement or not—is money that the industry could have paid to the state or the private plaintiffs. Excessive attorneys' fees in this case will not be a victimless crime.''

These authorities and their reasoning should be more than sufficient to permanently dispel the notion that an attorney fee agreement can be structured so as to evade the ethical obligation to charge only a reasonable fee. The defenders of the MSA fee payments are simply misleading the public and this distinguished body when they assert that a particular lawyer's award under the settlement does not come out of a particular state's recovery. That fee comes out of all of the State's recoveries. All excessive or unreasonable fees should be restored to all 50 of the States.

Senator KYL has already presented estimates of the monetary recovery each State can expect if ISCRAA is enacted. I would simply point out here that, according to those estimates, Texas has been charged excessive and unreasonable attorney fees in the amount of $667 million, and therefore would recover those funds if this legislation is adopted.

ISCRAA's return of unethical tobacco-settlement fee awards to the

states is manifestly proper in light of the fact that all fee awards are the property of the client, and the attorney is entitled only to a reasonable fee. No attorney is above these ethical rules and obligations. They cannot be waived or ignored. And in light of our experience with the State tobacco settlement fee awards, and their effect on our public officials, these ethical duties must be carried out and enforced strictly and fully.

Our Federal and State courts generally do a good job of protecting consumers and enforcing the rights of all Americans. But there are problems in our courts that require attention and significant reform. Class action abuse not only threatens the integrity and the perception of rationality in our nation's courts, it also strongly hinders economic and job growth. Tort reform is badly needed to rescue many industries, especially our health care industry, from abuses of our legal system. The judicial confirmation process at the federal level has become bitter, severe and destructive, and that broken process poses a serious threat to judicial independence and the quality and efficiency of our courts. And abusive attorney fee arrangements make a mockery of our civil justice system, all while enriching a small band of unscrupulous litigators at the expense of the real victims, their clients.

To enforce the longstanding fiduciary duty of all attorneys to charge only a reasonable fee, in a class of cases that poses heightened risks of abuse and special significance to the national economy, I urge that this Senate consider expediently, and approve quickly, this important measure, the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 118—SUPPORTING THE GOALS OF THE JAPANESE AMERICAN, GERMAN AMERICAN, AND ITALIAN AMERICAN COMMUNITIES IN RECOGNIZING A NATIONAL DAY OF REMEMBRANCE TO INCREASE PUBLIC AWARENESS OF THE EVENTS SURROUNDING THE RESTRICTION, EXCLUSION, AND INTERNMENT OF INDIVIDUALS AND FAMILIES DURING WORLD WAR II

Mrs. BOXER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 118

Whereas, on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, which authorized the exclusion of 120,000 Japanese Americans and legal resident aliens from the West coast of the United States and the internment of United States citizens and legal permanent residents of Japanese ancestry in internment camps during World War II;

Whereas the freedom of Italian Americans and German Americans was also restricted during World War II by measures that branded them as enemy aliens and included required identification cards, travel restrictions, seizure of personal property, and internment;

Whereas President Gerald Ford formally rescinded Executive Order 9066 on February 19, 1976, in his speech, ''An American Promise'';

Whereas Congress adopted legislation which was signed by President Jimmy Carter on July 31, 1980, which established the Commission on Wartime Relocation and Internment of Civilians (the ''Commission'') to investigate the claim that the incarceration of Japanese Americans and legal resident aliens during World War II was justified by military necessity;

Whereas the Commission held 20 days of hearings and heard from over 750 witnesses on this matter and published its findings in a report entitled ''Personal Justice Denied'';

Whereas the Commission concluded that the promulgation of Executive Order 9066 was not justified by military necessity and that the decision to issue the order was shaped by ''race prejudice, war hysteria, and a failure of political leadership'';

Whereas Congress enacted the Civil Liberties Act of 1988, in which it apologized on behalf of the Nation for ''fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry'';

Whereas President Ronald Reagan signed the Civil Liberties Act of 1988 into law on August 10, 1988, proclaiming that day to be a ''great day for America'';

Whereas the Civil Liberties Act of 1988 established the Civil Liberties Public Education Fund, the purpose of which is ''to sponsor research and public educational activities and to publish and distribute the hearings, findings, and recommendations of the Commission on Wartime Relocation and Internment of Civilians so that the events surrounding the exclusion, forced removal, and internment of civilians and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood'';

Whereas Congress adopted the Wartime Violation of Italian Americans Civil Liberties Act, which was signed by President Bill Clinton on November 7, 2000, and which resulted in a report containing detailed information on the types of violations that occurred and lists of individuals of Italian ancestry that were arrested, detained, and interned;

Whereas the Japanese American community recognizes a National Day of Remembrance on February 19th of each year to educate the public about the lessons learned from the internment to ensure that such an event never happens again; and

Whereas the Day of Remembrance provides an opportunity for all people to reflect on the importance of justice and civil liberties during times of uncertainty and emergency: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historical significance of February 19, 1942, the date President Roosevelt signed Executive Order 9066, which restricted the freedom of Japanese Americans, German Americans, Italian Americans, and legal resident aliens through required identification cards, travel restrictions, seizure of personal property, and internment; and

(2) supports the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the restrictions endured by the people in those communities as a result of Executive Order 9066.

Mrs. BOXER. Mr. President, today I am submitting a resolution to support the goals of the Japanese American, German American and Italian American communities in recognizing a ''National Day of Remembrance.'' This resolution will increase public awareness of the events surrounding the restriction, exclusion and internment of individuals and families during World War II.

On February 11, 1942, President Franklin D. Roosevelt signed Executive Order 9066, which authorized the incarceration of over 120,000 Americans of Japanese, Italian and German ancestry. Not until 34 years later—on February 19, 1976—was E.O. 9066 formally rescinded by President Gerald Ford.

Since then, Congress and Presidents Carter, Reagan, and Clinton have recognized the ''fundamental violation of the basic civil liberties and constitutional rights'' of individuals detained and interned under E.O. 9066. The Commission on Wartime Relocation and Internment of Civilians established by Congress under President Carter concluded that the decision to issue E.O. 9066 was shaped by ''race prejudice, war hysteria, and a failure of political leadership.''

In the last half century, organizations, families and individuals all over the country have observed a day of remembrance on February 19 to educate others of the distinct experiences of Japanese, Italian, and German Americans during World War II. Congressional recognition of this ''National Day of Remembrance'' would assist in promoting dialogue and education of Americans on this very important event in our history.

We need to recognize and support the efforts to raise awareness of the experiences of interned Americans. I urge my colleagues to support this resolution.

SENATE RESOLUTION 119—EXPRESSING THE SENSE OF THE SENATE THAT THERE SHOULD BE PARITY AMONG THE COUNTRIES THAT ARE PARTIES TO THE NORTH AMERICAN FREE TRADE AGREEMENT WITH RESPECT TO THE PERSONAL EXEMPTION ALLOWANCE FOR MERCHANDISE PURCHASED ABROAD BY RETURNING RESIDENTS, AND FOR OTHER PURPOSES

Ms. COLLINS (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. DOMENICI, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 119

Whereas the personal exemption allowance is a vital component of trade and tourism;

Whereas many border communities and retailers depend on customers from both sides of the border;

Whereas a United States citizen traveling to Canada or Mexico for less than 48 hours is exempt from paying duties on the equivalent of $200 worth of merchandise on return to the United States, and for trips over 48 hours United States citizens have an exemption of up to $800 worth of merchandise;

Whereas a Canadian traveling in the United States is given no exemption for trips of less than 24 hours;

Whereas a Canadian traveling in the United States is allowed a duty-free personal exemption allowance equivalent to, in Canadian currency—

(1) $50 worth of merchandise, if the trip is over 24 hours but not over 48 hours;

(2) $200 worth of merchandise, if the trip is over 48 hours but not more than 7 days; and

(3) $750 worth of merchandise, if the trip is for over 7 days;

Whereas Mexico has a 2-tiered personal exemption allowance for its returning residents, set at the equivalent of $50 worth of merchandise for residents returning by car and the equivalent of $300 worth of merchandise for residents returning by plane;

Whereas Canadian and Mexican retail businesses have an unfair competitive advantage over many American businesses because of the disparity between the personal exemption allowances among the 3 countries;

Whereas the State of Maine legislature passed a resolution urging action on this matter;

Whereas the disparity in personal exemption allowances creates a trade barrier by making it difficult for Canadians and Mexicans to shop in American-owned stores without facing high additional costs;

Whereas the United States entered into the North American Free Trade Agreement with Canada and Mexico with the intent of phasing out tariff barriers among the 3 countries; and

Whereas it violates the spirit of the North American Free Trade Agreement for Canada and Mexico to maintain restrictive personal exemption allowance policies that are not reciprocal: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Trade Representative and the Secretary of the Treasury, in consultation with the Secretary of Commerce, should continue discussions with officials of the Governments of Canada and Mexico to achieve parity by harmonizing the personal exemption allowance structure of the 3 NAFTA countries at or above United States exemption levels.

Ms. COLLINS. Mr. President, I am pleased today to introduce a resolution seeking parity among the United States, Canada, and Mexico with respect to the personal exemption allowance for merchandise purchased abroad by returning residents. I am especially pleased to be joined today by Senators BAUCUS, BINGAMAN, DOMENICI, and CLINTON as original cosponsors.

For Maine citizens living near the U.S./Canadian border, moving freely and frequently between the two countries is a way of life. Cross-border business and family relationships abound. The difference in personal exemption allowances, however, puts Maine businesses near the Canadian border at a considerable disadvantage in relation to their Canadian counterparts.

A United States citizen traveling to Canada for fewer than 24 hours is exempt from paying duties on the equivalent of $200 worth of Canadian merchandise. For trips over 48 hours, the exemption increases to $800 worth of merchandise. This means that a Mainer living in a border community has the option to shop in both the United States and in Canada, seeking the best price and products. Under U.S. laws, Canadian stores are able to serve both Canadian and American customers, and, because of the high exemption level, Americans are able to bring home from Canada a significant amount of merchandise duty free.

Unfortunately, these advantages are a one way street. A Canadian citizen is given no dutyfree personal exemption allowance for trips under 24 hours. Canadian Customs is instructed to begin collecting duties and taxes on merchandise as long at it can collect three Canadian dollars. Canadian duty and sales tax rates range from seven to fifteen percent depending on the policies of the Canadian province; Nova Scotia, New Brunswick, and Newfoundland enforce a 15 percent Harmonized Sales Tax, HST on all imports. Assessing a 15 percent combined duty and tax rate, Canadian Customs begins to collect the duty and tax on the equivalent of only approximately $14 worth of U.S. goods. Compare this to the $200 limit given to U.S. citizens.

This means that a Canadian shopping for the day in Fort Kent, Madawaska, or Calais can bring home only $14 worth of merchandise before a 15 percent duty is imposed. The exemption limit rises to a mere $50 for trips between 24 and 48 hours. Restrictions such as these are a significant deterrent to Canadians who would otherwise shop in Maine communities.

In August of 2002, I brought two top Treasury officials to Maine to meet with our affected border communities to hear their concerns about this problem. In the meeting held in Calais, small business owners such as Louis Bernardini, owner of the Boston Shoe Store, and Bill Francis, owner of Knock on Wood gift shop, explained that Canada's duty barriers cost their businesses thousands of dollars in estimated revenue on an annual basis. These losses are compounded by other challenges facing their and other small businesses—an economic recession, the weakness of the Canadian dollar, and additional restrictions on border security following September 11.

This discrepancy in personal exemption allowances gives an enormous competitive advantage to the Canadian and Mexican retailers in border communities. It gives the retailers of our neighbors to the north and the south access to the cross-border shoppers while, in effect, denying that same opportunity for American retailers. This is not fair nor free trade.

In June 2002, I wrote to the Bush administration requesting that it raise the issue with its Canadian counterparts as soon as possible. Former Treasury Secretary O'Neil responded to my request and wrote to John Manley, the Canadian Minister of Finance and Deputy Prime Minister, asking him to adopt ''a more trade-friendly and less administratively burdensome system of personal duty allowances.''

I had the opportunity to meet personally with John Manley this week regarding border issues. During this meeting, I told him that Canada's restrictive personal exemption policies threaten the economies of its neighboring communities. I was encouraged by Minister Manley's understanding of my concerns and acknowledgment that this issue needs to be resolved.

Currently, Treasury officials are actively negotiating with Canada to try to resolve the problem. The resolution I am introducing today expresses the Sense that the Secretary of the Treasury and the United States Trade Representative should continue discussions with officials of the Governments of Canada and Mexico to achieve parity with respect to the personal exemption allowance structure. Passage of this amendment will send a clear message to these governments that the duty disparity unfairly disadvantages American businesses and must be corrected. I urge my colleagues to support its swift passage.

SENATE RESOLUTION 120—COMMEMORATING THE 25th ANNIVERSARY OF VIETNAM VETERANS OF AMERICA

Mr. JEFFORDS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 120

Whereas the year 2003 marks the 25th anniversary of the founding of Vietnam Veterans of America;

Whereas the history of Vietnam Veterans of America is a story of the United States' gradual recognition of the tremendous sacrifices of its Vietnam-era veterans and their families;

Whereas Vietnam Veterans of America is dedicated to advocating on behalf of its members;

Whereas Vietnam Veterans of America raises public and member awareness of critical issues affecting Vietnam-era veterans and their families;

Whereas the local grassroots efforts of Vietnam Veterans of America chapters, such as Chapter One in Rutland, Vermont, which was founded 23 years ago in April of 1980, have greatly contributed to the quality of the lives of veterans in our Nation's communities;

Whereas Vietnam Veterans of America promotes its principles through volunteerism, professional advocacy, and claims work; and

Whereas the future of Vietnam Veterans of America will rely not only on its past accomplishments, but also on the future accomplishments of its members, and these will ensure that Vietnam Veterans of America remains a leader among veterans advocacy organizations: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 25th anniversary of the founding of Vietnam Veterans of America, and commends it for its efforts in the advancement of veterans rights, which set the standard for all other veterans organizations around the country;

(2) asks all Americans to join in the celebration of the 25th anniversary of Vietnam Veterans of America, and its 25 years of advocacy on behalf of Vietnam veterans; and

(3) encourages Vietnam Veterans of America to continue to represent and promote its goals in the veterans' community and on Capitol Hill, and to continue to keep its national membership—consisting of 45,000 members and 600 chapters—strong.

Mr. JEFFORDS. Mr. President, I rise today with great pride and enthusiasm

to submit a Senate resolution commemorating the 25th Anniversary of the founding of the Vietnam Veterans of America. The resolution also points out that April marks the 23rd Anniversary of the founding of Vietnam Veterans of America's first local chapter in my hometown of Rutland, VT.

The VVA is a Congressionally chartered national veterans service organization exclusively dedicated to Vietnam-era veterans and their families. In the late 1970s, America had come through its longest and most divisive war. Many of the millions of veterans who served during that period felt that the veteran community and the Federal Government failed to address their specific concerns.

In January 1978, Bobby Muller and a small band of Vietnam veterans came to Washington, DC to create an advocacy organization to push for Federal action to address the needs of this unique veteran population. The VVA, initially known as the Vietnam Veterans Coalition and then the Council of Vietnam Veterans, went to work focusing first on the dissemination of government information and coordination of relations between the Federal Government and veterans.

In time, it became clear that, like many other organizations, this one could not survive simply by making a good case for its initiatives—it needed to build a strong membership base in order to wield political power. By the summer of 1979, the new Vietnam Veterans of America began to focus on building its membership.

While the growth of the organization was slow initially, a breakthrough came following resolution of the American Hostage Crisis in Iran in January 1981. While watching the jubilant homecoming given the American hostages, many Vietnam veterans were poignantly reminded of the hostile reception they faced upon their return home. Vietnam veterans began to clamor for action in the form of programs that would place the latest generation of wartime veterans on the same footing as veterans from previous wars.

The strength of the organization grew with the increase in membership. The public also became more willing to deal with the neglected veterans issues unique to the Vietnam War. An important manifestation of this increased public awareness was the opening of the Vietnam Veterans Memorial in November 1982. The activities around the Memorial rekindled a sense of camaraderie among the veterans and the feeling of a shared experience too significance to ignore.

Since then, the VVA has broadened the scope of services it provides to its membership, including the founding of the Vietnam Veterans of America Legal Services that provides assistance to veterans seeking benefits and services from the Federal Government. An example of the critical information dissemination function of the VVA is the publication of information on the manifestations of Post-Traumatic Stress Disorder and Agent Orange illnesses, as well treatment and compensation available to veterans.

The legislative accomplishments of the VVA through its high-profile presence on Capitol Hill have been impressive. Organizations like Vietnam-era Veterans in Congress have served the overall membership well by supporting the pragmatic agenda of the VVA and championing its founding principle that ''Never again will one generation of veterans abandon another.''

Today, the VVA has a national membership of 45,000 in more than 600 chapters. VVA state councils in 43 states coordinate the activities and programs of its national organization, ensuring that grassroots input to Congress continues to ensure that the Federal Government meets its obligations to its Vietnam veterans.

This resolution expresses the Senate's gratitude to the Vietnam Veterans of America for its strong advocacy on behalf of its members and wishes it continued success in the years to come.

SENATE CONCURRENT RESOLUTION 35—HONORING THE 129 SAILORS AND CIVILIANS LOST ABOARD THE U.S.S. THRESHER ON APRIL 10, 1963, AND URGING THE SECRETARY OF THE ARMY TO ERECT A MEMORIAL TO THIS TRAGEDY IN ARLINGTON NATIONAL CEMETERY

Mr. SUNUNU (for himself, Mr. GREGG, Ms. SNOWE, and Ms. COLLINS) submitted the following concurrent resolution; which was referred to the Committee on Veterans' Affairs:

S. CON. RES. 35

Whereas the U.S.S. Thresher was first launched at Portsmouth Naval Shipyard on July 9, 1960;

Whereas the U.S.S. Thresher departed Portsmouth Naval Shipyard for her final voyage on April 9, 1963, with a crew of 16 officers, 96 sailors, and 17 civilians;

Whereas the mix of that crew reflects the unity of military and civilian personnel in the naval submarine service, and in the protection of the Nation;

Whereas at approximately 7:47 a.m. on April 10, 1963, while in communication with the surface ship U.S.S. Skylark, and approximately 300 miles off the coast of New England, the U.S.S. Thresher began her final descent;

Whereas the U.S.S. Thresher was declared lost with all hands on April 10, 1963; and

Whereas the crew of the U.S.S. Thresher demonstrated the ''last full measure of devotion'' in service to this Nation, and this devotion characterizes the sacrifices of all submariners, past and present: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) remembers with profound sorrow the loss of the U.S.S. Thresher and her gallant crew of sailors and civilians on April 10, 1963; and

(2) urges the Secretary of the Army to erect a memorial in Arlington National Cemetery, to be paid for with private funds, honoring the crew of the U.S.S. Thresher, and to all United States submariners who have lost their lives in the line of duty.

Mr. SUNUNU. Mr. President, last week, the U.S. Senate unanimously passed S. Res. 102, a resolution I introduced that pays tribute to the 129 officers, sailors and civilians who tragically lost their lives aboard the nuclear submarine, U.S.S. *Thresher.*

Today, on the 40th anniversary of the loss of the *Thresher,* I once again join with Senators GREGG, SNOWE and COLLINS to introduce legislation which calls on the Secretary of the Army to erect a memorial at Arlington National Cemetery to honor the crew who were lost on the *Thresher* as well as other nuclear submariners lost at sea. Companion legislation is being introduced in the House of Representatives by Congressman JEB BRADLEY.

As I stated last week, the U.S.S. *Thresher* was built at the Portsmouth Naval Shipyard and commissioned in August of 1961 as the lead vessel in a new class of nuclear-powered attack submarines. After putting to sea, she was subjected to more than a year of tests along the eastern coast of the United States. In late 1962, the *Thresher* returned to New England for an overhaul where she remained until the spring of 1963.

On April 9, 1963, the *Thresher* departed the Portsmouth Naval Shipyard to conduct deep-diving exercises some 200 miles off the coast of New England. In the morning hours of April 10, 1963, after reaching her assigned depth, the U.S.S. *Thresher,* signaled her companion surface ship, the U.S.S. *Skylark,* that it was experiencing difficulties. Shortly thereafter, the crew of the *Skylark* realized that something had gone wrong as they heard the sound of the *Thresher* breaking apart.

The inquiry following the loss of the *Thresher* identified the probable cause of the accident as a failure in the piping which led to a subsequent loss of power and ultimately an inability to blow the ballast tanks which would have allowed the *Thresher* to rise. As a result of the inquiry, the Navy initiated key changes aimed at ensuring the safety of future submarines, and by extension, their crews. The safety of today's modern submarine fleet is a direct result of the lessons learned following the loss of the *Thresher.*

Those who have served aboard America's submarine fleet over the years have genuine appreciation and gratitude for the sacrifice made by the crew of the *Thresher.* While modern submariners admire and respect these heroes, their sacrifice is largely unknown to many Americans. That is why I believe a memorial on the hallowed ground of Arlington National Cemetery to the crew of the U.S.S. *Thresher* will allow the memory of these 129 brave individuals to be given the honor and respect they are due. In addition to paying tribute to the *Thresher,* the memorial would honor all nuclear submariners who have lost their lives at sea.

Mr. President, I am aware that there are space constraints at Arlington. However, the memorial we are calling for would encompass a limited area—approximately the size of two burial plots. This would allow for enough space to pay proper respect to these American heroes. The legislation we are introducing today urges the Army to locate and allocate such space.

I encourage my colleagues to join Senators GREGG, SNOWE, COLLINS and me in honoring these individuals by supporting this measure, and I ask for its speedy consideration by the Senate.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that an editorial from the April 6th edition of Dover, New Hampshire's Foster's Sunday Citizen titled ''Build a Memorial to the Thresher'' be included in the RECORD at the conclusion of my remarks.

BUILD A MEMORIAL TO HONOR THRESHER

As the most powerful military force ever to navigate the seas, the invincibility of today's United States Navy is the sum of myriad successes and tragic failures throughout its history.

The Portsmouth Naval Shipyard has played as big a part—if not bigger—in the Navy's evolution as any other entity. The yard and the residents of our region can be proud of contributions made here over more than two centuries to the evolution of our national defense at sea.

That is why it is important for us to preserve the memory of the USS Thresher and her crew, all of whom perished on April 10, 1963, in the deep ocean.

The preservation of that memory was the reason why people gathered at the shipyard on Saturday. They wanted to remember the boat and her crew—96 sailors, 16 officers and 17 employees of the shipyard.

Besides the New Hampshire and Maine congressional delegations, many in attendance were relatives of those who perished and whose sacrifice resulted in monumental changes to the way submarines after 1963 were constructed for the U.S. Navy.

As a result, it is entirely appropriate for the delegation to call for the construction of a memorial to the USS Thresher and her crew at Arlington National Cemetery. Given the magnitude of the Thresher's contributions to submarine safety during the past 40 years, it is difficult not to support such a project.

As a result of their sacrifice, the SubSafe program was created. Regulations on hull integrity and pressure-related components for submarines were strengthened. The sinking of the Thresher has resulted in the lives of countless submariners being saved because of safety improvement to the vessels they worked on.

Since the Thresher, not one submarine has been lost under similar circumstances.

The USS Thresher was the harbinger of the awesome attack submarines we have today to protect our shores and interests abroad. The debt we owe to the crew and civilians who accepted—on our nation's behalf—the hazards of living and working under water cannot be repaid.

Building a memorial to preserve their memory and contributions is the best we are able to do.

AMENDMENTS SUBMITTED AND PROPOSED

SA 529. Mr. HATCH (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. DURBIN, Mr GREGG, Mr. BINGAMAN, Mr. FEINGOLD, Ms. SNOWE, Mr. ROCKFELLER, Mr. SANTORUM, Mr. LEAHY, Mr. KERRY, Mr. LUGAR, Mr. CORZINE, Mr. LEVIN, Mr. TALENT, Ms. LANDRIEU, Mr. SPECTER, and Mr. DASCHLE) proposed an amendment to the bill H.R. 1584, to implement effective measures to stop trade in conflict diamonds, and for other purposes.

SA 530. Mr. MCCONNELL (for Mr. CHAMBLISS) proposed an amendment to the bill S. 783, to expedite the granting of posthumous citizenship to members of the United States Armed Forces.

TEXT OF AMENDMENTS

SA 529. Mr. HATCH (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. DURBIN, Mr. GREGG, Mr. BINGAMAN, Mr. FEINGOLD, Ms. SNOWE, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. LEAHY, Mr. KERRY, Mr. LUGAR, Mr. CORZINE, Mr. LEVIN, Mr. TALENT, Ms. LANDRIEU, Mr. SPECTER, and Mr. DASCHLE)) proposed an amendment to the bill H.R. 1584, to implement effective measures to stop trade in conflict diamonds, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Diamond Trade Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Funds derived from the sale of rough diamonds are being used by rebels and state actors to finance military activities, overthrow legitimate governments, subvert international efforts to promote peace and stability, and commit horrifying atrocities against unarmed civilians. During the past decade, more than 6,500,000 people from Sierra Leone, Angola, and the Democratic Republic of the Congo have been driven from their homes by wars waged in large part for control of diamond mining areas. A million of these are refugees eking out a miserable existence in neighboring countries, and tens of thousands have fled to the United States. Approximately 3,700,000 people have died during these wars.

(2) The countries caught in this fighting are home to nearly 70,000,000 people whose societies have been torn apart not only by fighting but also by terrible human rights violations.

(3) Human rights and humanitarian advocates, the diamond trade as represented by the World Diamond Council, and the United States Government have been working to block the trade in conflict diamonds. Their efforts have helped to build a consensus that action is urgently needed to end the trade in conflict diamonds.

(4) The United Nations Security Council has acted at various times under chapter VII of the Charter of the United Nations to address threats to international peace and security posed by conflicts linked to diamonds. Through these actions, it has prohibited all states from exporting weapons to certain countries affected by such conflicts. It has further required all states to prohibit the direct and indirect import of rough diamonds from Sierra Leone unless the diamonds are controlled under specified certificate of origin regimes and to prohibit absolutely the direct and indirect import of rough diamonds from Liberia.

(5) In response, the United States implemented sanctions restricting the importation of rough diamonds from Sierra Leone to those diamonds accompanied by specified certificates of origin and fully prohibiting the importation of rough diamonds from Liberia. The United States is now taking further action against trade in conflict diamonds.

(6) Without effective action to eliminate trade in conflict diamonds, the trade in legitimate diamonds faces the threat of a consumer backlash that could damage the economies of countries not involved in the trade in conflict diamonds and penalize members of the legitimate trade and the people they employ. To prevent that, South Africa and more than 30 other countries are involved in working, through the ''Kimberley Process'', toward devising a solution to this problem. As the consumer of a majority of the world's supply of diamonds, the United States has an obligation to help sever the link between diamonds and conflict and press for implementation of an effective solution.

(7) Failure to curtail the trade in conflict diamonds or to differentiate between the trade in conflict diamonds and the trade in legitimate diamonds could have a severe negative impact on the legitimate diamond trade in countries such as Botswana, Namibia, South Africa, and Tanzania.

(8) Initiatives of the United States seek to resolve the regional conflicts in sub-Saharan Africa which facilitate the trade in conflict diamonds.

(9) The Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002, states that Participants will ensure that measures taken to implement the Kimberley Process Certification Scheme for Rough Diamonds will be consistent with international trade rules.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Ways and Means and the Committee on International Relations of the House of Representatives, and the Committee on Finance and the Committee on Foreign Relations of the Senate.

(2) CONTROLLED THROUGH THE KIMBERLEY PROCESS CERTIFICATION SCHEME.—An importation or exportation of rough diamonds is ''controlled through the Kimberley Process Certification Scheme'' if it is an importation from the territory of a Participant or exportation to the territory of a Participant of rough diamonds that is—

(A) carried out in accordance with the Kimberley Process Certification Scheme, as set forth in regulations promulgated by the President; or

(B) controlled under a system determined by the President to meet substantially the standards, practices, and procedures of the Kimberley Process Certification Scheme.

(3) EXPORTING AUTHORITY.—The term ''exporting authority'' means 1 or more entities designated by a Participant from whose territory a shipment of rough diamonds is being exported as having the authority to validate the Kimberley Process Certificate.

(4) IMPORTING AUTHORITY.—The term ''importing authority'' means 1 or more entities designated by a Participant into whose territory a shipment of rough diamonds is imported as having the authority to enforce the laws and regulations of the Participant regulating imports, including the verification of the Kimberley Process Certificate accompanying the shipment.

(5) KIMBERLEY PROCESS CERTIFICATE.—The term ''Kimberley Process Certificate'' means a forgery resistant document of a Participant that demonstrates that an importation

or exportation of rough diamonds has been controlled through the Kimberley Process Certification Scheme and contains the minimum elements set forth in Annex I to the Kimberley Process Certification Scheme.

(6) KIMBERLEY PROCESS CERTIFICATION SCHEME.—The term ''Kimberley Process Certification Scheme' means those standards, practices, and procedures of the international certification scheme for rough diamonds presented in the document entitled ''Kimberley Process Certification Scheme'' referred to in the Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002.

(7) PARTICIPANT.—The term ''Participant'' means a state, customs territory, or regional economic integration organization identified by the Secretary of State.

(8) PERSON.—The term ''person'' means an individual or entity.

(9) ROUGH DIAMOND.—The term ''rough diamond'' means any diamond that is unworked or simply sawn, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.

(10) UNITED STATES.—The term ''United States'', when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(11) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any United States citizen or any alien admitted for permanent residence into the United States;

(B) any entity organized under the laws of the United States or any jurisdiction within the United States (including its foreign branches); and

(C) any person in the United States.

SEC. 4. MEASURES FOR THE IMPORTATION AND EXPORTATION OF ROUGH DIAMONDS.

(a) PROHIBITION.—The President shall prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme.

(b) WAIVER.—The President may waive the requirements set forth in subsection (a) with respect to a particular country for periods of not more than 1 year each, if, with respect to each such waiver—

(1) the President determines and reports to the appropriate congressional committees that such country is taking effective steps to implement the Kimberley Process Certification Scheme; or

(2) the President determines that the waiver is in the national interests of the United States, and reports such determination to the appropriate congressional committees, together with the reasons therefor.

SEC. 5. REGULATORY AND OTHER AUTHORITY.

(a) IN GENERAL.—The President is authorized to and shall as necessary issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to carry out this Act.

(b) RECORDKEEPING.—Any United States person seeking to export from or import into the United States any rough diamonds shall keep a full record of, in the form of reports or otherwise, complete information relating to any act or transaction to which any prohibition imposed under section 4(a) applies. The President may require such person to furnish such information under oath, including the production of books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(c) OVERSIGHT.—The President shall require the appropriate Government agency to conduct annual reviews of the standards, practices, and procedures of any entity in the United States that issues Kimberley Process Certificates for the exportation from the United States of rough diamonds to determine whether such standards, practices, and procedures are in accordance with the Kimberley Process Certification Scheme. The President shall transmit to the appropriate congressional committees a report on each annual review under this subsection.

SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.

(a) IN THE UNITED STATES.—For purposes of this Act—

(1) the importing authority shall be the United States Bureau of Customs and Border Protection or, in the case of a territory or possession of the United States with its own customs administration, analogous officials; and

(2) the exporting authority shall be the Bureau of the Census.

(b) OF OTHER COUNTRIES.—The President shall publish in the Federal Register a list of all Participants, and all exporting authorities and importing authorities of Participants. The President shall update the list as necessary.

SEC. 7. STATEMENT OF POLICY.

The Congress supports the policy that the President shall take appropriate steps to promote and facilitate the adoption by the international community of the Kimberley Process Certification Scheme implemented under this Act.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—In addition to the enforcement provisions set forth in subsection (b)—

(1) a civil penalty of not to exceed $10,000 may be imposed on any person who violates, or attempts to violate, any license, order, or regulation issued under this Act; and

(2) whoever willfully violates, or willfully attempts to violate, any license, order, or regulation issued under this Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who willfully participates in such violation may be punished by a like fine, imprisonment, or both.

(b) IMPORT VIOLATIONS.—Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall apply with respect to rough diamonds imported in violation of this Act.

(c) AUTHORITY TO ENFORCE.—The United States Bureau of Customs and Border Protection and the United States Bureau of Immigration and Customs Enforcement are authorized, as appropriate, to enforce the provisions of subsection (a) and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the exporting authority.

SEC. 9. TECHNICAL ASSISTANCE.

The President may direct the appropriate agencies of the United States Government to make available technical assistance to countries seeking to implement the Kimberley Process Certification Scheme.

SEC. 10. SENSE OF CONGRESS.

(a) ONGOING PROCESS.—It is the sense of the Congress that the Kimberley Process Certification Scheme, officially launched on January 1, 2003, is an ongoing process. The President should work with Participants to strengthen the Kimberley Process Certification Scheme through the adoption of measures for the sharing of statistics on the production of and trade in rough diamonds, and for monitoring the effectiveness of the Kimberley Process Certification Scheme in stemming trade in diamonds the importation or exportation of which is not controlled through the Kimberley Process Certification Scheme.

(b) STATISTICS AND REPORTING.—It is the sense of the Congress that under Annex III to the Kimberley Process Certification Scheme, Participants recognized that reliable and comparable data on the international trade in rough diamonds are an essential tool for the effective implementation of the Kimberley Process Certification Scheme. Therefore, the executive branch should continue to—

(1) keep and publish statistics on imports and exports of rough diamonds under subheadings 7102.10.00, 7102.21, and 7102.31.00 of the Harmonized Tariff Schedule of the United States;

(2) make these statistics available for analysis by interested parties and by Participants; and

(3) take a leadership role in negotiating a standardized methodology among Participants for reporting statistics on imports and exports of rough diamonds.

SEC. 11. KIMBERLEY PROCESS IMPLEMENTATION COORDINATING COMMITTEE.

The President shall establish a Kimberley Process Implementation Coordinating Committee to coordinate the implementation of this Act. The Committee shall be composed of the following individuals or their designees:

(1) The Secretary of the Treasury and the Secretary of State, who shall be co-chairpersons.

(2) The Secretary of Commerce.

(3) The United States Trade Representative.

(4) The Secretary of Homeland Security.

(5) A representative of any other agency the President deems appropriate.

SEC. 12. REPORTS.

(a) ANNUAL REPORTS.—Not later than 1 year after the date of the enactment of this Act and every 12 months thereafter for such period as this Act is in effect, the President shall transmit to the Congress a report—

(1) describing actions taken by countries that have exported rough diamonds to the United States during the preceding 12-month period to control the exportation of the diamonds through the Kimberley Process Certification Scheme;

(2) describing whether there is statistical information or other evidence that would indicate efforts to circumvent the Kimberley Process Certification Scheme, including cutting rough diamonds for the purpose of circumventing the Kimberley Process Certification Scheme;

(3) identifying each country that, during the preceding 12-month period, exported rough diamonds to the United States and was exporting rough diamonds not controlled through the Kimberley Process Certification Scheme, if the failure to do so has significantly increased the likelihood that those diamonds not so controlled are being imported into the United States; and

(4) identifying any problems or obstacles encountered in the implementation of this Act or the Kimberly Process Certification Scheme.

(b) SEMIANNUAL REPORTS.—For each country identified in subsection (a)(3), the President, during such period as this Act is in effect, shall, every 6 months after the initial report in which the country was identified, transmit to the Congress a report that explains what actions have been taken by the United States or such country since the previous report to ensure that diamonds the exportation of which was not controlled

through the Kimberley Process Certification Scheme are not being imported from that country into the United States. The requirement to issue a semiannual report with respect to a country under this subsection shall remain in effect until such time as the country is controlling the importation and exportation of rough diamonds through the Kimberley Process Certification Scheme.

SEC. 13. GAO REPORT.

Not later than 24 months after the effective date of this Act, the Comptroller General of the United States shall transmit a report to the Congress on the effectiveness of the provisions of this Act in preventing the importation or exportation of rough diamonds that is prohibited under section 4. The Comptroller General shall include in the report any recommendations on any modifications to this Act that may be necessary.

SEC. 14. DELEGATION OF AUTHORITIES.

The President may delegate the duties and authorities under this Act to such officers, officials, departments, or agencies of the United States Government as the President deems appropriate.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect on the date on which the President certifies to the Congress that—

(1) an applicable waiver that has been granted by the World Trade Organization is in effect; or

(2) an applicable decision in a resolution adopted by the United Nations Security Council pursuant to Chapter VII of the Charter of the United Nations is in effect.

This Act shall thereafter remain in effect during those periods in which, as certified by the President to the Congress, an applicable waiver or decision referred to in paragraph (1) or (2) is in effect.

SA 530. Mr. MCCONNELL (for Mr. CHAMBLISS) proposed an amendment to the bill S. 783, to expedite the granting of posthumous citizenship to members of the United States Armed Forces; as follows:

On page 2, strike lines 1 through 7, and insert the following:

''(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—

''(1) IN GENERAL.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person—

''(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

''(B) by the next-of-kin.

''(2) APPROVAL.—The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

''(A) the request is filed not later than 2 years after—

''(i) the date of enactment of this section; or

''(ii) the date of the person's death;

whichever date is later;

''(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

''(C) the Director finds that the person satisfied the requirement of subsection (b)(3).''; and

On page 2, after line 22, insert the following:

(c) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect as if enacted on September 11, 2001.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 10, 2003, at 10:15 a.m., in open and possibly closed session, to receive testimony on the military implications of NATO enlargement and on post-conflict Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 10, 2003, at 10 a.m., to conduct a hearing on ''Recent Developments in Hedge Funds.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday April 10, 2003, at 10 a.m., on FAA Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. 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, April 10 at 10 a.m. to consider comprehensive energy legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on during the session of the Senate, on Thursday April 10, 2003, at 9:30 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 10, 2003 to hold a Business Meeting (to pass out nominations) after the first rollcall vote.

The PRESIDING OFFICER. Without objection. it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 10, 2003 at 9:30 a.m. to consider the nomination of Peter Eide to be General Counsel for the Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection. it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 10, 2003 at 11 a.m. for a hearing entitled ''Prosecuting Iraqi War Crimes: A Consideration of the Different Forum Options.''

The PRESIDING OFFICER. Without objection. it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Putting the Teaching of American History and Civics Back in the Classroom during the session of the Senate on Thursday, April 10, 2003 at 9 a.m. in SD–430.

The PRESIDING OFFICER. Without objection. it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, April 10, 2003, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting to mark up pending committee legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 10, 2003, for a markup on the nominations of Bruce E. Kasold to be Judge, U.S. Court of Appeals for Veterans Claims, and John W. Nicholson to be Under Secretary for Memorial Affairs, Department of Veterans Affairs. The meeting will take place in the Senate Reception Room in the Capitol after the first rollcall vote after noon on April 10, 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. FRIST. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 562 of the Dirksen Senate Office Building, Thursday, April 10, 2003, from 10:30 a.m. to 1 p.m.

Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Thursday, April 10 at 9:30 a.m. to examine the designation of critical habitat under the Endangered Species Act.

The hearing will be conducted in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on April 10, 2003, at 2:30 p.m. on brain mapping.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 127, and all the nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed en bloc, as follows:

DEPARTMENT OF STATE

Lino Gutierrez, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Roland W. Bullen, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

Eric M. Javits, of New York, for the rank of Ambassador during his tenure of service as United States Representative of the Organization for the Prohibition of Chemical Weapons.

John W. Snow, of Virginia, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

MISSISSIPPI RIVER COMMISSION

Ricky Dale James, of Missouri, to be a Member of the Mississippi River Commission for a term of nine years.

Rear Adm. Nicholas Augustus Prahl, National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (22 USC 642).

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Herbert Guenther, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of two years.

Bradley Udall, of Colorado, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Malcolm B. Bowekaty, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Richard Narcia, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring August 25, 2006.

Robert Boldrey, of Michigan, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring May 26, 2007.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN355 Foreign Service nominations (187) beginning Louise Brandt Bigott, and ending Kathleen Hatch Allegrone, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 25, 2003.

NOMINATIONS DISCHARGED

Mr. MCCONNELL. In executive session, I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nominations: Delores Etter, Daniel Hastings, Jo Anne Vasquez, Barry Barish, Douglas Randall, Karen Johnson.

I further ask unanimous consent that the nomination of Karen Johnson be placed on the calendar. Further, I ask unanimous consent that the Senate proceed immediately to the remaining nominations, the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, further that the President then be notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Barry C. Barish, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Delores N, Etter, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Daniel E. Hastings, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for term expiring May 10, 2008.

Douglas D. Randall, of Missouri, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

Jo Anne Vasquez, of Arizona, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

UNANIMOUS CONSENT AGREEMENT—S. 196

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader in consultation with the minority leader, the Senate proceed to the consideration of Calendar No. 60, S. 196, the digital technology bill; further that there be one hour of debate equally divided between Senator ALLEN and the ranking member or their designees; in addition, that of the time under the majority control, Senator MCCAIN be allotted 5 minutes; that the only amendments in order be the committee-reported amendments and one technical amendment offered by Senator ALLEN; that at the expiration or yielding back of time, the amendments be adopted, the bill, as amended, be read a third time, and the Senate proceed to a vote on passage of the bill, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIFESPAN RESPITE CARE ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 69, S. 538.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 538) to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read the 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 bill (S. 538) was read the third time and passed, as follows:

S. 538

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 ''Lifespan Respite Care Act of 2003''.

SEC. 2. LIFESPAN RESPITE CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—LIFESPAN RESPITE CARE

''SEC. 2901. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) an estimated 26,000,000 individuals in the United States care each year for 1 or more adult family members or friends who are chronically ill, disabled, or terminally ill;

''(2) an estimated 18,000,000 children in the United States have chronic physical, developmental, behavioral, or emotional conditions that demand caregiver monitoring,

management, supervision, or treatment beyond that required of children generally;

''(3) nearly 4,000,000 individuals in the United States of all ages who have mental retardation or another developmental disability live with their families;

''(4) almost 25 percent of the Nation's elders experience multiple chronic disabling conditions that make it necessary to rely on others for help in meeting their daily needs;

''(5) every year, approximately 600,000 Americans die at home and many of these individuals rely on extensive family caregiving before their death;

''(6) of all individuals in the United States needing assistance in daily living, 42 percent are under age 65;

''(7) there are insufficient resources to replace family caregivers with paid workers;

''(8) if services provided by family caregivers had to be replaced with paid services, it would cost approximately $200,000,000,000 annually;

''(9) the family caregiver role is personally rewarding but can result in substantial emotional, physical, and financial hardship;

''(10) approximately 75 percent of family caregivers are women;

''(11) family caregivers often do not know where to find information about available respite care or how to access it;

''(12) available respite care programs are insufficient to meet the need and are directed at primarily lower income populations and family caregivers of the elderly, leaving large numbers of family caregivers without adequate support; and

''(13) the limited number of available respite care programs find it difficult to recruit appropriately trained respite workers.

''(b) PURPOSES.—The purposes of this title are—

''(1) to encourage States to establish State and local lifespan respite care programs;

''(2) to improve and coordinate the dissemination of respite care information and resources to family caregivers;

''(3) to provide, supplement, or improve respite care services to family caregivers;

''(4) to promote innovative, flexible, and comprehensive approaches to—

''(A) the delivery of respite care;

''(B) respite care worker and volunteer recruitment and training programs; and

''(C) training programs for family caregivers to assist such family caregivers in making informed decisions about respite care services;

''(5) to support evaluative research to identify effective respite care services that alleviate, reduce, or minimize any negative consequences of caregiving; and

''(6) to promote the dissemination of results, findings, and information from programs and research projects relating to respite care delivery, family caregiver strain, respite care worker and volunteer recruitment and training, and training programs for family caregivers that assist such family caregivers in making informed decisions about respite care services.

''SEC. 2902. DEFINITIONS.

''In this title:

''(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

''(A) a State agency;

''(B) any other public entity that is capable of operating on a statewide basis;

''(C) a private, nonprofit organization that is capable of operating on a statewide basis;

''(D) a political subdivision of a State that has a population of not less than 3,000,000 individuals; or

''(E) any recognized State respite coordinating agency that has—

''(i) a demonstrated ability to work with other State and community-based agencies;

''(ii) an understanding of respite care and family caregiver issues; and

''(iii) the capacity to ensure meaningful involvement of family members, family caregivers, and care recipients.

''(2) ADULT WITH A SPECIAL NEED.—The term 'adult with a special need' means a person 18 years of age or older who requires care or supervision to—

''(A) meet the person's basic needs; or

''(B) prevent physical self-injury or injury to others.

''(3) CHILD WITH A SPECIAL NEED.—The term 'child with a special need' means a person less than 18 years of age who requires care or supervision beyond that required of children generally to—

''(A) meet the child's basic needs; or

''(B) prevent physical self-injury or injury to others.

''(4) FAMILY CAREGIVER.—The term 'family caregiver' means an unpaid family member, a foster parent, or another unpaid adult, who provides in-home monitoring, management, supervision, or treatment of a child or adult with a special need.

''(5) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to a child or adult with a special need in order to provide temporary relief to the family caregiver of that child or adult.

''(6) LIFESPAN RESPITE CARE.—The term 'lifespan respite care' means a coordinated system of accessible, community-based respite care services for family caregivers of children or adults with special needs.

''SEC. 2903. LIFESPAN RESPITE CARE GRANTS AND COOPERATIVE AGREEMENTS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to expand and enhance respite care services to family caregivers;

''(2) to improve the statewide dissemination and coordination of respite care; and

''(3) to provide, supplement, or improve access and quality of respite care services to family caregivers, thereby reducing family caregiver strain.

''(b) AUTHORIZATION.—Subject to subsection (f), the Secretary is authorized to award grants or cooperative agreements to eligible recipients who submit an application pursuant to subsection (d).

''(c) FEDERAL LIFESPAN APPROACH.—In carrying out this section, the Secretary shall work in cooperation with the National Family Caregiver Support Program Officer of the Administration on Aging, and respite care program officers in the Administration for Children and Families, the Administration on Developmental Disabilities, the Maternal and Child Health Bureau of the Health Resources and Services Administration, and the Substance Abuse and Mental Health Services Administration, to ensure coordination of respite care services for family caregivers of children and adults with special needs.

''(d) APPLICATION.—

''(1) SUBMISSION.—Each eligible recipient desiring to receive a grant or cooperative agreement under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

''(2) CONTENTS.—Each application submitted under this section shall include—

''(A) a description of the applicant's—

''(i) understanding of respite care and family caregiver issues;

''(ii) capacity to ensure meaningful involvement of family members, family caregivers, and care recipients; and

''(iii) collaboration with other State and community-based public, nonprofit, or private agencies;

''(B) with respect to the population of family caregivers to whom respite care information or services will be provided or for whom respite care workers and volunteers will be recruited and trained, a description of—

''(i) the population of family caregivers;

''(ii) the extent and nature of the respite care needs of that population;

''(iii) existing respite care services for that population, including numbers of family caregivers being served and extent of unmet need;

''(iv) existing methods or systems to coordinate respite care information and services to the population at the State and local level and extent of unmet need;

''(v) how respite care information dissemination and coordination, respite care services, respite care worker and volunteer recruitment and training programs, or training programs for family caregivers that assist such family caregivers in making informed decisions about respite care services will be provided using grant or cooperative agreement funds;

''(vi) a plan for collaboration and coordination of the proposed respite care activities with other related services or programs offered by public or private, nonprofit entities, including area agencies on aging;

''(vii) how the population, including family caregivers, care recipients, and relevant public or private agencies, will participate in the planning and implementation of the proposed respite care activities;

''(viii) how the proposed respite care activities will make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, other forms of reimbursements, personnel, and facilities;

''(ix) respite care services available to family caregivers in the applicant's State or locality, including unmet needs and how the applicant's plan for use of funds will improve the coordination and distribution of respite care services for family caregivers of children and adults with special needs;

''(x) the criteria used to identify family caregivers eligible for respite care services;

''(xi) how the quality and safety of any respite care services provided will be monitored, including methods to ensure that respite care workers and volunteers are appropriately screened and possess the necessary skills to care for the needs of the care recipient in the absence of the family caregiver; and

''(xii) the results expected from proposed respite care activities and the procedures to be used for evaluating those results; and

''(C) assurances that, where appropriate, the applicant shall have a system for maintaining the confidentiality of care recipient and family caregiver records.

''(e) REVIEW OF APPLICATIONS.—

''(1) ESTABLISHMENT OF REVIEW PANEL.—The Secretary shall establish a panel to review applications submitted under this section.

''(2) MEETINGS.—The panel shall meet as often as may be necessary to facilitate the expeditious review of applications.

''(3) FUNCTION OF PANEL.—The panel shall—

''(A) review and evaluate each application submitted under this section; and

''(B) make recommendations to the Secretary concerning whether the application should be approved.

''(f) AWARDING OF GRANTS OR COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall award grants or cooperative agreements from among the applications approved by the panel under subsection (e)(3).

''(2) PRIORITY.—When awarding grants or cooperative agreements under this subsection, the Secretary shall give priority to applicants that show the greatest likelihood

of implementing or enhancing lifespan respite care statewide.

''(g) USE OF GRANT OR COOPERATIVE AGREEMENT FUNDS.—

''(1) IN GENERAL.—

''(A) MANDATORY USES OF FUNDS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section shall use the funds for, unless such a program is in existence—

''(i) the development of lifespan respite care at the State and local levels; and

''(ii) an evaluation of the effectiveness of such care.

''(B) DISCRETIONARY USES OF FUNDS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section may use the funds for—

''(i) respite care services for family caregivers of children and adults with special needs;

''(ii) respite care worker and volunteer training programs; or

''(iii) training programs for family caregivers to assist such family caregivers in making informed decisions about respite care services.

''(C) EVALUATION.—If an eligible recipient uses funds awarded under this section for an activity described in subparagraph (B), the eligible recipient shall use funds for an evaluation of the effectiveness of the activity.

''(2) SUBCONTRACTS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section may use the funds to subcontract with a public or nonprofit agency to carry out the activities described in paragraph (1).

''(h) TERM OF GRANTS OR COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall award grants or cooperative agreements under this section for terms that do not exceed 5 years.

''(2) RENEWAL.—The Secretary may renew a grant or cooperative agreement under this section at the end of the term of the grant or cooperative agreement determined under paragraph (1).

''(i) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available for respite care services.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $90,500,000 for fiscal year 2004; and

''(2) such sums as are necessary for fiscal years 2005 through 2008.

''SEC. 2904. NATIONAL LIFESPAN RESPITE RESOURCE CENTER.

''(a) ESTABLISHMENT.—From funds appropriated under subsection (c), the Secretary shall award a grant or cooperative agreement to a public or private nonprofit entity to establish a National Resource Center on Lifespan Respite Care (referred to in this section as the 'center').

''(b) PURPOSES OF THE CENTER.—The center shall—

''(1) maintain a national database on lifespan respite care;

''(2) provide training and technical assistance to State, community, and nonprofit respite care programs; and

''(3) provide information, referral, and educational programs to the public on lifespan respite care.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2004 through 2008.''.

GRANTING POSTHUMOUS CITIZENSHIP TO MEMBERS OF THE U.S. ARMED FORCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 783 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 783) to expedite the granting of posthumous citizenship to members of the United States Armed Forces.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate agree to the Chambliss amendment that is at the desk, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The amendment (No. 530) was agreed to, as follows:

(Purpose: To permit the Secretary of Defense or the next-of-kin to file for posthumous citizenship to noncitizens who died while in active duty service in the Armed Forces)

On page 2, strike lines 1 through 7, and insert the following:

''(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—

''(1) IN GENERAL.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person—

''(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

''(B) by the next-of-kin.

''(2) APPROVAL.—The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

''(A) the request is filed not later than 2 years after—

''(i) the date of enactment of this section; or

''(ii) the date of the person's death;

whichever date is later;

''(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

''(C) the Director finds that the person satisfied the requirement of subsection (b)(3).''; and

On page 2, after line 22, insert the following:

(c) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect as if enacted on September 11, 2001.

The bill (S. 783), as amended, was read the third time and passed, as follows:

S. 783

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

SECTION 1. GRANTING OF POSTHUMOUS CITIZENSHIP TO MEMBERS OF THE ARMED FORCES.

(a) REQUESTS AND DOCUMENTATION FOR POSTHUMOUS CITIZENSHIP.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—

''(1) IN GENERAL.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person—

''(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

''(B) by the next-of-kin.

''(2) APPROVAL.—The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

''(A) the request is filed not later than 2 years after—

''(i) the date of enactment of this section; or

''(ii) the date of the person's death;

whichever date is later;

''(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

''(C) the Director finds that the person satisfied the requirement of subsection (b)(3).''; and

(2) by striking subsection (d) and inserting the following:

''(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the Director of the Bureau of Citizenship and Immigration Services approves the request referred to in subsection (c), the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 329A(a) of the Immigration and Nationality Act (8 U.S.C. 1440–1(a)) is amended by striking ''the Attorney General'' each place that term appears and inserting ''the Secretary of Homeland Security''.

(c) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect as if enacted on September 11, 2001.

AMENDING THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 870, introduced earlier today by Senators HARKIN and COCHRAN.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 870) to amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, today I join my colleague from Mississippi, the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, in support of this bill that would keep fresh fruits and vegetables going to over 100 schools throughout the Nation.

We hear a great deal about the importance of teaching our children good nutrition as well as about the epidemic of obesity and poor eating habits among American children. But for all the talk and concern, we do far too little about it.

Last year, I worked with my colleagues to take concrete steps to address these issues. Concerned about the fact that many children today have only minimal experiences with fresh fruits and vegetables, we created a pilot project that provides fresh fruits and vegetables to schools in Iowa, Indiana, Michigan, Ohio, and to schools on an Indian reservation at Zuni, NM.

Despite the fact that we know there are many positive benefits associated with the consumption of fresh fruits and vegetables, we still fail to do nearly enough to encourage their consumption through our Federal nutrition programs. We must do more to encourage their purchase in our schools and to promote their consumption on an individual level.

The reports that we are getting back from schools about this program are absolutely tremendous. Just last week my staff had a conference call with school administrators, parents, and students at Zuni, NM. They are almost ecstatic in their praise of the program. The children were excited to be able to try foods that they had never had a chance to eat before. Parents report that their kids are coming home to them and asking them to buy the same fruits and vegetables for the home that they eat at school. And school administrators report healthier diets, fewer discipline problems, and buy-in from the entire school community. Even the janitors love the program.

Dieticians and school officials in Iowa tell me that, because of the fruit and vegetable pilot, their work is more fulfilling now than ever before.

This is a program that we need to expand so that all schools are able to participate. As the Senate moves forward with the reauthorization of our child nutrition programs this year, I'll be looking at ways that we can do this and at ways that we can encourage healthier lifestyles for all of our children.

In the meantime, the bill that I am introducing today allows us to extend the current fruit and vegetable pilot for an additional year. Because of the short timeframe that we had to actually set up the fruit and vegetable pilot, many of the schools were not able to begin their participation in the program as quickly as they had hoped. As a result, many schools will have funds remaining at the end of the school year. They have told me, as has the Department of Agriculture, that they would like to use their carryover funds for an additional year. This bill simply extends the authorization of the Department of Agriculture to continue the program for another year.

This does not provide any new money. It simply allows the schools to carryover current funds into the 2003 school year. The Congressional Budget Office has indicated that there is no cost associated with this.

As evidenced by the concurrence of Senator COCHRAN, this is a non-partisan, non-controversial bill, and I urge my colleagues to work with me to see that this program is extended before its current authorization runs out on June 30 of this year.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The bill (S. 870) was read the third time and passed, as follows:

S. 870

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

SECTION 1. FRUIT AND VEGETABLE PILOT PROGRAM.

Section 18(g)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(g)(4)) is amended by inserting before the period at the end the following: '', to remain available until the close of the school year beginning July 2003''.

DESIGNATING THE JIM RICHARDSON POST OFFICE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1505 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1505) to designate the facility of the United States Postal Service located at 2127 Beatties Ford Road in Charlotte, North Carolina, as the ''Jim Richardson Post Office''.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1505) was read the third time and passed.

REMOVAL OF INJUNCTION OF TREATIES—TREATY DOCUMENT NO. 108–4

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 10, 2003, by the President of the United States:

Protocols of the North Atlantic Treaty of 1949, on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, Treaty Document No. 108–4.

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith Protocols to the North Atlantic Treaty of 1949 on the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. These protocols were opened for signature at Brussels on March 26, 2003, and signed that day on behalf of the United States and the other parties to the North Atlantic Treaty. I request the advice and consent of the Senate to the ratification of these documents. I also transmit for the information of the Senate a report submitted to me by the Secretary of State regarding this matter.

The end of communism and the consolidation freedom and democracy in Central and Eastern Europe have been among the great developments of human history. NATO played a vital role in defending freedom and promoting this peaceful change for over 50 years. I am pleased that, with the advice and consent of the Senate, these new democracies can soon join us as members of this great Alliance.

As the threats to the Alliance have changed, NATO itself has adapted to face them. At the Prague Summit in November 2002, I joined the leaders of NATO not only in inviting these nations to join us as members, but also in calling for a transformation of NATO's military capabilities and structures to meet the threats of the 21st century. NATO is proceeding with that agenda. Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia are already making real contributions to the common security of the NATO Allies, including the United States, and I ask the Senate to join me in advancing the cause of freedom and strengthening NATO by providing its prompt advice and consent to these Protocols of Accession. My Administration stands ready to assist you as best we can in your deliberations.

GEORGE BUSH.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, pursuant to Public Law 85–874, as amended, appoints the Senator from Texas, Mrs. HUTCHISON, to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, vice the Senator from Nevada, Mr. REID.

Daily Digest

HIGHLIGHTS

Senate and House agreed to the Conference Report on S. 151, Child Abduction Prevention Act.

The House agreed to the conference report on H. Con Res. 95, Budget Resolution for FY 2004.

Senate

Chamber Action

Routine Proceedings, pages S5103–S5257

Measures Introduced: Thirty-eight bills and five resolutions were introduced, as follows: S. 850–887, S. Res. 117–120, and S. Con. Res. 35.

Pages S5173–74

Measures Reported:

S. 880, to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness. (S. Rept. No. 108–37)

S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements, with a preamble.

S. 538, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care.

S. 703, to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building". **Page S5172**

Measures Passed:

Clean Diamond Trade Act: Senate passed H.R. 1584, to implement effective measures to stop trade in conflict diamonds, after agreeing to the following amendment proposed thereto: **Pages S5112–13**

Hatch (for Grassley) Amendment No. 529, in the nature of a substitute. **Pages S5112–13**

Lifespan Respite Care Act: Senate passed S. 538, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care. **Pages S5254–56**

Posthumous Citizenship Act: Committee on the Judiciary was discharged from further consideration of S. 783, to expedite the granting of posthumous citizenship to members of the United States Armed Forces, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Page S5256

McConnell (for Chambliss) Amendment No. 530, to permit the Secretary of Defense or the next-of-kin to file for posthumous citizenship to noncitizens who died while in active duty service in the Armed Forces. **Page S5253**

Richard B. Russell National School Lunch Act Extension: Senate passed S. 870, to amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program. **Pages S5256–57**

Jim Richardson Post Office: Committee on Governmental Affairs was discharged from further consideration of H.R. 1505, to designate the facility of the United States Postal Service located at 2127 Beatties Ford Road in Charlotte, North Carolina, as the "Jim Richardson Post Office", and the bill was then passed, clearing the measure for the President.

Page S5257

Child Abduction Prevention Act—Conference Report: By a unanimous vote of 98 yeas (Vote No. 132), Senate agreed to the conference report on S. 151, to prevent child abduction and the sexual exploitation of children, clearing the measure for the President. **Pages S5113–35, S5137–57**

Digital and Wireless Network Technology Program—Agreement: A unanimous-consent agreement was reached providing for consideration of S. 196, to establish a digital and wireless network technology program, at a time to be determined by the

Majority Leader, after consultation with the Democratic Leader; that there be 1 hour for debate, that there be 5 minutes from the time under majority control for Senator McCain; that the only amendments in order be the committee-reported amendments and one technical amendment to be offered by Senator Allen; and that at the expiration or yielding back of time, the amendments be adopted, the bill, as amended, be read a third time and the Senate proceed to a vote on passage of the bill. **Page S5254**

Appointments:

John F. Kennedy Center for the Performing Arts: The Chair, on behalf of the President of the Senate, pursuant to Public Law 85–874, as amended, appointed Senator Hutchison to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, vice Senator Reid. **Page S5257**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia (Treaty Doc. No. 108–4).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Page S5257**

Nominations Confirmed: Senate confirmed the following nominations:

By 72 yeas 24 nays (Vote No. Ex. 133), Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians, Department of the Interior. **Pages S5136, S5157–58**

Barry C. Barish, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Pages S5136, S5254**

Delores M. Etter, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Pages S5136, S5254**

Daniel E. Hastings, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Pagse S5136, S5254**

Douglas D. Randall, of Missouri, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Pages S5136, S5254**

Jo Anne Vasquez, of Arizona, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2008. (Prior to this action, Committee on Health, Education, Labor and Pensions was discharged from further consideration.) **Pages S5136, S5254**

Herbert Guenther, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term two years. (New Position)

Bradley Udall, of Colorado, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Malcolm B. Bowekaty, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Richard Narcia, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring August 25, 2006.

Robert Boldrey, of Michigan, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring May 26, 2007.

Ricky Dale James, of Missouri, to be a Member of the Mississippi River Commission for a term of nine years. (Reappointment)

Rear Adm. Nicholas Augustus Prahl, National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (22 USC 642).

Lino Gutierrez, of Florida, to be Ambassador to Argentina.

John W. Snow, of Virginia, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

Roland W. Bullen, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador to the Co-operative Republic of Guyana.

Eric M. Javits, of New York, for the rank of Ambassador during his tenure of service as United States Representative to the Organization for the Prohibition of Chemical Weapons.

A routine list in the Foreign Service.

Pages S5136, S5254

Nominations Received: Senate received the following nominations:

A. Paul Anderson, of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 2007.

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

David Hall, of Massachusetts, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Peter D. Keisler, of Maryland, to be an Assistant Attorney General.

Robert Stanley Nichols, of Washington, to be an Assistant Secretary of the Treasury.

C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security. (New Position)

1 Army nomination in the rank of general.

A routine list in the Army. **Pages S5135–36**

Messages From the House: **Page S5169**

Measures Referred: **Page S5169**

Measures Placed on Calendar: **Page S5169**

Executive Communications: **Pages S5169–70**

Petitions and Memorials: **Pages S5170–72**

Executive Reports of Committees: **Pages S5172–73**

Additional Cosponsors: **Pages S5174–75**

Statements on Introduced Bills/Resolutions: **Pages S5175–S5248**

Additional Statements: **Page S5168**

Amendments Submitted: **Pages S5251–53**

Authority for Committees to Meet: **Pages S5253–54**

Record Votes: Two record votes were taken today. (Total—133) **Pages S5156–57, S5158**

Adjournment: Senate met at 10 a.m., and adjourned at 7:50 p.m., until 9:30 a.m., on Friday, April 11, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5135.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: FBI

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Federal Bureau of Investigation, after receiving testimony from Robert S. Mueller III, Director, Federal Bureau of Investigation, Department of Justice.

APPROPRIATIONS: DEPARTMENT OF THE INTERIOR

Committee on Appropriations: Subcommittee on Interior concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of the Interior, after receiving testimony from Gale A. Norton, Secretary, Lynn Scarlett, Assistant Secretary for Policy, Management, and Budget, and John Trezise, Director, Office of the Budget, all of the Department of the Interior.

APPROPRIATIONS: CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Corporation for National and Community Service and Community Development Financial Institutions Fund, after receiving testimony from Leslie Lenkowsky, Chief Executive Officer, and Michelle Guillermin, Chief Financial Officer, both of the Corporation for National and Community Service; and Tony T. Brown, Director, Community Development Financial Institutions Fund, Department of the Treasury.

APPROPRIATIONS: LOC

Committee on Appropriations: Subcommittee on the Legislative Branch concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Library of Congress and the Open World Russian Leadership Program, after receiving testimony from James H. Billington, Librarian of Congress, and Chairman of the Board of Trustees, Center for Russian Leadership Development; Donald L. Scott, Deputy Librarian of Congress; and Kenneth E. Lopez, Director of Security, Library of Congress.

APPROPRIATIONS: HOMELAND SECURITY

Committee on Appropriations: Subcommittee on Homeland Security concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Homeland Security's Science and Technology Directorate, after receiving testimony

from Charles E. McQueary, Under Secretary of Homeland Security for Science and Technology.

APPROPRIATIONS: NATIONAL NUCLEAR SECURITY ADMINISTRATION

Committee on Appropriations: Subcommittee on Energy and Water Development concluded hearings to examine proposed budget estimates for fiscal year 2004 for the National Nuclear Security Administration, after receiving testimony from Linton F. Brooks, Acting Administrator, Kenneth E. Baker, Deputy Administrator for Defense Nuclear Nonproliferation, Everet H. Beckner, Deputy Administrator for Defense Programs, and Admiral Frank L. Bowman, USN, Deputy Administrator for Naval Reactors, all of the National Nuclear Security Administration, Department of Energy.

NATO ENLARGEMENT

Committee on Armed Services: Committee concluded hearings to examine the military implications of North Atlantic Treaty Organization (NATO) enlargement, focusing on new members of NATO and its new capabilities, post-conflict Iraq, including the Iraqi economy and system of governance, after receiving testimony from Paul D. Wolfowitz, Deputy Secretary of Defense; General Peter Pace, USMC, Vice Chairman, Joint Chiefs of Staff; and General James L. Jones, USMC, Supreme Allied Commander, Europe.

HEDGE FUNDS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine recent developments in Hedge Funds (an investment company that uses high-risk techniques, such as borrowing money and selling short, in an effort to make extraordinary capital gains), focusing on investor protection implications, the differences between hedge funds and investment companies, regulation under the federal securities laws, and conflicts of interest, after receiving testimony from William H. Donaldson, Chairman, U.S. Securities and Exchange Commission.

FAA AUTHORIZATION

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine proposed legislation authorizing funds for the Federal Aviation Administration, after receiving testimony from Marion C. Blakey, Administrator, Federal Aviation Administration, and Read C. Van De Water, Assistant Secretary for Aviation and International Affairs, both of the Department of Transportation; and Gerald L. Dillingham, Director of Civil Aviation Issues, General Accounting Office.

MEDIA VIOLENCE

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine neurobiological research and the impact of media violence on child health, after receiving testimony from Joanne Cantor, University of Wisconsin, Madison; Dale Kunkel, University of California Washington Center, Washington, D.C.; Michael Rich, Harvard University, Boston, Massachusetts; Daniel R. Anderson, University of Massachusetts, Amherst; and John P. Murray, Kansas State University, Manhattan.

BUSINESS MEETING: COMPREHENSIVE ENERGY LEGISLATION

Committee on Energy and Natural Resources: Committee met to consider comprehensive energy legislation, focusing on provisions relating nuclear matters, but did not complete action thereon, and will meet again on Tuesday, April 29.

ENDANGERED SPECIES ACT

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife, and Water held oversight hearings to examine the designation of critical habitat under the Endangered Species Act, focusing on conservation benefits, legal implications, and economic impacts, receiving testimony from Craig Manson, Assistant Secretary of the Interior for Fish and Wildlife and Parks; Jeffrey Kightlinger, Metropolitan Water District of Southern California, Los Angeles, on behalf of the Western Urban Water Coalition; John F. Kostyack, National Wildlife Federation, Reston, Virginia; David L. Sunding, University of California, Berkeley; Craig Douglas, Smith, Robertson, Elliott, and Glenn, Austin, Texas; and William J. Snape III, Defenders of Wildlife, Washington, D.C.

Hearings recessed subject to call.

BUSINESS MEETING: NOMINATIONS

Committee on Foreign Relations: Committee ordered favorably reported the nominations of Marie Sophia Aguirre, of the District of Columbia, Elizabeth F. Bagley, of the District of Columbia, Barbara McConnell Barrett, of Arizona, Charles William Evers III, of Florida, Harold C. Pachios, of Maine, and Jay T. Snyder, of New York, each to be a Member of the United States Advisory Commission on Public Diplomacy; William M. Bellamy, of California, to be Ambassador to the Republic of Kenya; Eric S. Edelman, of Virginia, to be Ambassador to the Republic of Turkey; Gregory W. Engle, of Colorado, to be Ambassador to the Togolese Republic; Ralph Frank, of Washington, to be Ambassador to the Republic of Croatia; Reno L. Harnish, of California, to be Ambassador to the Republic of Azerbaijan;

Heather M. Hodges, of Ohio, to be Ambassador to the Republic of Moldova; Helen R. Meagher La Lime, of Florida, to be Ambassador to the Republic of Mozambique; Joseph LeBaron, of Oregon, to be Ambassador to the Islamic Republic of Mauritania; Stephen D. Mull, of Virginia, to be Ambassador to the Republic of Lithuania; Wayne E. Neill, of Nevada, to be Ambassador to the Republic of Benin; Pamela J. H. Slutz, of Texas, to be Ambassador to Mongolia; Stephen M. Young, of New Hampshire, to be Ambassador to the Kyrgyz Republic; and Dennis L. Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

NOMINATION

Committee on Governmental Affairs: Committee concluded hearings to examine the nomination of Peter Eide, of Maryland, to be General Counsel of the Federal Labor Relations Authority, after the nominee testified and answered questions in his own behalf.

IRAQI WAR CRIMES

Committee on Governmental Affairs: Committee concluded hearings to examine the 1949 Geneva Convention relative to the Protection of Prisoners of War, focusing on Department of Defense policies with respect to the current conflict with Iraq, and Iraqi violations of the Convention, after receiving testimony from Pierre-Richard Prosper, Ambassador-at-Large for War Crimes Issues, Department of State; W. Hays Parks, Special Assistant, Office of the Judge Advocate General of the Army, Department of Defense; David J. Scheffer, United Nations Association of the United States of America, New York, New York; Tom Malinowski, Human Rights Watch, Washington, D.C.; Ruth Wedgwood, Johns Hopkins University, Baltimore, Maryland.

AMERICAN HISTORY AND CIVICS EDUCATION ACT

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine S. 504, to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, after receiving testimony from Senator Byrd; Bruce Cole, Chairman, National Endowment of the Humanities; Eugene W. Hickok, Under Secretary of Education; James H. Billington, Librarian of Congress; Diane Ravitch, New York University, New York; Blanche Deaderick, University of Memphis, Tennessee; David McCullough, West Tisbury, Massachusetts; and Russell Berg, Trumbull, Connecticut.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

An original resolution (S. Res. 117) recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements; and

The nominations of Susan G. Braden, of the District of Columbia, and Charles F. Lettow, of Virginia, both to be a Judge of the United States Court of Federal Claims, and Cecilia M. Altonaga, to be United States District Judge for the Southern District of Florida.

Also, Committee began consideration of S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, but did not complete action thereon, and recessed subject to call.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported the nominations of Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, and John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.

House of Representatives

Chamber Action

Measures Introduced: 58 public bills, H.R. 1708–1765; and; 12 resolutions, H.J. Res. 48–50; H. Con. Res. 146–150, and H. Res. 193–196 were introduced. **Pages H3300–04**

Additional Cosponsors: **Pages H3304–05**

Reports Filed: Reports were filed today as follows:

Conference report on H. Con. Res. 95, Establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (H. Rept. 108–71);

H. Res. 191, waiving points of order against the conference report to accompany H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (H. Rept. 108–72); and

H. Res. 192, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–73). **Pages H 3194–H3230, H3300**

Prosecutorial Remedies & Other Tools to end the Exploitation of Children Today (PROTECT) Act Conference Report: The House agreed to the conference report on S. 151, to amend title 18, United States Code, with respect to the sexual exploitation of children by yea-and-nay vote of 400 yeas to 25 nays with 2 voting ''present,'' Roll No. 127. **Pages H3066–76**

Agreed to H. Res. 188, the rule waiving points of order against the conference report by voice vote. **Pages H3059–66**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Fundamental Tax Reform: Debated on April 9, H. Con. Res. 141, expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs (agreed to by yea-and-nay vote of 424 yeas with none voting ''nay'', Roll No. 128); and **Pages H3076–77**

Support for a Lasting Settlement in Cyprus: Debated on April 9, H. Res. 165, amended, expressing support for a renewed effort to find a peaceful, just, and lasting settlement to the Cyprus problem (agreed to by yea-and-nay vote of 422 yeas with none voting ''nay,'' Roll No. 129). **Page H3077**

Energy Policy Act: The House completed general debate and began considering amendments to H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people. Further consideration will resume at a later date. **Pages H3078–H3194, H3231–79**

Agreed To:

Wilson of New Mexico amendment No. 3 printed in H. Rept. 108–69 that limits the surface acreage covered by production and support facilities, including airstrips and acres covered by gravel berms or piers for support of pipelines, on the Alaska Coastal Plain to 2,000 acres (agreed to by recorded vote of 226 ayes to 202 noes, Roll No. 134); **Pages H3242–45, H3250**

Peterson of Pennsylvania amendment No. 4 printed in H. Rept. 108–69 that makes available the Federal bonuses for oil leases derived from the Arctic Coastal Plain to the Low-Income Home Energy Assistance Program; **Pages H3246–48**

Vitter amendment No. 6 printed in H. Rept. 108–69 that expresses the sense of Congress that the United States should reduce dependence on foreign energy sources from 58% to 45% by January 1, 2113; **Page H3256**

Tom Davis of Virginia amendment No. 7 printed in H. Rept. 108–69 that requires studies on Federal procurement and contracting policies to be submitted to all relevant Congressional committees and requires studies on the conservation implications of widespread telecommuting by Federal employees and the merits of establishing performance measures to reduce petroleum consumption by Federal fleets (agreed to by recorded vote of 415 ayes to 10 noes, Roll No. 136); **Pages H3256–58, H3269**

Oberstar amendment No. 8 printed in H. Rept. 108–69 that authorizes a photovoltaic solar energy commercialization program for the procurement and installation of photovoltaic solar energy systems for electric production in public buildings; **Pages H3258–60**

Nadler amendment No. 11 printed in H. Rept. 108–69 that requires the Department of Energy, in its study on the threat resulting from the theft or diversion of highly enriched uranium, to address the benefits of accelerating the purchase of excess weapons grade plutonium and uranium from Russia to reduce the likelihood that they could be stolen or sold to terrorists; **Pages H3266–67**

Reynolds amendment No. 12 printed in H. Rept. 108–69 that requires the Secretary of Energy to transmit a plan for the transfer of the Western New York Service Center in West Valley, New York, including nuclear waste cleanup responsibilities to the Federal government; **Pages H3267–68**

Barrett of South Carolina amendment No. 13 printed in H. Rept. 108–69 that requires the Secretary of Energy to conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites; **Pages H3271–73**

Blumenauer amendment No. 14 printed in H. Rept. 108–69 that establishes a Conserve by Bicycling pilot program within the Department of Transportation; authorizes ten pilot projects dispersed throughout the United States, and directs a report on the feasibility of converting motor vehicle trips to bicycle trips; **Pages H3273–74**

Ryan of Wisconsin amendment No. 15 printed in H. Rept. 108–69 that reduces the proliferation of boutique fuels and directs EPA to give preference to plans that use either a Federal Clean Burning Gasoline (6.8 Reid Vapor Pressure) or a Low Reid Vapor Pressure (7.8 Reid Vapor Pressure) Gasoline; and

Pages H3274–77

Wu amendment No. 17 printed in H. Rept. 108–69 that requires the Secretary of Energy to submit biennially a report on the equal employment opportunity practices at Department of Energy National laboratories. **Pages H3278–79**

Rejected:

Boehlert amendment No. 1 printed in H. Rept. 108–69 that sought to require that total oil consumption for cars and light trucks in 2010 shall be at least 5% less than the total amount that would have been used if the average fuel economy standards were to remain at 2004 levels (rejected by recorded vote of 162 ayes to 268 noes, Roll No. 132);

Pages H3248–49

Dingell amendment No. 2 printed in H. Rept. 108–69 that sought to substitute Division A, Energy and Commerce, Title VI, Electricity provisions and provide the Federal Energy Regulatory Commission (FERC) with anti-fraud authority for both electricity and natural gas markets; establishes audit trail requirements to improve FERC's ability to conduct investigations and take enforcement actions; provides for greater transparency by requiring reports on sales or transmissions of electricity or gas; increases penalties for civil and criminal offenses; requires energy policy rate reforms; authorizes refunds for overcharges back to the date they commenced, and directs the SEC to review Public Utility Holding Company (PUHCA) exemptions (rejected by recorded vote of 193 ayes to 237 noes, Roll No. 133);

Pages H3235–42, H3249–50

Markey amendment No. 5 printed in H. Rept. 108–69 that strikes Division C, Resources, Title IV, Arctic Coastal Plain Domestic Energy Security Act that allows oil drilling in the Arctic National Wildlife Refuge (rejected by a recorded vote of 197 ayes to 228 noes, Roll No. 135); **Pages H3251–56, H3268–69**

Brown of Ohio amendment No. 9 printed in H. Rept. 108–69 that sought to authorize a Gasoline Availability Stabilization (GAS) Reserve program with a total capacity of 20 million barrels of regular unleaded gasoline with reserve sites in California, the Midwest, the Northeast, and two additional sites as identified by the Secretary of Energy (rejected by recorded vote of 173 ayes to 252 noes, Roll No. 137); and **Pages H3260–63, H3270**

Udall of New Mexico amendment No. 10 printed in H. Rept. 108–69 that sought to strike section 14029 that authorizes $10 million for special demonstration projects for the uranium mining industry to develop improved in situ leaching mining technologies including environmental restoration technologies that may be applied to sites after completion of in situ leaching operations (rejected by recorded vote of 193 ayes to 231 noes, Roll No. 138).

Pages H3263–66, H3270–71

Proceedings Postponed:

Schakowsky amendment No. 16 printed in H. Rept. 108–69 was offered that expresses the sense of Congress that the Department of Energy should develop and implement more stringent inventory and procurement controls, including controls on the purchase card program and the Department's Inspector General should continue to review purchase card and other procurement and inventory practices. Further proceedings on the amendment were postponed.

Pages H3277–78

Agreed to H. Res. 189, the rule that provided for consideration of the bill by recorded vote of 236 ayes to 190 noes, Roll No. 131. Earlier, agreed to order the previous question by yea-and-nay vote of 226 yeas to 202 nays, Roll No. 130. **Pages H3086–87**

FY 2004 Budget Resolution Conference Report: The House agreed to H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 by yea-and-nay vote of 216 yeas to 211 nays, Roll No. 141.

Pages H3194–H3230, H3268, H3279–98

House agreed to H. Res. 191, the rule that waived points of order against the conference by yea-and-nay vote of 221 yeas to 202 nays, Roll No. 140.

Pages H3279, H3286–91

Earlier agreed to H. Res. 190, waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against resolutions reported from the Rules Committee on the legislative day of April 10, 2003, providing for consideration or disposition of the budget resolution conference report by yea-and-nay vote of yeas to nays, Roll No. 139.

Pages H3279–85

Senate Messages: Messages received from the Senate today appear on pages H3055 and H3231.

Referral: S. Con. Res. 31 was referred to the Committee on International Relations.

Quorum Calls—Votes: Seven yea-and-nay votes and eight recorded votes developed during the proceedings of the House today and appear on pages H3075–76, H3076–77, H3077, H3086, H3087, H3249, H3249–50, H3250, H3268–69, H3269–70, H3270, H3270–71, H3285–86, H3290–91, and H3298. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 2:48 a.m. on Friday, April 11.

Committee Meetings

FARM BILL IMPLEMENTATION; AGRICULTURE ASSISTANCE

Committee on Agriculture: Subcommittee on General Farm Commodities and Risk Management held a hearing on implementation of the 2002 Farm bill and 2003 Agriculture Assistance. Testimony was heard from J.B. Penn, Under Secretary, Farm and Foreign Agricultural Services, USDA.

COMMERCE, JUSTICE, STATE AND THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and the Judiciary and Related Agencies continued appropriation hearings. Testimony was heard from Members of Congress.

HOMELAND SECURITY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Homeland Security held a hearing on Science and Technology. Testimony was heard from Charles McQueary, Under Secretary, Science and Technology Directorate, Department of Homeland Security.

The Subcommittee also held a hearing on the U.S. Coast Guard. Testimony was heard from Adm. Thomas H. Collins, USCG, Commandant, U.S. Coast Guard, Department of Homeland Security.

LABOR, HEALTH AND HUMAN SERVICES AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services and Related Agencies held a hearing on Secretary of Labor. Testimony was heard from Elaine L. Chao, Secretary of Labor.

TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation and Treasury, and Independent Agencies, on Passenger Rail (Panel). Testimony was heard from Michael P. Jackson, Deputy Secretary, Department of Transportation; David L. Gunn, President and Chief Executive Officer, Amtrak; and a public witness.

VA, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on NSF. Testimony was heard from Rita R. Colwell, Director, NSF.

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT

Committee on Education and the Workforce: Ordered reported, as amended, H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003.

EFFECTIVENESS OF STATE REGULATION: WHY SOME CONSUMERS CAN'T GET INSURANCE

Committee on Financial Services: Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, hearing entitled ''The Effectiveness of State Regulation: Why Some Consumers Can't Get Insurance.'' Testimony was heard from Ernst Csiszar, Director, Department of Insurance, State of South Carolina; and public witnesses.

NATION'S CAPITAL—EMERGENCY READINESS

Committee on Government Reform: Held a hearing entitled ''Are We Ready for Prime Time? Assessing the State of Emergency Readiness in the Nation's Capital.'' Testimony was heard from Michael Byrne, Director, Office of National Capital Region Coordination, Department of Homeland Security; Van Harp, Director, Washington Field Office, FBI, Department of Justice; Teresa Chambers, Chief, U.S. Park Police, National Park Service, Department of the Interior; Mark Warner, Governor, State of Virginia; the following officials of the District of Columbia: Anthony Williams, Mayor; and Charles Ramsey, Chief, Metropolitan Police Department; Richard White, General Manager, Washington Metropolitan Area Transit Authority; and public witnesses.

BALKANS—ASSESSING PROGRESS

Committee on International Relations: Subcommittee on Europe held a hearing on The Balkans: Assessing the Progress and Looking to the Future. Testimony was heard from public witnesses.

OVERSIGHT—HOMELAND SECURITY DEPARTMENT TRANSITION

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on ''Department of Homeland Security Transition: Bureau of Immigration and Customs Enforcement.'' Testimony was heard from Asa Hutchinson, Under Secretary, Border and Transportation Security, Department of Homeland Security; Rich Stana, Director, Homeland Security and Justice Issues, GAO; and public witnesses.

SIKES ACT REAUTHORIZATION ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on

H.R. 1497, Sikes Act Reauthorization Act of 2003. Testimony was heard from Raymond F. DuBois, Deputy Under Secretary, Installations and Environment, Department of Defense; Benjamin N. Tuggle, Chief, Division of Federal Program Activities, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

FY 2004 BUDGET RESOLUTION CONFERENCE REPORT

Committee on Rules: Granted, by a vote of 8 to 4, a rule waiving all points of order against the conference report to accompany H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, and against its consideration. The rule provides that the conference report shall be considered as read. Finally, the rule provides one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. Testimony was heard from chairman Nussle and Representative Spratt.

SAME DAY CONSIDERATION WARTIME SUPPLEMENTAL—CONFERENCE REPORT

Committee on Rules: Granted, by voice vote, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of Friday, April 11, 2003, providing for consideration or disposition of a conference report to accompany H.R. 1559, making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003.

TRANSPORTATION RESEARCH AND DEVELOPMENT

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on Transportation Research and Development: Investing in the Future. Testimony was heard from Emil Frankel, Assistant Secretary, Transportation Policy, Department of Transportation; Kate Siggerud, Acting Director, Physical Infrastructure Team, GAO; Eric E. Harm, Deputy Director, Division of Highways, Department of Transportation, State of Illinois; and public witnesses.

VETERAN'S LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 241, Veterans Beneficiary Fairness Act of 2003; H.R. 533, Agent Orange Veterans' Disabled Children's Benefits Act of 2003; H.R. 761, Disabled Servicemembers Adapted Housing Assistance Act of 2003; H.R. 850, Former Prisoners of War Special Compensation Act of 2003; H.R. 966, Disabled Veterans' Return-to-Work Act of 2003; and H.R. 1048, Disabled Veterans Adaptive Benefits Improvement Act of 2003. Testimony was heard from Representative Simpson; the following officials of the Department of Veterans Affairs: Daniel L. Cooper, Under Secretary, Benefits; and Ronald J. Henke, Director, Compensation and Pension Service, both with the Veterans Benefits Administration; and John H. Thompson, Deputy General Counsel; and representatives of veterans organizations.

OVERSIGHT—MEDICAL AND PROSTHETIC RESEARCH PROGRAMS

Committee on Veterans' Affairs: Subcommittee on Health held an oversight hearing on medical and prosthetic research programs in the Department of Veterans Affairs. Testimony was heard from Representative Langevin; the following officials of the Department of Veterans Affairs: Nelda P. Wray, M.D., Chief Research and Development Officer, Office of Research and Development, Veterans Health Administration; Mindy Aisen, M.D., Director, Rehabilitation Research and Development; John G. Demakis, M.D., Director, Health Sciences Research and Development; and Fred S. Wright, M.D., Associate Chief of Staff, Research, VA Healthcare System, State of Connecticut; and Kevin C. Dellsperger, M.D., Chief of Staff, Associate Dean, Veterans Affairs, VA Medical Center, Iowa City, Iowa; and public witnesses.

MEDICAL EDUCATION PROGRAM

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on VA's progress in the development of the medical education program mandated by Section 3 of the Department of Veterans Affairs Emergency Preparedness Act of 2002. Testimony was heard from Robert H. Roswell, Under Secretary, Health, Department of Veterans Affairs; Jerome M. Hauer, Acting Assistant Secretary, Office of Public Health Emergency Preparedness, Department of Health and Human Services; Eric Tolbert, Director, Preparedness, Emergency Preparedness and Response Directorate, Department of Homeland Security; Col. Maria Morgan, USAF, Deputy Adjutant General, National Guard, State of New Jersey; and public witnesses.

UNEMPLOYMENT BENEFITS AND "RETURNS TO WORK"

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on Unemployment

Benefits and ''Returns to Work.'' Testimony was heard from public witnesses.

Joint Meetings

MEDICARE

Joint Economic Committee: Committee concluded joint hearings to examine Medicare, focusing on the 2003 Medicare Trustees Report, the long-term financial viability of the program, proposals to add a prescription drug benefit, and other related reforms, after receiving testimony from Douglas Holtz-Eakin, Director, Congressional Budget Office; David M. Walker, Comptroller General of the United States, General Accounting Office; Gail R. Wilensky, Project HOPE, Millwood, Virginia; and John P. Martin, Organization for Economic Cooperation and Development, and Marilyn Moon, Urban Institute, both of Washington, D.C.

COMMITTEE MEETINGS FOR FRIDAY, APRIL 11, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Judiciary: business meeting to consider pending calendar business, 10 a.m., SD–226.

Next Meeting of the SENATE

9:30 a.m., Friday, April 11

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate may consider the conference report on H. Con. Res. 95, Congressional Budget Resolution, the conference report on H.R. 1559, Emergency Wartime Supplemental, S. 196, Digital and Wireless Network Technology Program Act, and S. 15, Biodefense Improvement and Treatment for America Act.

Also, Senate will proceed to consideration of the nomination of Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit, at a time determined by the Majority Leader, after consultation with the Democratic Leader.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Friday, April 11

House Chamber

Program for Friday: Complete Consideration of H.R. 6, Energy Policy Act of 2003 (structured rule, 90 minutes of debate); and

Consideration of the conference report on H.R. 1559, Emergency Wartime Supplemental Appropriations (subject to a rule).

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