United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, APRIL 30, 2003 *No. 63*

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
April 30, 2003.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

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

PRAYER

Rabbi Manny Behar, Executive Director, Queens Jewish Community Council, Forest Hills, New York, offered the following prayer:

Today people around the world remember the martyrdom of 6 million Jews who perished in the Holocaust. We also remember the leadership shown in this very Chamber, and the courage of our Armed Forces who brought an end to the Holocaust by defeating the Nazi regime.

Today, as always, we as a Nation stand for freedom and opportunity for ourselves and for all people. Once again, the men and women of this great body are called upon to make decisions that will impact on the future of individuals, of nations, of all humankind. Certainly such an awesome responsibility demands that we turn to God in prayer.

May God on this day and every day grant all the Members of the House of Representatives the wisdom to make the decisions that will make a nation and a world where all may enjoy peace, freedom, and opportunity. May you go from strength to strength in the service of God's children.

May God continue to grant success to our soldiers in Iraq, Afghanistan, and around the world. May they speedily achieve their mission and return home to the embrace of their families, and may God always bestow his blessings on the United States of America.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. TERRY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

S. Con. Res. 39. Concurrent resolution supporting the goals and ideals of St. Tammany Day on May 1, 2003, as a national day of recognition for Tamanend and the values he represented.

The message also announced that pursuant to Public Law 105–83, the Chair, on behalf of the Democratic Leader, announces the appointment of the Senator from Nevada (Mr. REID) as a member of the National Council on the Arts, vice the Senator from Illinois (Mr. DURBIN).

WELCOMING RABBI MANNY BEHAR, EXECUTIVE DIRECTOR, QUEENS JEWISH COMMUNITY COUNCIL

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

Mr. WEINER. Mr. Speaker, it is appropriate that today, as we commemorate Yom Hashoah, the commemoration of the Holocaust here in Washington, DC, that I ask the House to join me in welcoming Rabbi Manny Behar, who gave the invocation this morning.

Rabbi Behar is one of the most prominent spiritual leaders in the Queens community. Since 1992, he has been the executive director of the Queens Jewish Community Council, an umbrella organization for more than 90 synagogues and Jewish institutions throughout our borough.

In this position, he oversees a network of social service programs which include every service we can imagine, from counseling for victims of September 11 to assistance for homebound elderly to food distribution to job placement and training.

Rabbi Behar should feel at home here in the halls of Congress, because before coming to the Queens Jewish Community Council he had a distinguished career working in government. He was special assistant to Queens Borough president Claire Shulman, where he played a critical role in obtaining the historic New York State Supreme Court decision upholding the validity of Eruvim under American law.

During his tenure working for New York City controller Elizabeth Holtzman, he did research which led to the first conviction of an American company for participating in the Arab boycott of Israel.

It is my pleasure to also welcome Rabbi Behar's wife Evelyn, his two sons Moshe David and Nathan Benjamin, his father Moshe, and his cousins, Shalom and Cynthia Brilliant, who

are here today. We wish Rabbi Behar's mom Rivka a speedy get well.

On behalf of the House of Representatives we would like to thank him, not only for his eloquent words this morning, but more importantly, for his service to his faith, his community, and to his country.

URGING MEMBERS TO ENACT ROBUST ECONOMIC STIMULUS PLAN THAT PRIORITIZES THE TAXPAYER AND CREATES JOBS

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

Mr. RYUN of Kansas. Mr. Speaker, our economy needs a boost, and it seems that lawmakers on both sides of the aisle agree on a couple of basic points: First, we must do something to stimulate the economy; Second, President Bush's tax proposal would create jobs.

Since we can agree that cutting taxes creates jobs, why would Democrats want to slash the proposed economic stimulus in half?

It is estimated that tax relief would create 700,000 jobs yearly throughout the country. In Kansas, this plan would create over 9,000 jobs per year over the next 5 years. Why do we choose to limit our success by cutting these numbers in half?

Some think the answer to our problem is to make the government a little larger. I believe the answer lies in empowering people with their own money so they can work, save, and invest in our economy.

I urge my colleagues to hold the line on spending and to enact a robust economic stimulus to prioritize taxpayers and create jobs.

THE ECONOMY

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my strong concerns over the current state of the economy and the President's solution to stimulate this economy.

The President has defended his proposal for a tax cut of at least $550 billion, arguing that a large tax cut will create more jobs.

Now, let us see. The last tax cut that this President did was signed into law, and it was the largest tax cut in history, with a cost nearing $2 trillion. How effective has that been in creating jobs? Let us see. It is estimated that 53,000 United States workers lost their jobs this month alone. Unemployment is still hovering around 6 percent. So it looks to me like the President is using more of his fuzzy math here.

We need to work to come up with real solutions that reduce unemployment and that help us with respect to education, the environment, child care, and, yes, a prescription drug plan for seniors.

If Members want to cut taxes, then alleviate the tax burden on the working poor and on the middle class; do not do it to the wealthy, who are the least likely to get this economy turning.

CELEBRATING THE LIFE OF MR. CRUZ ACOSTA

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

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to celebrate the life and spirit of Mr. Cruz Acosta, a wonderful constituent and an exceptional human being who remains high-spirited despite his struggle with cancer.

Cruz was the first in his family to leave the tyranny of Cuba in search of freedom, living his life in appreciation of the liberty he found here in the United States.

Throughout the last 11 years, he has fought bone marrow cancer and leukemia, but his continuous desire for better health would not have been possible without the loving care and prayers of his family and the dedicated attention of the nurses and the doctors at Baptist Hospital, an exceptional medical institution located in my district.

As he remains in the hospital today, my thoughts and my prayers are with his wife, Miriam, with Cruz, and his entire family.

CONGRESSIONAL TRIBUTE TO FIRST LIEUTENANT FREDERICK POKORNEY

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

Ms. BERKLEY. Mr. Speaker, United States Marine Corps First Lieutenant Frederick Pokorney was killed in action in Iraq on March 23, 2003. On that day, Nevada lost a true American patriot, a proud Marine, and a loving husband and father.

Fred was born in California and raised himself from an early age, until he moved to Tonopah, Nevada, to live with Wade and Susie Lieseke, whom he regarded as his parents.

Fred's first love was his family, with his favorite time being spent with his ''best little helper,'' his daughter. His second love was the Marines and this great Nation.

When I spoke to Fred's wife, Chelle, she said that he embodied what it is to be a Marine: honor, courage, commitment.

Lieutenant Pokorney's daughter Taylor expressed her loss in these words: ''My daddy, my hero, I will take care of mommy for you as you asked. We will be best friends. I will take her to Sea World for my birthday like you planned. I love you. I need you. I miss you.''

The hearts of all Nevadans and all Americans go out to his family and friends. Our thoughts and prayers are with his wife, Shelly, and their 3-year-old daughter, Taylor.

CONDEMNING TERRORIST ATTACK IN TEL AVIV

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

Mr. WILSON of South Carolina. Mr. Speaker, Mahmoud Abbas, also known as Abu Mazen, was approved yesterday as the first Palestinian prime minister. Hours before he was sworn in, a suicide bomber blew himself up at a popular nightclub known as Mike's Place, located right beside the U.S. embassy in Tel Aviv. At least three people were killed and 30 injured, including an American.

The world's attention is now focused on the new Palestinian leader, Abu Mazen. He has denounced terrorism, but words are not enough. Mazen must do everything possible to disarm terrorist groups such as Hamas and al-Aqsa Martyrs Brigade that are doing everything possible to derail the peace process.

President George W. Bush has a vision for the Middle East, a plan that was delivered this morning where Israelis and Palestinians live side by side in peace. We must not let terrorists thwart the important peace process that is now under way.

In conclusion, God bless our troops.

CALLING ON SENATOR RICK SANTORUM TO APOLOGIZE FOR REMARKS OFFENSIVE TO GAY AND LESBIAN COMMUNITY OR TO STEP DOWN

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I waited patiently as the words of a Member of the other body permeated throughout our society with respect to negative comments on the gay and lesbian community.

As a Member of this great body and the Committee on the Judiciary, I have a great deal of respect and honor for the Bill of Rights and the first amendment, and the right for individuals to express their beliefs. I honor that.

But as an African American, I stand squarely and solidly against any form of discrimination. I think America loses its promise and its values and its beliefs in equal opportunity and equality for all and justice if there is a second-class discrimination.

I believe it is imperative for Senator RICK SANTORUM to apologize fully to the gay and lesbian community of this Nation and around the world or step down from leadership. We cannot tolerate this kind of reckless speech.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) should not and must refrain from making inappropriate references to Members of the Senate.

ON THE DEATH OF DR. ELIZABETH KARNES

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

Mr. TERRY. Mr. Speaker, I come to the floor today with a heavy heart. I am here to express the sadness and loss all Nebraskans feel at the passing of a selfless leader and volunteer, Dr. Liz Karnes.

Dr. Karnes embodied the best values of our State. Her good deeds and commitment to public service are greatly admired. She is well known for her 17 years of service on the District 66 School Board in Omaha and her work as a member of the Omaha Airport Authority, and her national policy work on behalf of children and schools.

But she is most known and committed to her finest work, raising her four daughters.

A 1967 graduate of Westside herself, Karnes went on to earn her doctoral degree in education administration. Along the way she graduated magna cum laude from the University of Nebraska, where she met her future husband, Dave Karnes. When Senator Karnes was appointed a U.S. Senator, Dr. Karnes accompanied her husband to Washington and worked as a volunteer assistant to First Lady Barbara Bush to advocate literacy.

□ 1015

In March 1991, Dr. Karnes was diagnosed with ovarian cancer. She began a courageous battle against the disease and she would survive. But in 2001 she developed kidney cancer which led to the complications that claimed her life late last week.

Dr. Karnes heroically fought cancer and its complications for 12 years. Her faith in God and the loving support of her family, friends, and colleagues kept her spirits strong, but Dr. Karnes was the real fighter. She continued to attend meetings and family events throughout her ordeal. She did not let her cancer come between her and her family, her work or her advocacy for the issues she believed in. Today we must redefine our definition of the word ''hero.'' Our heros are closer to us. They are visible. They are walking among us. Dr. Karnes is such a hero.

UNBORN VICTIMS OF VIOLENCE ACT

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

Mr. PITTS. Mr. Speaker, 84 percent of Americans say they think Scott Peterson should be held responsible for the deaths of his wife, Lacy, and their unborn son, Connor. I agree. Criminals who kill an unborn baby in the act of a crime should be held accountable.

On January 1, 1999, Deanna Mitts was 8 months pregnant. And after celebrating New Year's with her family, Deanna, her 3 year old daughter, Kayla, and her unborn daughter, were killed by a bomb explosion in their Connersville, Pennsylvania home.

Joseph Minerd, the father of the unborn child was arrested for Deanna and Kayla's murders but is not being held criminally liable for the death of the unborn child. That is not right.

If Scott Peterson should be held accountable, so should Joseph Minerd. The Unborn Victims of Violence Act would make sure that Joseph answers to all 3 of these deaths under Federal law. The bill would protect the innocent and defenseless against crime, and it would hold accountable the Scott Petersons and Joseph Minerds of this world. I urge the House to support the Unborn Victims of Violence Act.

FAITH-BASED ORGANIZATIONS AND THE AIDS EPIDEMIC

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

Mr. PENCE. Mr. Speaker, there is an epidemic of AIDS and HIV in Africa that can be described as a pandemic on that continent, 42 million infected with HIV, 8,500 deaths every day, entire villages in Africa where there is no single living adult.

Yesterday as I sat in the East Room of the White House, I heard President Bush describe a compassionate vision of moral obligation for the American people addressing this crisis that would bring with it not only $15 billion over 5 years, but to put a priority on the values of the American people, abstinence and monogamy, and then condom distribution, and would protect faith-based organizations in the process.

Sadly, Mr. Speaker, unless the House amends the bill we will consider tomorrow, the global AIDS bill will not reflect the values of the American people or the vision of the President of the United States of America. President Bush was right when he said we will not pass on the other side of the road, citing the good Samaritan in this crisis. But as we decide whether we will support abstinence first and protect the role of faith-based organizations in Africa, let us remember the good Samaritan not only stopped and provided money, but he took the man to a place where he could be made whole.

Faith-based organizations and those timeless values are such a place and I urge support of the Pitts and Smith amendments.

STOP UNNECESSARY MEDICATION OF CHILDREN

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

Mr. BURNS. Mr. Speaker, today the House will consider H.R. 1350, Improving Results for Children With Disabilities Act of 2003. This bill contains a broadly supported bipartisan provision that I have offered during full committee markup.

There is a significant problem facing children and their parents throughout the Nation. Some schools are actually requiring parents to place their child on drugs in order to attend school. This is wrong. My provision is not anti-school. It is not anti-teacher. It is not anti-medication. This provision is pro-children and pro-parents. This provision simply protects our children from unnecessary medication and it provides parents the decision-making power that they should have for their child's safety.

I urge my colleagues to support this and other sensible provisions contained in H.R. 1350.

SALUTING SERVICE ACADEMY STUDENTS

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise this morning to salute our soldiers of tomorrow. That is the service-bound academy students of the Third District of the Texas. This district of Texas is home to some of the best and the brightest young people, and it is always an honor to recommend such fine students to our Nation's service actions.

On the heels of our swift victory in Iraq, I know they are ready to join the premier military force of the world. This year, north Texas is going to send five students to the United States Military Academy; two to the United States Naval Academy; four to the United States Air Force Academy; four to the Merchant Marine Academy with students hailing from Allen, Frisco, Garland, Plano and Richardson.

I think that this is something that every student wants to do. They want to become a member of the defense of our country.

The 15 appointees and their hometowns are as follows:

U.S. MILITARY ACADEMY

Brittany Ladner—Allen, Texas—Allen High School.

Chad Lorenz—Richardson, Texas—Home School.

Jennifer MacGibbon—Plano, Texas—Plano Senior High School.

Andrew Moore—Plano, Texas—Plano West Senior High School.

Nathan Navarro—Frisco, Texas—Frisco High School.

U.S. NAVAL ACADEMY

Eric McBee—Plano, Texas—Plano Senior High School.

Marcus Walters—Richardson, Texas—Pearce High School.

U.S. AIR FORCE ACADEMY

David Andrews—Richardson, Texas—Plano Senior High School.

Brian Campbell—Garland, Texas—Jesuit Preparatory School.

Benton Hall—Plano, Texas—Plano Senior High School.

Ronda Helart—Plano, Texas—Home School.

U.S. MERCHANT MARINE ACADEMY

Brendon Ball—Plano, Texas—Plano East Senior High School.

John Harman—Garland, Texas—Naaman Forest High School.

Scott Hughes—Plano, Texas—Plano West Senior High School.

Kartik Parmar—Plano, Texas—Plano Senior High School.

To these 15 appointees I say, God bless you. God bless America. I salute you.

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 206 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 206

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purposes 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 purposes of debate only.

Mr. Speaker, the Committee on Rules met yesterday afternoon and granted a structured rule for H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. This rule makes a total of 14 amendments in order, including 3 minority and 1 bipartisan amendment. I am very proud of not only the Committee on Rules, but also the Committee on Education and the Workforce for preserving the greatest hallmarks for democracy while setting the stage for today's votes on H.R. 1350. I believe inclusion, deliberation and full participation was achieved in making sure that this important Act is brought forward.

Mr. Speaker, since I want original enactment in 1975, the purpose of IDEA has been to ensure free appropriate education is achieved nationwide for disabled students. When IDEA was first enacted, this was the goal. Today we are here to improve upon the things that we learned since the last IDEA reauthorization in 1997.

As you know, Mr. Speaker, as through IDEA, the Federal Government is, in fact, authorized to cover 40 percent of the costs that schools nationwide spend to educate special needs students. However, the Federal Government today picks up only about 18 percent of the total cost of educating our special needs students and we must do better than that.

The good news this year, Mr. Speaker, is that the budget agreement reached by the House and the Senate this month includes an increase of $2.2 billion for special education in 2004. This unprecedented funding to increase for special education programs means that the Federal share of the special education will be brought up to 21 percent this year. The good work for the Committee on the Budget this year also establishes a clear pattern to reach our State goal of funding fully 40 percent of the total cost of the special needs education within the next 7 years.

Mr. Speaker, I am very proud of the fact that from fiscal year 1996 to fiscal year 2003, overall IDEA funding has increased by nearly 21 percent, from $3.2 billion to $10 billion annually. In fact, the 2003 funding level is more than a 15 percent increase over the 2002 funding level. This is a positive trend and proves that we are serious about attaining our goals and meeting our commitment to special education needs. But there is so much more that this bill does, more than just increasing funding. And I would like to provide some of the major provisions of H.R. 13 where Members of Congress will be able to see that this committee and the committee work that was done not only by the gentleman from Ohio (Mr. BOEHNER) but also the subcommittee chairman, the gentleman from Delaware (Mr. CASTLE) really has made a difference in the life and ongoing life of IDEA.

The underlying bill ensures that State will align their accountability systems for students with disabilities to the No Child Left Behind Act system and requires each child's Individual Education Plan, known as an IEP, to specifically address that child's academic achievement.

H.R. 1350 makes significant changes to the Department of Education's activities on research of special education, establishes a center for special education research within the Institute of Education Science and authorizes the creation of a commissioner for special education research to oversee the Institute's research into special education and related services.

It incorporates elements of the gentleman from Florida's (Mr. KELLER) Paperwork Reduction Bill, H.R. 464, including the 3-year individualized education plan known as IEP; it creates a 10-State pilot program that allows State to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources and improves results for disabled students.

For these and so many other reasons, Mr. Speaker, I have ask that you and each of my 434 other colleagues join me in supporting the dream of the greatest realization of our beloved, compassionate and democratic Nation. The realization that we have inherent worth and that here in America we will provide opportunity, love and compassion for every single one of our children.

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

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, partisan battles are nothing new on the floor of this House, but there are many matters where broad bipartisan agreement and good will have traditionally been the rule. Education for disabled and special needs children has been one of those issues notable for its profound bipartisan consensus.

□ 1030

Therefore, it is a sad day for this House as we consider the rule for H.R. 1350, the IDEA reauthorization. This is not a bipartisan rule, and this bill certainly does not reflect a broad bipartisan consensus. If anything, H.R. 1350

represents consensus breaking, undermining many of the hard-won and carefully constructed checks and balances of existing law.

Education for disabled and special-needs children is a sensitive issue for all Americans. Some of our colleagues will be personally and directly affected by what we do here today. I am disappointed that we are considering this bill today because I believe we can do better and we should have done more to build a broad consensus around this bill among Members of this House and the constituencies most affected by this law.

During consideration of this bill in the Committee on Rules last night, I told every Member who testified before the committee that I supported their right to offer their amendments on the floor today. Unfortunately, the majority did not join me in that support. I am disappointed the majority has denied the opportunity for many Members to offer their amendments, but I am most disappointed that the majority has stifled debate on mandatory funding by denying the Woolsey/Van Hollen/McCollum amendment and the Bass/Simmons amendment, both of which would have required mandatory funding for IDEA.

There is a pattern in this body of saying one thing and doing another. The majority talks a good game about educating America's children but balks at providing the necessary funding when the time comes to back up their rhetoric with deeds. Today, we will hear about increases for special education in the budget resolution. But when it comes time to fully fund these programs, the majority denies debate on the only two amendments that would genuinely make that a reality.

This bill reneges on our 28-year commitment to fully fund the Federal share of special education part B grants to States, what is commonly referred to as fully funding IDEA. It denies mandatory funding that would ensure the Federal Government finally lives up to its legal commitment to provide States with 40 percent of these costs.

Time and time again Congress has passed meaningless sense of Congress resolutions supporting full funding for IDEA. But when it came to the point to require that these funds be provided, this bill, once again, turned its back on that promise. In fact, this bill actually sets caps, authorizing ceilings on the amount of funding that Congress may provide in any given year.

Even those groups representing teachers, principals, and school administrations that do support many of the changes in H.R. 1350 categorically state that the bill must be amended to require mandatory funding increases. Yet the majority on the Committee on Rules denied both Republican and Democratic amendments on this issue. So there will be no debate in the United States House of Representatives on the most critical issue facing special education today: Will the Congress finally put some money where its mouth has been for the past several years?

H.R. 1350 also undermines due process and discipline protections for children with disabilities, placing new restrictions on the ability of parents to seek legal representation when a violation of the law has occurred. It might even bring us back to the time when children with disabilities could be removed from the classroom or, worse, refused a public education simply because they had disabilities.

I have heard from so many parents of children with disabilities and from school counselors and other professionals about how this bill would adversely affect the lives and education of these children. Here is what one mother in my district wrote about H.R. 1350, and I quote:

''Leah is my 7-year-old daughter. She has Downs Syndrome. Leah is fully included in her class, learning to read and has many friends. Not only has she benefited from being in this class, I truly believe the children in Leah's school have benefited from knowing Leah and becoming her friend. I want Leah to continue in this inclusive environment because I feel this is the best way for her to develop independence and appropriate social skills for the future. But H.R. 1350 does not provide full funding for IDEA. H.R. 1350 would take away many protections for parents' rights that are in IDEA, called procedural safeguards. It is important for schools to give parents their rights so parents can use them to make sure their children get a good education. H.R. 1350 would prevent this. When you sign an important contract, you get notice of your rights. H.R. 1350 would let schools give a short description of rights to parents rather than fully explain these rights to parents, like they now have to do. Why are the schools so afraid for parents to know their rights?''

Another woman from my district, the mother of a 12-year-old boy with autism, is also extremely disturbed by the changes contained in H.R. 1350. She writes: ''Under H.R. 1350, procedural rights would be greatly reduced. As a parent dealing with large teams of school district staff, these rights are critical to me in ensuring that my child's unique and individual needs are considered. Both school staff and I work very hard with my child to meet society's expectations. However, it is the nature of his disability that sometimes he cannot obey student codes of conduct. To subject my child to a segregated placement at the sole discretion of school staff anytime a rule is violated would be terrifying. Although some of the proposed changes in H.R. 1350 may appear sensible on the surface, as a person who has dealt with special education, I can easily see what their real-world impact would be, and it would be disastrous.''

I am sure my colleagues have received scores of similar letters from parents and grandparents of children who need special education, as well as letters from school counselors, psychologists, and therapists who work with and support these families. They are asking us and they are pleading with us to reject H.R. 1350.

Surely we can find a way to give school administrators the flexibility they say they need without undermining the rights of the children and families they are charged to serve. Surely we can find a way to fulfill our promises and provide mandatory funding. We should send this bill back to committee and return with a genuine consensus on the IDEA reauthorization, as has been the tradition of this body for nearly 3 decades.

Mr. Speaker, this bill is opposed by nearly every major constituency directly involved in the lives of children requiring special education: parents, families, school counselors, psychologists and developmental specialists, disabilities advocates, and organizations involved in the professional development of teachers.

Mr. Speaker, I submit for the RECORD a list of organizations opposed to this bill:

The Council for Exceptional Children
The National Mental Health Association
The Higher Education Consortium for Special Education
The National Center for Learning Disabilities
The American Academy of Pediatrics
The School Social Work Association of America
The National Down Syndrome Society
Easter Seals
American Society for Deaf Children
National Coalition of Parent Centers
Epilepsy Foundation
Association of Maternal and Child Health Programs
National Alliance of Pupil Services Organizations
American Council of the Blind
National Parent Teacher Association
National Association of School Psychologists
National Association of School Nurses
American School Counselor Association
American Psychological Association
National Association for College Admission Counseling
National Association of Social Workers
The American Academy of Child and Adolescent Psychiatry

Mr. Speaker, I urge my colleagues to reject this rule and to oppose the underlying bill.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume, and with great respect to the gentleman from Massachusetts, I would tell him that I too have received a good number of letters which involve feedback from parents who are concerned about changes in the law; they are concerned about what any IDEA reauthorization would look like.

As a parent of a son, a person who has Downs Syndrome and is affected with the afflictions that come with that syndrome, I can tell my colleagues that I too am concerned about

these things and approached this entire effort with an open mind, instead of saying I do not want any changes. I said, what are the things that we have learned from time; what are the things that we think we can do to get closer to not only better inclusion but to have better results from our children who fall within the IDEA guidelines?

Mr. Speaker, my son, who is 9 years old, and who is in first grade, is making progress. And I see where these things occur. But this committee and this subcommittee, under the leadership of the chairman, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), have done things to go in and instead of keeping the status quo, they have gone in and made things dynamic. We are going to be more inclusive, we are going to provide more money, we are going to do those things that will enhance the relationship that a parent has in an IEP, which are these individual times processes that one goes through where they sit down and look at their child and try to map out and plan out a way for them to fully meet their needs and also those educational opportunities that are ahead of them.

After looking at the entire package, not just a piece or a part, I am satisfied; and I believe that what has occurred here is a better bill. Is it perfect? Probably not. But under the current law, there are still parents and still students that suffer needlessly as a result of either people not understanding the law or people not complying completely. That will always be a part of the process. But the advantages of this new bill come about as a result of the intuitive nature of this committee and subcommittee, who wanted to enhance and learn from the past and make it better.

So as a parent of a child who is affected by what this legislation will do, and as an advocate on behalf of this community, I am asking those people who have written in, those people who have called, and I have talked to a good number of them, to allow us an opportunity to speak fully about the entire bill, to put it into context; and I believe that by the end of today, as the smoke has cleared, as we have talked about it, the advantages will be very apparent for not only the parents but also the students that are impacted.

It is ultimately the parents who are put out on the front line in trying to negotiate. Parents are scared and they are worried about this; but if we walk through the things that this bill will do, including providing more funding and more flexibility, they will see where the advantages will be true for each one of them and their children. So I would politely address the concerns that the gentleman from Massachusetts has, because it is a real question that does exist in real parents' minds; and I respect the gentleman for his discussion.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wilmington, Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Texas for yielding me this time, and I have a tremendous amount of empathy for his personal situation and have spent a great deal of time discussing that and his interest in this bill, as well as the gentleman from Massachusetts, who exhibited, I felt, at the hearing before the Committee on Rules, an understanding of the legislation as well.

I think it is very important that we begin this debate by understanding several background areas. One is that this is legislation which was created in 1975 with the help of a number of people who are still here today. One of those Members is the ranking member on the Committee on Education and the Workforce, and others who put language into this legislation, which I think has held up extraordinarily well over the past 30 or so years. I believe that the services that we provide to our children who have disabilities are tremendous, light years ahead of where we were just 30 years ago.

I believe that Republicans and Democrats alike have worked together every 5 or 6 years in the reauthorization process, and I know it was very difficult 5 or 6 years ago when I went through it in order to put together legislation which will be helpful in improving what we are doing in helping children with disabilities. But I believe that the legislation before us is another step in that direction.

Now, obviously, if this passes today, with some of the amendments which are before us, it will go into a conference with the Senate and may come out somewhat differently. But I would suggest that before the process is done, this may become both bipartisan and perhaps even some improvements in it from where it is at this point today, although I think it is a significant and good piece of legislation today.

I do rise in support of H. Res. 206, which provides for the consideration of H.R. 1350, which is the Improving Results for Children With Disabilities Act of 2003. I offer my thanks to the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), for his latitude in making sure that this legislation was worked out. We are very appreciative of that. I also want to thank the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), and members of the Committee on Rules, particularly the gentleman from Texas (Mr. SESSIONS), for drafting what I find to be a fair and balanced rule.

I think we need to know the background of that too. For almost 2 years, we have been working to create a balanced piece of legislation to ensure that students with disabilities receive a quality education. In doing so, we have been committed to working with Democrats and parents and educators, and I think that rule today reflects that commitment. This has been an ongoing process, Mr. Speaker, which is exhibited in this rule.

There are a number of amendments that are the result of dialogue we have had with the minority. There are a number of other amendments that did not have to be introduced because we adopted them as part of the legislation. We have a manager's amendment with some technical aspects, which I am sponsoring.

But over the past 18 months, our committee, the House Committee on Education and the Workforce, has held seven different hearings on issues directly relating to the reauthorization of the Individuals With Disabilities on Education Act. And though that is probably not unparalleled, it is a little unusual to have that extensive number of hearings on any legislation in the House of Representatives.

□ 1045

On June 6, 2002, I helped launch a Web-based project called Great IDEAs, designed to solicit input from stakeholders in special education across the Nation. Since that time we have had more than 3,000 responses from teachers, school administrators, parents of children with special needs, and others familiar with the unique needs of children with disabilities and incorporated many of these suggestions into H.R. 1350. So the point on that is there has been a great deal of effort put into the preparation of this legislation and the preparation of the rule which we have before us today.

Turning to the bill, I believe that this bill employs commonsense reforms to reduce the excessive amount of paperwork requirements, and that is the common complaint that we hear from everybody. It improves IDEA to provide greater parent involvement, seeks to reduce litigation, authorizes dramatic funding increases, and improves early intervention strategies.

The excessive amount of paperwork requirement simply, frankly, overwhelms teachers and robs them of valuable time to educate their students. Teachers must have the ability to spend more time in the classroom rather than spending endless hours filling out unnecessary forms. Additionally, these provisions will allow school districts to retain and recruit highly qualified special education teachers.

Throughout the bill we have made improvements to IDEA to provide greater flexibility to parents and greater input in developing the Individualized Education Program, which is known by the acronym IEP, for their child.

The bill gives parents discretion over who attends IEP team meetings, how they are conducted, or whether to have one at all. We have improved the parent training and information centers and the community-parent resource centers to serve as valuable tools for parents trying to work with schools to get a quality education for their child.

This bill seeks to reduce litigation and restore trust between parents and school districts by encouraging the use of alternative means or what we know as dispute resolution. All too often miscommunication damages this relationship and results in proliferation of litigation. Not only is this course of action costly, but it breeds an attitude of distrust.

H.R. 1350 authorizes dramatic increases in funding for special education, creates a clear path to attain full funding of the Federal Government's 40 percent goal within 7 years. Let me go through that carefully. We are going to hear that a lot in the course of the next 4 or 5 hours on the floor. Essentially, after IDEA was created, in the original language it said that the Federal Government will fund up to 40 percent of the cost of the education of these children beyond the normal cost of education. The Federal Government for whatever reasons did not live up to that.

Up until about 7 years ago, the Federal Government was funding 5 or 6 percent of that cost. In the last 7 years, and I am proud that Republicans have been involved with this, although Democrats have been supportive as well, but over the last 7 years, we have increased that dramatically so that instead of funding 5 percent, we are now funding 18 percent.

In this year's budget resolution, that funding number will take us up to 21 percent. The President of the United States has indicated his complete willingness to fund this in rapid increases to get us to that 40 percent in a 7-year glide path. This Congress, in the form of the Committee on Appropriations, has indicated doing it the same way. This is all under the discretionary spending which we have with constant review; and believe me, we need constant review of IDEA which is happening as a result of the fact that it is under discretionary spending. I do not believe when we go to mandatory spending we get those reviews.

I believe that particular commitment to getting there in 7 years is going to work. The mandatory spending side of it, the amendments that we are seeing, although they are not in this particular legislation, have a 6-year path to get us to that 40 percent funding. The real differences are rather minimal in terms of when we would get there, and the commitment to do it. Some Members say we need to do it in a mandatory way or it is not going to happen.

I do not agree with that. I have watched it happen year after year in most of the years that I have been in the Congress of the United States, and it is happening extremely well. I am proud of our record of dramatically increasing this funding for IDEA over the past 7 years and remain committed to building on that impressive record as far as the future is concerned. I am convinced that we are doing the right thing. We will hear a lot about it in a political sense today, but the bottom line is the commitment is there and that is happening.

The bill also improves early intervention strategies. Currently too many children with reading problems are being identified as learning disabled and placed in special education classes they do not necessarily belong in. We have given local school districts the flexibility to use up to 15 percent of their funds for prereferral services for students before they are identified as needing special education. I think that is a very important provision because of some of the overidentification that goes on, particularly in the African American community.

We also attempt to address that question of a disproportionate number of minority students wrongly placed in special education. We encourage school districts to provide positive behavioral interventions and support intensive educational interventions to prevent this overidentification and misidentification.

Mr. Speaker, there is a lot in this legislation. It is very difficult, frankly, to take a significant piece of legislation and be able to comprehend it unless one has lived it for a long time. I will tell Members there are many people who have come to my office and left pictures of their children behind, which I have on my desk in both Wilmington and here in Washington, D.C. There are many Members of Congress who are involved very personally with children with disabilities and are very concerned with what is in this legislation.

Many steps have been taken in order to improve the legislation. We have tried to keep an open mind about amendments and suggestions and will do so through conference in order to help those children who truly need help in our schools. We are proud of our record and the legislation. I believe the Committee on Rules has done an outstanding job of sorting through amendments and preparing for today, and I would encourage everybody to support this rule.

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

Mr. Speaker, to respond to the gentleman from Texas (Mr. SESSIONS), I wanted to make clear that those of us who have concerns about this bill do not want to maintain the status quo. We think this bill could be made much better. Our concerns are shared by a number of people who are directly impacted by this legislation, a number of constituency groups, parents, families, school counselors, psychologists, development specialists, disability advocates and other organizations. This is just a sampling of some of the correspondence I have received in the last 24 hours. People have very, very deep and legitimate concerns about this bill; and I think we should have tried to get a broader consensus before we brought this bill to the floor.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this rule because it will not allow Members of this Congress to vote on an amendment and to debate an amendment that would fully fund IDEA and make the funding mandatory. We all know how the funding process works around here. Authorization levels may be fine, budget numbers may help, but what really counts is appropriations. There are many, many competing demands on appropriations, so we should remove that competition when the Federal Government has made a commitment to fund an education program at any level because our schools need to be able to count on those funds. We have told them they are coming. They need to be able to count on them.

To that end, Mr. Speaker, two amendments were submitted to the Committee on Rules, one by three Democrats and the other by three Republicans. Those amendments would have phased in full funding for the part B State grants in IDEA and at the same time made all new funding mandatory. Neither of these amendments were accepted; neither will be considered today. Without the opportunity to debate and vote on one or the other of these amendments, a vote for H.R. 1350 is a vote against fully funding special education programs, which in turn leaves our schools and our parents competing for scarce funds for needed programs that are needed equally for our special ed kids and for the rest of kids that need to be educated.

Mr. Speaker, I urge Members to vote down this rule and in so doing demand the opportunity to vote on an IDEA reauthorization bill that includes mandatory full funding.

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

Mr. Speaker, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. MCKEON) were at the Committee on Rules last night and spoke eloquently about their desire to ensure the funding levels. There are several issues there, but one of the most important ones was requiring that additional increases in funding above fiscal year 2003 levels be passed down directly to the local level.

There was a very important discussion in the Committee on Rules about Governors and the responsibility they would have as they managed their State budgets. I would like to make sure that the Members of Congress understand this will be part of the debate that takes place today.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I urge my colleagues to join us in supporting this rule so we may move to debate on the underlying legislation, the Improving Education Results for Children With Disabilities Act of 2003.

This is a structured rule that makes in order a total of 14 amendments to

H.R. 1350. These amendments allow the House to work its will on a variety of important issues and topics. It is a fair rule, and I hope it is overwhelmingly approved.

With respect to H.R. 1350, I want to commend the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform, and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for all of the time and effort they have invested in bringing this important, well-crafted legislation to the House floor.

Although IDEA has helped many children with special needs since it was enacted in 1975, some problems remain. The largest problem with IDEA is its focus on requiring compliance with complex rules, rather than producing the academic results that children with disabilities need. Streamlining and significant reforms are needed.

H.R. 1350 represents a step in the right direction. Not only does it strengthen accountability and results for students, it also gives States the freedom to reduce paperwork that is often duplicative and unnecessary. Doing this will allow teachers to focus less on complex forms and more on spending time in the classroom teaching students with needs.

Other reforms include greater flexibility for local school districts to improve early intervention strategies and thereby helping to lower the number of children who are improperly placed in special ed classes, and more innovative approaches to parental involvement and choice.

When the IDEA law was originally enacted in the mid-1970s, the Federal Government promised to fund 40 percent of its costs. Although the Federal Government has made dramatic improvements in the last 8 years by appropriating significantly higher funding, we are still falling short of the goal. However, to the credit of the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, and the gentleman from Ohio (Mr. BOEHNER), the full committee chairman, this bill puts the Federal Government on a glide path towards providing its full 40 percent share of IDEA costs within 7 years.

To those who would vote against a rule because it does not do what they did not do for the 22 years they controlled this House and the Senate and the White House is pure politics. It has nothing to do with children; it has nothing to do with special needs. When I came here 10 years ago, IDEA was funded to the tune of 5 percent. It is now 18, soon to be 23, and on a glide path to 40 percent; and that is real significant progress. Opposition to this bill because it does not do what was failed to have been done for 25 years is sheer politics.

I have always supported the right of children to a quality public education, and that remains a bedrock principle of mine. Unfortunately, in many local schools, special ed cannot be given the kind of treatment, attention, and care that it ought to receive. When this happens, families with special education children suffer.

H.R. 1350 will move us toward our goal of working to give families with special education children the choices and the support they deserve. Mr. Speaker, I urge Members to support this rule so we may proceed to debate the underlying legislation.

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

Mr. Speaker, I would just say to the gentleman from Georgia (Mr. LINDER) what we would like to see happen is all of us, including those on the majority side, keep their word to the American people, that we provide full funding for IDEA.

There have been over 22 various resolutions and bills which have been voted on in this Chamber and the other body endorsing the idea of fully funding IDEA. We want them to keep their word. Let us put our appropriations where our rhetoric is.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank the gentleman from Delaware (Mr. CASTLE), the chairman of our subcommittee, for the gentleman's recognition and leading the committee toward an understanding of the disproportionately high number of African American males being placed in special education.

I raised the issue in subcommittee in the form of an amendment, and the gentleman from Delaware (Mr. CASTLE), to his credit, led us through a discussion of that which led to what I am sure is a real adjustment and a way to handle that issue by dealing with this disproportionately high number of individuals in a special group.

□ 1100

With that having been said, since we did not get to the point, though, of dealing with full funding for the legislation and without the resources needed, I am afraid that we cannot take care of the problems. Therefore, Mr. Speaker, I cannot support the rule. I think we have had an opportunity and could have had an excellent piece of legislation, but I am afraid that it falls short because it short-changes those in our society who need the help the most, children with disabilities.

Mr. SESSIONS. Mr. Speaker, I would like to inquire upon the time remaining for both sides.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) has 8 minutes remaining. The gentleman from Massachusetts (Mr. MCGOVERN) has 18 minutes remaining.

Mr. SESSIONS. Mr. Speaker, I would like to let the gentleman know that I would be pleased to have them consume several speakers so that we can get more closely aligned on the time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), a valued member of the Committee on Education and the Workforce.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding me this time.

I think it is extremely unfortunate that the Republican majority on the Committee on Rules has voted to deny this full body, all 435 Members of this Congress, the opportunity today to vote up or down on meeting the education commitments we have made to America's children. We many years ago said that the Federal Government was going to pay for 40 percent of the costs for special education; and as we sit here on this floor today, we are only at 18 percent. I know that in campaigns throughout this country when we all go before school boards, Republicans and Democrats, when we talk to parents groups, we have all said how important it is to keep our promise and make that 40 percent commitment. I am very pleased and I want to thank the chairman of the full committee and the chairman of the subcommittee for giving us the opportunity to debate that very issue and vote on it in committee. I was disappointed that it failed on party lines, and I think it is important that this full House have an opportunity to debate that. This is the reauthorization bill. This is the one time for the next 5 years we are going to be taking up this issue. This is the time to do it.

For those who say it is not important, we should leave it to the appropriations process, I would say to those listening it is the difference between giving a guarantee today and rolling the dice every year with the Committee on Appropriations, and we know from history that we have been unable to meet that commitment rolling the dice every year. Now is the time to make the guarantee. Just a little over a year ago, the President signed the No Child Left Behind bill and promised a great deal of more resources to our States and our school boards in exchange for numerous responsibilities that we put upon them; and yet just a little over a year later, we are already failing to make our commitment on No Child Left Behind. This year we are $9 billion short. We need to meet our commitments we made on special ed more than 20 years ago. We need to meet our commitments we made in No Child Left Behind. We should not be pitting these groups against each other. There should not be competition in funds between special education and all other education. Let us vote today to provide our schools and our children the resources we have promised. Give this House an opportunity to do it. Why are we afraid to let 435 Members vote on that issue?

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), another valued

member of the Committee on Education and the Workforce.

Mr. KIND. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time, and I appreciate the work he has put in in dealing with this rule as well as with the legislation.

Mr. Speaker, I am a member of the Committee on Education and the Workforce and a member of the Subcommittee on Early Childhood, Youth and Families in charge of the reauthorization of this bill. And while I will be supporting legislation at the end of the day, assuming the voucher amendments that will be offered today are not in fact adopted, I have to rise and express my opposition to the rule.

I do appreciate most sincerely the effort that the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, has put in with the outreach that he has provided to the members of the committee and also throughout the rest of the Nation in regards to the input on this important legislation; but this is really the most important education bill that is going to be appearing before this 108th session of Congress over the next couple of years, and all Members should have an opportunity to offer amendments and to express their concerns and to offer some improvements to the legislation that we have been working on for some time, not least of which the granddaddy of all the unfunded Federal mandates that is affecting our school district, which is full funding of special education.

I cannot comment on the remarks of the gentleman from Georgia (Mr. LINDER) in regards to what happened in previous Congresses and why they did not fully fund it, but I do recognize a promise, and a promise that is not being kept, when I see it. We should have the opportunity today to offer an amendment requiring mandatory full funding of special education so we can get away from pitting student against student in our classrooms.

This is an important piece of legislation. Children with special needs should have access to quality of education like any other child throughout the country, but this is an unfunded mandate because we have never lived up to the 40 percent cost share that was promised in the mid-1970s when it was first passed. We are on an encouraging trend line, though, to try to increase funding to that level, but excuse some of us on this side of the aisle if we are somewhat cynical or doubtful that this Congress or the administration is truly committed to achieving full funding in the 7 years that they claim they will achieve it under this legislation. It is just a little over a year since No Child Left Behind was passed; and yet, as my colleague before me just recognized, we are $9 billion short in funding that program.

This should be an open rule. We should not be closing the debate process. I encourage my colleagues to vote ''no'' on it and bring back an open rule to have a discussion on this important topic.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to the rule and the bill.

In general, IDEA is a good program which works well. As a society, we have decided that all children have a right to a quality education. In 1954 our country made it clear that ''all children'' included racial minorities, and under IDEA we made it clear that ''all children'' included those with disabilities. The dream that all children are entitled to a quality education is an expensive dream to achieve, but we have decided that we mean to achieve that goal.

Many years ago, Congress promised to contribute 40 percent of the cost of achieving that goal, and this bill provides only a modest increase in authorization; but if No Child Left Behind is a guide, the appropriations will not follow. If we mandated the appropriations in the bill, we could be sure that the money would follow the authorization, but that mandate is not in the bill. We should remember, Mr. Speaker, that the Federal legislation to protect the educational rights of children with disabilities would not be necessary if school districts did a better job in carrying out their responsibilities.

Prior to the Federal mandate of Individuals with Disabilities Education Act, millions of children with disabilities receive no education at all. But this bill makes it more difficult for our children with disabilities to get the free and appropriate education to which they are entitled because many of the discipline provisions in the bill are inconsistent with that goal. Rather than making sure that children with disabilities are provided with good teachers who have appropriate training and professional development, the bill allows school districts to shuttle kids off to so-called interim alternative educational settings that will not provide a free and appropriate public education. In so doing, this bill makes it easier for local school systems to illegally place children with disabilities in inappropriate settings while at the same time reducing the parents' ability to challenge those placements. And so, Mr. Speaker, in the bill the removal of the current discipline protections will result in students with disabilities being expelled or removed for actions they cannot control.

Mr. Speaker, the revised discipline provisions in the bill were added to give school districts an opportunity to avoid providing the most challenging students with disabilities free and appropriate education; yet we should remember that even with the current protections, students with disabilities are already overrepresented among students who are expelled from schools. The elimination of the current discipline safeguards will remove the only legal safeguards that currently exist for these students with disabilities.

Mr. Speaker, for these reasons as well as others I ask my colleagues to oppose the rule and oppose final passage of H.R. 1350.

Mr. MCGOVERN. Mr. Speaker, I yield 2 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, wherever I have gone in my district meeting with my school superintendents and parents, teachers, and just proponents of good education for all of our children, one of the strongest issues has been the full funding of the authorization for children with disabilities. Full funding, full funding is the cry all over America. I would have hoped today that we could have moved forward with the concept of full funding, and I am gratified that this legislation has finally come to the floor; but clearly we are missing the boat if we believe that we are going to be able to reach again to America's commitment to equal education for every children if we do not provide full funding for children with disabilities.

And then, Mr. Speaker, I think it is clearly important that we again reassess these new provisions dealing with penalties for misbehavior in this legislation. Why are we penalizing the children who need the most help? Why are we penalizing the children who need the most incentive? Why are we penalizing the teachers who need the most help? We can find a much better guide, if the Members will, and provide the guiding mark for helping these children without providing them with extra burdens or penalties for misbehavior so they wind up being the children who are expelled and out of the system in the first place.

Have my colleagues ever spoken to a parent of a disabled child? Their greatest plea is to give their child that opportunity. And here we come with a bill that, one, does not have full funding; and, two, creates these extraordinary burdens on the school system, the teachers, and the parents.

I would also say that I think it is extremely important to support the McKeon-Woolsey amendment that clearly dictates to our school districts, and I know they are struggling with the funding resources that they have, to direct all funds beyond the administrative costs directly to the services so that all the moneys that we do have funded out of this legislation will directly go to serving our children.

I would like us to come forward as we have attempted to do in a bipartisan manner. I certainly appreciate the work of the Committee on Education and the Workforce, but we are falling short of America's children and America's promise of the educational opportunity for all children. If we do not provide full funding, we do not direct

all moneys to the services and we get rid of these burdensome provisions, that will only send more special ed children into the streets away from equal opportunity of education for all of our children.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, before I was selected to the Committee on Appropriations, I was subcommittee chairman of the Committee on Education. I went through the IDEA bill and the reauthorization. Taking the parent groups and the schools and putting them in the same room is like putting a Persian cat and a Siamese cat together. It was very difficult. We actually basically put them in a room, gave them no bread or water, and told them to come out with a solution. The solution they came out with was pretty reasonable, and there was balance except that when the final bill came out, for example, the trial lawyers changed the intent, we said the first time a parent goes to the school we do not want a trial lawyer there because it will raise the funding and it will cost schools. And they said let the schools provide a lawyer. The schools do not need a lawyer. But they do, and what happened is they got around it when we established that rule that a parent would go to school, the trial lawyers would still be paid, and it would cost the additional money.

I think the Democrats have really got their gall. For 20 years IDEA was supposed to be funded at 40 percent. The most it was ever funded was 5 percent of that 40 percent. When the Democrats had the White House, the House, and the Senate, they gave us the highest tax increase in history. They increased spending with a deficit at $330 billion forever; but, no, they did not increase the spending on IDEA. It stayed at 5 percent. Since we have taken the majority, we have put it up to 18 percent, over a 262 percent increase; and it is on a climb, and it will go on to climb. But they want to put this program on a mandatory level, on autopilot. None of these changes would be possible. People will retire on active duty just like the other mandatory spending programs. The Democrats talk about fiscal responsibility. Let us put veterans, let us put IDEA, let us put Impact Aid, let us put all those other things on mandatory spending. The budget in this place will go out of sight and the deficit and the debt will also go up. The real problem is Gray Davis, the Governor of California. He is cutting the money at the State level and running the whole IDEA engine on Federal money. He is cutting IDEA.

□ 1115

He is cutting Impact Aid. He is cutting Title I. So if you want to improve IDEA stop him from stealing the money, I do not want to add new money and have Governor Davis steal it. I do not want to add new money though and have it go to the trial lawyers with these cottage organizations. But the Democrats will not do that, because that is where they get their campaign money.

We need to change the system. Alan Bersin was Bill Clinton's Border Czar and is now the superintendent of the San Diego city schools. He has testified that IDEA is his biggest problem in schools. He wants to improve IDEA. IDEA has helped children with disabilities before they were left out. They were left behind. We are trying to improve the bill. But to make it mandatory after what the Democrats have done nothing for all of these years is hypocrisy and political demagoguery.

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

Mr. Speaker, I would just say to the gentleman from California who just spoke that the government made a commitment to provide States with 40 percent of the costs for special education. We have broken that promise time and time again. We are breaking that promise again today. If the gentleman does not want to provide 40 percent of the costs to States, he can vote against one of the amendments that was offered in the Committee on Rules last night that was denied here on the floor today that would provide mandatory funding.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DAVIS).

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

Mr. DAVIS of Tennessee. Mr. Speaker, I rise in objection to the rule.

Mr. Speaker, the Individuals with Disabilities Act, also known as IDEA, has made progressive strides for children with disabilities since it was first introduced in 1975. H.R. 1350, which reauthorizes this landmark legislation, is before the House today. This bill has some very positive attributes and, I think, perhaps some very negative points.

First, this bill provides for a 1-year statute of limitations on complaints for due process hearing. I think this is very helpful for school districts who are serving many of these students. The 1-year statute will prevent complaints from previous school years from reoccurring.

But at the same time, this bill weakens protections for parents and students that are provided by the current law. The bill gives the option for a school district to develop an individual education plan for the child every 3 years. The current law provides for the IEPs to be done every year. Three years is too long, I think, to track a student's progress. This bill needs to maintain the continued IEP for every school year.

Additionally, the bill allows students to be moved indefinitely to an alternative placement for any violation of a school's code of conduct. Current law allows a 45-day alternative placement unless it is for weapons, guns or drugs. Removing the child indefinitely may not be warranted by the facts of the particular situation of the child. The child should be entitled to a manifestation review to see if the disability has caused that conduct, but this bill eliminates the manifestation review that is in the current law. We should not permanently remove a child from school if the conduct was a result of his or her disability.

Mr. Speaker, I urge my colleagues to uphold the imposition of the rule so debate can continue on this bill.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me thank my colleague from Texas for yielding me time and for his great work working with myself and the members of our committee and others to help craft the bill that we have before us today.

Let me also thank the gentleman from California (Chairman DREIER) and the Committee on Rules for their consideration of what I think is a very fair rule for Members on both sides of the political aisle. There is great opportunity for Members to offer amendments.

Let me also thank my good friend, the chairman of our Subcommittee on Education Reform, the gentleman from Delaware (Mr. CASTLE), for the tremendous work that he did, and the members of our committee and our staff, by the way, for all of their hard work in getting us here today.

I will have a lot more to say about the bill when we actually get into the bill, but we are on the rule.

Mr. Speaker, there has been a lot of conversation this morning about the issue of mandatory spending versus full funding. I just want to say that the amendments that were offered that were not made in order with regard to mandatory spending were not made in order because they violated the rules of the House. You cannot bring a mandatory funding amendment here without getting a waiver of the Budget Act. The fact is that neither of these amendments were crafted in such a way that they did not violate the rules of the House. That is why they were not made in order.

Let me also say that mandatory funding for this program is the wrong way to fund the program. We would not be here today making the improvements in this bill to help children with special needs and to help our teachers, principals, school board members and superintendents if it had not been for the fact that we have this bill on a 5-year reauthorization track. It forces the Congress to step back and look at this Act and to determine, is it working the way we intended it? Are there better ways to achieve our objective?

I would suggest to all of my colleagues that if it had been under mandatory spending, we know what happens with those programs; they get put on automatic pilot and are very seldom looked at. That is not in the best interests of special needs children, and it is not in the best interests of our schools.

Let me also say what my colleague from California pointed to. The first 20 years of this Act Congress never really stepped up to the plate. Our friends on the other side of the aisle were in charge. Even in 1993 and 1994, when they had control of the House and Senate and the White House, there was no move made to make this a mandatory funding program. So why do we hear about it now?

I would just suggest to my colleagues we do two things here in this town; we do public policy and we do politics. We would like to get the politics out of it, but it is kind of hard to take politics out of politics. But when we hear all of the discussion about mandatory funding, trust me, it is nothing more than politics.

Since 1996, all you have to do is look at the chart next to me and see the dramatic increases in funding. 1997, a 33.7 percent increase in IDEA spending. In 1998, a 22.3 percent increase in spending; then we raised it another 13.2 percent in 1999; how about the year 2000, 16 percent more on top of that; the year 2001, a 27.1 percent increase; or how about 2002, an 18.8 percent increase; or how about this year, 2003, a 17.8 percent increase.

All of these are built on top of the previous increases. And in the budget resolution that we adopted just several weeks ago we called for a 24.8 percent increase in IDEA spending.

For someone to suggest that we are not doing our job, we are not trying to meet our responsibilities, I think, misses the point entirely. In this bill that is before us, we have a glidepath to get from the 20 percent of funding, in round figures, 21 percent at the end of this year, to 40 percent. I think that is a reasonable approach, it is the right way to go, and none of us, none of us, should hang our heads when it comes to the question of whether we are meeting our obligations to fully fund IDEA.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume to close for our side.

Mr. Speaker, the vast majority of schools welcome children with disabilities as an integral part of their student body. They work with parents, teachers, medical professions and support personnel to provide these students with ''free appropriate public education.''

Unfortunately, there are still children with disabilities who are denied the education they need, the education that they deserve, and the education that they are entitled to by law.

H.R. 1350 does nothing. It does nothing to guarantee that the Federal Government will keep its commitment to fund 40 percent of the Part B grants to States.

It is astonishing that the new argument why we are being denied the right to vote up or down on the issue of mandatory funding is these amendments would require a budget waiver. The majority provides budget waivers and every other kind of waiver for all of their amendments all the time. So the real reason why we are not having these amendments on the floor is because the majority does not want us to vote on an amendment that would require the Federal Government to keep its word to the American people.

This bill also does not address the shortage of qualified special education teachers in a meaningful way. Currently unqualified and under-qualified special education teachers are teaching more than 600,000 children with disabilities. By significantly weakening both the discipline protections and due process rights in current law, H.R. 1350 makes it more likely that students with disabilities will be turned away from their neighborhood schools and segregated in alternative education settings until they eventually just drop out of school.

If H.R. 1350 becomes law, children with disabilities will not just be left behind, they will be left far behind.

Mr. Speaker, although this rule allows debate on several amendments, it denies the House the opportunity to debate the question of mandatory funding, the most fundamental question affecting special education programs. For this reason, I urge my colleagues to vote no on this rule and to vote no on H.R. 1350.

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

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

Mr. Speaker, I would like to thank several people who have been a part of our success today, not just the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), but also from the Committee on Education and Workforce, David Cleary and Sally Lovejoy; from the staff of the gentleman from Delaware (Mr. CASTLE), Sarah Rittling; from the Committee on Rules, Adam Jarvis and Eileen Harley; and from my staff, Bobby Hillert and Tucker Anderson.

Mr. Speaker, this is about a decision that this House is going to make to debate today, IDEA. That is what the vote on the rule is about, are we going to proceed with regular order?

I am in favor of what we are doing. I believe that the clay that we have put in front of us today will be a better model. We will rebuild IDEA and we will make it better than what it is today.

As the parent of a child who will fall under IDEA, I can tell you obviously there are risks involved any time you get into a new circumstance. I am convinced beyond any reasonable doubt that the opportunity that this great body has to make IDEA better for every single student, for the teachers and the administrators who will work underneath these new processes and the students who come into contact with our children, will find that this will be a better way. We have learned from the last 7 years. We will learn on a going-forward basis. It is the right thing to do.

Mr. Speaker, I ask every single one of my colleagues, please support the rule. Let us debate IDEA, and let us get it passed today.

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 (Mr. SIMPSON). The question is on the resolution.

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

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 211, nays 195, not voting 28, as follows:

[Roll No. 149]

YEAS—211

Aderholt	Duncan	Johnson, Sam
Akin	Dunn	Jones (NC)
Baker	Ehlers	Keller
Ballenger	Emerson	Kelly
Barrett (SC)	English	Kennedy (MN)
Bartlett (MD)	Everett	King (IA)
Barton (TX)	Feeney	Kingston
Beauprez	Ferguson	Kline
Bereuter	Flake	Knollenberg
Biggert	Fletcher	Kolbe
Bilirakis	Foley	LaHood
Bishop (UT)	Forbes	Latham
Blackburn	Fossella	LaTourette
Blunt	Franks (AZ)	Leach
Boehner	Frelinghuysen	Lewis (CA)
Bonilla	Gallegly	Lewis (KY)
Bonner	Garrett (NJ)	Linder
Bono	Gerlach	LoBiondo
Boozman	Gibbons	Lucas (OK)
Bradley (NH)	Gilchrest	Manzullo
Brady (TX)	Gillmor	McCotter
Brown (SC)	Gingrey	McCrery
Brown-Waite, Ginny	Goode	McHugh
	Goodlatte	McInnis
Burgess	Goss	McKeon
Burns	Granger	Mica
Buyer	Graves	Miller (FL)
Calvert	Green (WI)	Miller (MI)
Camp	Greenwood	Miller, Gary
Cannon	Gutknecht	Moran (KS)
Cantor	Harris	Murphy
Capito	Hart	Musgrave
Carter	Hastings (WA)	Myrick
Castle	Hayes	Nethercutt
Chabot	Hayworth	Ney
Chocola	Hefley	Northup
Coble	Hensarling	Norwood
Cole	Herger	Nunes
Cox	Hobson	Nussle
Crane	Hoekstra	Osborne
Crenshaw	Hostettler	Ose
Culberson	Houghton	Otter
Cunningham	Hulshof	Oxley
Davis, Jo Ann	Hunter	Paul
Davis, Tom	Isakson	Pearce
Deal (GA)	Issa	Pence
DeLay	Istook	Peterson (PA)
Diaz-Balart, L.	Janklow	Petri
Diaz-Balart, M.	Jenkins	Pickering
Doolittle	Johnson (IL)	Pitts

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

NAYS—195

Abercrombie	Hall	Nadler
Ackerman	Harman	Napolitano
Alexander	Hastings (FL)	Neal (MA)
Allen	Hill	Obey
Andrews	Hinchey	Olver
Baca	Hinojosa	Ortiz
Baird	Hoeffel	Pallone
Baldwin	Holden	Pascrell
Ballance	Holt	Pastor
Bass	Hooley (OR)	Payne
Bell	Hoyer	Pelosi
Berkley	Inslee	Peterson (MN)
Berman	Israel	Price (NC)
Berry	Jackson (IL)	Rahall
Bishop (GA)	Jackson-Lee (TX)	Ramstad
Bishop (NY)	Jefferson	Rangel
Blumenauer	John	Reyes
Boswell	Johnson (CT)	Rodriguez
Boucher	Johnson, E. B.	Ross
Boyd	Jones (OH)	Rothman
Brady (PA)	Kanjorski	Roybal-Allard
Brown (OH)	Kaptur	Ruppersberger
Brown, Corrine	Kennedy (RI)	Rush
Capps	Kildee	Ryan (OH)
Cardoza	Kilpatrick	Sanchez, Linda T.
Carson (IN)	Kind	Sanchez, Loretta
Carson (OK)	Kleczka	Sanders
Case	Kucinich	Sandlin
Clay	Lampson	Schakowsky
Clyburn	Langevin	Schiff
Cooper	Lantos	Scott (GA)
Costello	Larsen (WA)	Scott (VA)
Cramer	Larson (CT)	Serrano
Crowley	Lee	Sherman
Cummings	Levin	Simmons
Davis (CA)	Lipinski	Skelton
Davis (FL)	Lofgren	Smith (WA)
Davis (IL)	Lowey	Solis
Davis (TN)	Lucas (KY)	Spratt
DeFazio	Lynch	Stark
DeGette	Majette	Stenholm
Delahunt	Maloney	Strickland
DeLauro	Markey	Stupak
Deutsch	Marshall	Tanner
Dicks	Matheson	Tauscher
Dingell	Matsui	Taylor (MS)
Doggett	McCarthy (NY)	Thompson (CA)
Dooley (CA)	McCollum	Thompson (MS)
Doyle	McDermott	Tierney
Edwards	McGovern	Towns
Emanuel	McIntyre	Turner (TX)
Engel	McNulty	Udall (CO)
Eshoo	Meehan	Udall (NM)
Etheridge	Meek (FL)	Van Hollen
Evans	Meeks (NY)	Velazquez
Farr	Menendez	Visclosky
Fattah	Michaud	Waters
Filner	Millender-McDonald	Watson
Ford	Miller (NC)	Watt
Frank (MA)	Miller, George	Waxman
Frost	Mollohan	Weiner
Gonzalez	Moore	Wexler
Gordon	Moran (VA)	Woolsey
Green (TX)	Murtha	Wu
Grijalva	Nadler	Wynn
Gutierrez	Napolitano	

NOT VOTING—28

Bachus	Combest	Hyde
Becerra	Conyers	King (NY)
Boehlert	Cubin	Kirk
Burr	Davis (AL)	Lewis (GA)
Burton (IN)	DeMint	McCarthy (MO)
Capuano	Dreier	Oberstar
Cardin	Gephardt	
Collins	Honda	
Owens	Slaughter	Tauzin
Pomeroy	Snyder	Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON)(during the vote). The Chair announces that there are 2 minutes remaining in this vote.

□ 1152

Ms. VELÁZQUEZ and Messrs. EDWARDS, DAVIS of Tennessee, and GUTIERREZ changed their vote from ''yea'' to ''nay.''

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

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. COLLINS. Mr. Speaker, I was inevitably detained at the White House and was not able to be present on rollcall vote 149, providing for consideration of H.R. 1350; to reauthorize the Individuals with Disabilities Education Act. Had I been present, I would have voted ''yea'' on rollcall vote 149.

Mr. BACHUS. Mr. Speaker, on Wednesday April 30th I missed rollcall vote 149 due to attending an awards ceremony for the National Teacher of the Year at the White House. If I had been present I would have voted ''yea'' on rollcall vote 149.

The SPEAKER pro tempore (Mr. CAMP). Pursuant to House Resolution 206 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1350.

The Chair designates the gentleman from Georgia (Mr. LINDER) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentlewoman from California (Ms. WOOLSEY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

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

Mr. Chairman, I am pleased that we have a chance today to consider the Improving Education Results for Children with Disabilities Act, H.R. 1350, legislation that will strengthen our Nation's education law for children with special needs.

I am very grateful for the work of the gentleman from Delaware (Mr. CASTLE) on this important legislation, and for all of the hard work all of our committee members have put into this project over the last 18 months.

I also want to thank the ranking member and my friend, the gentleman from California (Mr. GEORGE MILLER), for his work during this process. While we are not in complete agreement with the bill that we have before us today, his efforts have been extraordinary and very helpful.

The issues addressed in this bill are important ones for our constituents. I hear more comments from Members about IDEA than I do about any other Federal education program. Today is a chance to do something that will make a real difference in our schools.

The bill that we have before us today is an important bill for our children and our schools. It is the next major step in education reform and the next step in the process of ensuring that Washington no longer spends billions of dollars a year on education programs without insisting on results for our children.

This bill is important as an opportunity for us as legislators. The reforms in H.R. 1350 are strongly supported by teachers, school administrators, principals, and other educators, those who have been asked to do the most under the bipartisan No Child Left Behind Act. This bill gives teachers and school leaders better tools to meet the high standards in No Child Left Behind, and they support it.

When Republicans and Democrats came together some 16 months ago to pass No Child Left Behind, we vowed to bring a generation of failed Federal education policy to an end. We acknowledged that money alone has failed to close the achievement gap between disadvantaged students and their peers. We declared that Washington would no longer pump billions of dollars a year into education without insisting on results for the children those dollars are supposed to serve.

No Child Left Behind was the beginning of this process, not the end of it. The No Child Left Behind law requires that every child in America be given the chance to learn and succeed, including children with special needs. When we passed the law, we promised we would follow up by giving teachers and educators the tools they need to meet these high standards.

We promised that we would revise laws like IDEA to ensure that the focus is on results being produced for our children, rather than on compliance with complicated rules and paperwork. We said that these things we could finally do, now that an accountability system was in place to ensure that parents know when their children are learning.

Mr. Chairman, we are here today to make good on that commitment. The measure before us provides powerful reforms requested for years by teachers, principals, local educators, the people on the front lines of education in our

country. The American Association of School Administrators, which represents some 14,000 educational leaders nationwide, calls H.R. 1350 ''the best special education policy revisions we have seen in decades.''

The legislation aligns IDEA with No Child Left Behind and gives our school districts greater flexibility in reviewing the progress of a child by replacing benchmarks and short-term objectives with regular reporting requirements that are contained in No Child Left Behind.

The bill before us reduces the paperwork burden on teachers. Good special education teachers are leaving the profession in frustration because of the IDEA paperwork burden, and there is a growing shortage of quality teachers in special education. This legislation before us allows parents to choose the option of a 3-year individualized education plan instead of an annual one.

□ 1200

And it is at the option of school to offer it and at the option of parents if they want to move to a 3-year plan. And the gentleman from Florida (Mr. KELLER) has been promoting this idea for several years. I want to thank him for his contributions in this bill.

H.R. 1350 will reduce the numbers of students that are misidentified or overrepresented in special education, a problem that particularly effects minority children. As the Civil Rights Project at Harvard University has shown, African Americans are nearly 3 times more likely to be labeled as mentally retarded under the current IDEA system and almost twice as likely to be labeled emotionally disturbed. Thousands of children every year are inappropriately identified, while many others are not identified at all.

The gentleman from Pennsylvania (Mr. FATTAH), our colleague, gave us compelling testimony during committee sessions in the last Congress to help us address this, and I am proud to say that it is being addressed.

H.R. 1350 gives local school districts new flexibility and resources to improve early intervention and reduce misidentification of children into special education. The bill before us would reduce destructive lawsuits and litigation in special ed, it encourages the use of mediation as early as possible, and creates new opportunities for voluntary binding arbitration.

The bill encourages parental involvement and allows IDEA or school districts to use IDEA to support supplemental services for students with disabilities in high priority schools. It also allows parents to choose to keep their children with the same educational provider from the beginning of service until the child reaches school age. And I am grateful for the help from the gentleman from South Carolina (Mr. DEMINT) who helped devise these provisions.

The bill also charts a clear path to full funding within 7 years. Thanks to the gentleman from Nevada (Mr. PORTER), it authorizes a systematic increase in special education aid to the State that would result in the Federal Government paying an unprecedented 21 percent of the total cost of special ed in America next year. And as the chart shows, as this chart shows, we have had unprecedented increases over the last 7 years. And the budget resolution that we passed just several weeks ago brings an increase this year of over $2 billion and authorizes an additional $2.5 billion next year. This is by far the highest percentage in history; and the Porter language will allow appropriators to increase IDEA spending through the traditional spending process, the same process that Congress has used to increase IDEA spending by almost 300 percent over the past 8 years.

H.R. 1350, the bill before us, will enhance school safety, requiring districts to continue to provide educational services to students with disabilities while allowing the school district personnel to have one uniform discipline policy for our children. And the gentleman in Georgia (Mr. NORWOOD) has been a very effective member in leading the Congress to deal with this issue for many years. And I really do want to thank him for his willingness to work with the committee to craft the discipline provisions that we have in our bill.

Let me just say as I close, I want to commend my colleague from Delaware (Mr. CASTLE) for his leadership in bringing this legislation to this point. It is an excellent bill that will make a positive difference in the lives of parents with special needs children, teachers, school boards members and others, and I urge all of my colleagues today to join me in supporting this bill.

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

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, this is a very important piece of legislation and I hope the Members will have an opportunity to listen to the debate. I wanted to thank my colleagues on the committee, the gentleman from Delaware (Mr. CASTLE), the gentlewoman from California (Ms. WOOLSEY), and the gentleman from Ohio (Mr. BOEHNER), the chairman of our committee, for the work and effort they have put in on behalf of this legislation. We went through an extensive mark-up. We had an opportunity to offer a number of amendments. Unfortunately, most of them from our side were not accepted. But I believe that, in fact, this is a matter of good intentions by both sides of this debate.

I must state, however, at this time I think this bill does considerable harm. I think that this bill falls short in protecting what is the basic civil rights of children with disabilities to get a free and appropriate education. That is the intent of the law. And I am concerned that this bill does not do what it says it should do with respect to guaranteeing the basic rights of those children.

This bill also falls short on another front, and that is the guaranteed full funding of this Act. The gentleman from Ohio (Mr. BOEHNER) is right, the Congress has done a much better job in the last 6 or 7 years in providing those fundings, but the fact is that the promise that has been made to the local school districts has not been kept; and even this year in an appropriations bill passed just a couple of weeks ago, we are $1 billion 200 million behind that curve; and yet we will not be allowed to offer amendments to require that that funding be mandatory and that full funding be achieved by this legislation. That is a 30 year-old promise that we made, and it is unfortunate that we will not be allowed to have that amendment.

Yes, many in the school establishment and the education establishment are for this Act. It probably makes their lives somewhat easier; but we ought to be thinking also about the rights of these children and the protections of these children and the needs of these children and their families; to make sure that, in fact, the educational opportunity is provided to these children with disabilities.

It is for that reason that after reviewing this legislation that the National PTA, the Children's Defense Fund, the National Association of Education of Young Children, and so many other organizations have contacted the Members of Congress and said that this bill is unacceptable, that they oppose this bill because it does not provide that protection along with 14,000 other people who have sent e-mails and petitions against this legislation, representing the parents and families of these children who know how difficult it is to get that education for the children. And yet at the same time, when we have not met full funding, when we are weakening the rights of the children and the families, we also see that this legislation allows for the diversion of funds, some of which are for good purposes, but when you do not have the funding in place, you have to raise the question of whether or not this money ought to be diverted from the system. And also, we have to look at that diversion of these Federal funds targeted for the education of children with disabilities at a time when these funds at the local level are becoming more and more scarce because of the budget problems of our States that is now so well documented.

Finally, let me say, Mr. Chairman, that I am deeply concerned about the waivers that are authorized in the name of paperwork reduction for the States. I am very concerned that this

will allow the waivers of documentation to ensure access to a general education curriculum, documentation ensuring accommodations of State tests, information on a child's academic achievement, information on transition plans for post secondary education, procedural safeguard notices provided to parents so that they are aware of their rights, prior written notices to parents of the services and placements that their child will receive.

These are fundamental to these families. It is fundamental to these children. It is fundamental to making sure that they can get the education that they have sought for their child so that the child will have a full opportunity to participate in American society. And yet we see as we go into the due process hearings, you go in to enforce your child's civil rights, that you would be barred from raising new issues at a process hearing even if the evidence surfaces. If there is new evidence that comes to the attention of the school and the parents, you cannot raise it in these hearings. You cannot raise it. You cannot. All they have to decide is whether or not you are getting a free and appropriate education. But if there are errors made, the parent cannot raise them. Why are we precluding these parents?

The fact of the matter is that many school districts, we may not want to say it is one in our district, but there are a huge number of school districts that make it very difficult for parents to get the free and appropriate education, to get the services. Huge numbers of these children do not get services. They get put on the list for services. And there is a world of distinction between being on the list for services and getting services when your child is in an educational setting and you run the risk that they are going to fall further and further behind, and then you need additional services to have them catch up.

Then we have a cap on attorneys fees on this legislation, which says that it is going to be harder and harder for low income parents to find a lawyer to take these cases to challenge the school districts where that educational opportunity is being denied. But the school district, there is no limitation on their use of tax dollars paid for by these parents to defend what they have done. Now, nothing there. It is just that you cannot get attorney's fees when you bring a case because your child has been denied that education.

My concern, Mr. Chairman, is that this legislation is taking us back to another time. With the discipline provisions, where we are now going to determine this basic right to an education, this basic civil rights action based upon the code of conduct in individual schools, so that children with autism, children with cerebral palsy, severely emotionally disturbed children, are going to be determined by that code of conduct. You ought to read those codes of conduct and see whether or not that is how you would like your child to be measured up if they have Down syndrome, because unacceptable displays of affection are reasons for suspension.

You say a school district would not do that, but these are the same school districts that are throwing Harry Potter out of school. So we cannot take the educational needs of these children and the civil rights protections in this law and have them open to that kind of whim. And I think we ought to be very careful about that.

I would urge Members to vote against this legislation. It fails on the protections for children and it fails on the funding, and this will be our last chance to try and get and redeem the promise that every Member of this Congress has made to local school districts that we would provide the funding. We said we would provide the funding in No Child Left Behind. We are $5 billion behind on that one, and we are a $1.2 billion behind on this one this year. That is $7 billion that we are down at a time when the States are struggling, and at a time when it is becoming more and more expensive to educate these children. We ought not do that. We ought to have an amendment here on full funding and we ought to make it mandatory, and we ought to protect the rights of these children.

This is a very, very important bill that we take up here today. I urge members to listen carefully to this debate.

I first want to thank my colleagues on the Education Committee, Representative CASTLE, Representative WOOLSEY, and Chairman BOEHNER, for the time and effort they have put into this legislation. I appreciate the other side's willingness to discuss the issues in this bill, and to take the time in Committee over a 2-day mark-up to debate the 30-some amendments that members on both sides of the aisle offered. However, despite what I know were many good intentions on the other side of the aisle, this bill is fundamentally flawed.

The Bill Does Harm: The bill we will consider today has many, many provisions that jeopardize the quality of education provided to children with disabilities and their civil and due process rights under current law.

This Bill Falls Short In What It Does Not Do: Moreover, this bill breaks yet another promise to couple resources with reform. Despite promises made last year by the Administration, and by the Republican leadership of this Congress, the bill before us today fails to ensure that additional resources will accompany these major changes to the law.

Stakes Are High: The stakes in this reauthorization are very high. The reason we need a Federal law is that students with disabilities have special needs. They require extra attention and accommodations. And for a variety of reasons, without external pressure and assistance, many schools cannot or will not provide the services and accommodations necessary to ensure that every child has a free and appropriate public education.

Before 1975, approximately 1 million children with disabilities were excluded from public education. Millions more were given an inferior education even though they attended school. There are many provisions in this bill that would turn back the clock on the progress we have made. But you don't have to take my word for it. I have received stacks of letters on this from parents, educators, and experts who have expressed grave concerns about this bill. Dozens of national organizations—including the National PTA, the Children's Defense Fund, the National Association of Education of Young Children, and almost every group that exists to advocate on behalf of students with specific disabilities—opposes this bill. And an ever growing list—at current count 14,000—of individuals has signed an on-line petition expressing their opposition.

Many of the fights we will have today pit the interests of parents and students against those of school board members and administrators. What drives these fights primarily is the scarcity of resources. It is a problem we could easily solve. If we had the will.

Almost every member of the House is on record in support of full funding either as cosponsor of a bill, as a ''yea'' vote on non-binding resolution, or as a speaker on special orders. And all of the other vehicles we have in this body for pretending we are doing something.

But now the moment of truth has arrived. And suddenly the past supporters of full funding, under pressure from their leadership, are scrambling for cover. It would have taken only an additional $1.2 billion in the appropriations bill just passed in February to put us on the road to full funding.

The other side will tell you that we have done all that is possible. That there are no offsets to provide additional funding. With all due respect, those arguments do not stand up under scrutiny.

What we are asking for to ensure that children with disabilities have the accommodations, the aides, the qualified teachers, the curriculum, and other things they need to receive a quality education is chump change compared to other legislation this House has passed within the last couple of years.

No one asked for an offset when this Congress spent over a trillion dollars in tax cuts for the wealthiest Americans. No one asked for an offset when we provided $99 billion over 10 years to repeal the estate tax for the richest 2 percent of decedents. No one asked for an offset when we spent $87 billion over 10 years on the farm bill. No one asked for an offset when we spent $36 billion over 10 years on a pointless energy bill. But suddenly we cannot come up with a measly $1.2 billion. Shame on us. Shame on us.

Diversion of Funds: To add insult to injury, H.R. 1350 contains many provisions that allow States and school districts to divert funds—all IDEA funds—away from direct services to students with disabilities during the regular school day. Here is a partial list:

Fifteen percent of funds can be diverted to a new ''pre-referral'' program;

Twenty percent of funds can be used to supplant local education funds; and

An unlimited percentage of funds can be diverted to ''supplemental services'' required under the Title I program of Federal education law.

These are all worthy purposes. But because we fail to provide the necessary funding, we are setting an even more intense competition for scarce resources. Resources that—given State and local budget crises and the prolonged economic downturn—are becoming scarcer and scarcer every day.

H.R. 1350 authorizes a pilot project under which the Secretary of Education may grant waivers to up to 10 States under the auspices of ''paperwork reduction.'' Under this authority, many bedrock requirements of IDEA could be waived, including:

Individualized Education Programs—

Documentation on ensuring access to general education curriculum;

Documentation ensuring accommodations on State tests;

Information on a child's academic achievement; and

Information on transition plans for postsecondary education or employment.

Procedural Safeguard Notices—Notices provided to parents to ensure they are aware of their rights.

Prior Written Notices—Notices to parents on the services and placement their child will receive.

Accountability and Public Reporting—State and local achievement and drop out data, disaggregation by race or LEP status, disproportionate representation of minorities in special education.

This bill Weakens Due Process Protections for Parents in All 50 States—even if children and their parents are lucky enough to live in one of the States that is not part of the waiver program, they cannot escape this bill's damage. The Republican bill would fundamentally undermine the due process rights of all parents:

Parents would be barred from raising new issues at due process hearings—even if new evidence has surfaced;

Hearing officers would be hamstrung to limit rulings to the denial of a Free and Appropriate Public Education (FAPE);

Schools would not be liable for procedural, due process, and other violations; and

Schools would have little to fear in denying parents due process rights because parents would effectively have no recourse, no remedy.

H.R. 1350 institutes a one-year statute of limitations on violations of IDEA. Virtually the only thing that would have a shorter statutory reach would be parking tickets and traffic violations.

H.R. 1350 Caps Attorneys' Fees Reimbursement to parents, requiring Governors to set the rate of attorneys' fees reimbursement when a parent wins a due process hearing. This would allow caps on attorneys' fees but only for parents. School districts would still be free to hire and pay, at public expense, the salaries of lawyers who are on the opposite side of the legal battle from parents. This provision will effectively prevent low- and moderate-income parents from acquiring legal representation to protect the rights of their disabled children.

H.R. 1350 would allow students to be expelled unilaterally and placed in an ''alternative setting'' for any violation of a school's ''code of conduct.'' This is the single most egregious provision in this bill. It will set back the disability rights movement 30 years.

Under the guise of discipline, many children will confront the same obstacles they confronted before IDEA was passed—school districts that can say unilaterally: ''You are not welcome here. We do not want to educate you.''

Under this provision, a student could be expelled for virtually anything: chewing gum, shouting out in class, carrying a plastic eating utensil with their lunch, inappropriate displays of public affection, being late for class, not completing homework.

Moreover, placement in an alternative setting is unilateral. There is no ''manifestation determination'' that would mitigate the consequences for students whose violations are the result of their disability:

A child with Tourrete's syndrome could be expelled for shouting out in class;

A child with cerebral palsy could be expelled for inadvertently making contact with another student or teacher;

A developmentally disabled child (low IQ) could be expelled for an ''inappropriate public affection;''

A child with Attention Deficit Disorder could be expelled for repeatedly being late for class or getting out of his or her seat.

As I said in my opening, I think many of the provisions in this bill are well-intentioned. Some make sensible improvements in the law. But overall the bill is fundamentally flawed.

I hope we are able to improve the bill here on the floor and in conference and look forward to working with my colleagues in that effort. I hope we can make these so that this law makes a positive change in lives of children with disabilities and their families. And so that it garners the strong bipartisan support and consensus it has long enjoyed.

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

Mr. Chairman, with all due respect to my good friend from California (Mr. GEORGE MILLER), one of the authors of the original underlying legislation, there is a point that is being missed here.

In all, the conversation that we heard from my friend from California revolved around the current system and how the current system works and the changes to the current system. But there is one very large dynamic that is being changed, and it changed under No Child Left Behind when we require school districts to disaggregate data and we require them to disaggregate the test data by subgroups including special education children. For a school to succeed under No Child Left Behind, all the sub-groups have to show improvement. And so school districts under No Child Left Behind are going to have to ensure that their special needs students are improving and showing progress.

This is a dramatic change in terms of how we are going to deal with special ed students. And as a result, the changes that we are putting in the bill will allow school districts to have more flexibility to move this program to one that will bring results for our special ed students as opposed to being locked in the process.

Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.

I just wanted to say that the committee has done a pretty good job on a very difficult issue. They are going to be up to 21 percent. The goal has been 40 percent for a long time. Let me just say that I have a personal interest in this issue. I did not have a few years ago but I do now. And I want to tell you that there are children being left behind and they are going to be left behind unless we get additional funds.

I have talked to school boards and school teachers and others and the funds are not there to give these children the educational additional attention they need, particularly children who are autistic. And we have 1 out of every 200 children in America now that are autistic. And we need to get to that 40 percent level before 6 years; and I know the gentleman is doing his absolute best to get there, but that is not enough. We are not moving fast enough. We waste a ton of money around here, and these kids who are autistic and who are Down syndrome children are going to be burdens on society as they grow up if they do not get the attention they need right now.

And it will cost 10, 20, 30 times more if we do not do it now by educating them and giving them a chance to be a productive member of society, than if we wait.

So what I would like to do is say to my colleagues in this Congress, and I know we are all well-intentioned and we care about these kids, the problem is real. Children are being left behind, and it is going to come back to bite us in the fanny in the future if we do not do something about it right now.

So I would like to say to my colleague who has worked very hard on this and his committee and the members of the Committee on Appropriations, let us get to the 40 percent level a lot quicker than 6 years from now because these kids cannot wait.

□ 1215

We are going to bear the responsibility 10, 20, 30 years from now when they grow up and they cannot produce.

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

Mr. Chairman, as the ranking member of the subcommittee that has jurisdiction over the IDEA, I have been struck by how very emotional people are about this very issue. In fact, before me I have a stack of mail that came to the Committee on Education and the Workforce just over the last few days, and that mail is against passage of H.R. 1350.

There are two things we can do in Congress to reduce the stress and the emotion that people feel about this issue. One is to fully fund it and make it mandatory; two is to make sure that children are treated fairly in the discipline process.

If we fully fund the Federal share of our costs and if we make funding mandatory, we will fulfill the commitment to our schools for the special education programs that we have promised here in the Congress. Unfortunately, H.R. 1350 does not do that. Without mandatory full funding, the authorization levels in the bill are meaningless because they are subject to the many,

many competitive requests included in all and every appropriations process.

Amendments were offered during the committee, Mr. Chairman. Amendments were offered by the Democrats that would fully fund IDEA and make the funding mandatory. But those amendments were defeated on a partisan basis, and we do not have before us any amendment that would fully fund and allow for the debate here today to fully fund this issue of mandatory funding for IDEA.

To me, a vote for H.R. 1350 is a vote against fully funding the issue, and I oppose it for that reason alone. But there is another good reason to oppose H.R. 1350. And talk about getting emotional, this is where parents and educators have a lot to say, and that is the discipline provisions in the bill.

In the bill, a student with special needs can be removed from school for, and I quote, ''any violation of a school's student code of conduct.'' Now, that is different in every single school, and a child can be kept out of school for an indefinite length of time. So a student with Tourette's syndrome, for example, who may shout out in class, can be expelled. A student who does not understand the dress code and wears shorts when long pants are required, could be expelled. A student with limited muscular control could be expelled for lashing out or possibly pushing another student. There is no requirement in H.R. 1350 to determine if the child's violation is the result of his or her disability.

This is going backwards. It is no way to reauthorize IDEA. Children, parents, and schools deserve an IDEA reauthorization where parents will not have to compete over education funds, where the goal will be to keep kids with special needs in school, where the legislation removes the emotion surrounding the issue, not increases it. Unfortunately, Mr. Chairman, H.R. 1350 is not that kind of reauthorization, and I will not be able to support it.

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

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from California (Mr. MCKEON), a friend and member of the committee as well as the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. MCKEON. Mr. Chairman, I rise in strong support of H.R. 1350, which will make dramatic improvements in the Nation's special education law. I would like to thank my good friend and chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Education Reform, for their leadership in bringing this bill to the floor.

Nearly 2 years ago, the Committee on Education and the Workforce began holding hearings in preparation for the reauthorization of the Individuals With Disabilities Act. During conversations with actual practitioners in the classroom, many who were from my own State of California, we have been told that the burdensome, unnecessary paperwork is driving away teachers from the classroom, which will hurt these children. Priority is placed on complying with complicated rules rather than delivering academic achievement. This must be changed, and H.R. 1350 starts the process by creating a 10-State pilot program to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources.

I also remain concerned that excessive and expensive litigation continues to be a large component of the special education system. It seems that all too often decisions that are reached are those that benefit the attorneys the most. Every single one of the school districts in my congressional district, from the suburban areas of Santa Clarita to the rural areas of Bishop, have told me the single most important thing that we can do is to reduce litigation and restore the trust between the parents and the school district.

Though I do not think this goes far enough, the legislation does make significant improvements by encouraging the use of mediation as soon as possible, creating opportunities for voluntary binding arbitration, and allowing States to set limits on attorneys' fees. By passing IDEA, this Congress moves closer to following through on a commitment made over 27 years ago to families and their children with special needs.

In closing, I want to say that I commend the members of the committee for their hard work; and I strongly urge my colleagues to support the underlying bill, which will increase accountability and reduce overidentification of nondisabled children.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE), a really important member of the committee.

Mr. KILDEE. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I rise today in opposition to the bill before us today. H.R. 1350 does not ensure full funding of IDEA and, worse, jeopardizes the civil rights of children with disabilities.

Reauthorization of IDEA has traditionally been a bipartisan effort. In Michigan, I was cosponsor of the Special Education Act, which was passed before this Congress addressed the education of children with special needs in the least restrictive environment. In my tenure here in Congress, I have always supported the reauthorization of IDEA, but I cannot support the bill before us today.

First, this legislation does not provide any additional resources for IDEA. It does not get us any closer, Mr. Chairman, to fully funding IDEA, an effort that many Members have worked on for many, many years. Democratic members of the Committee on Education and the Workforce attempted to address this issue in committee. We offered several amendments that would provide mandatory spending for IDEA. Unfortunately, these amendments were defeated on party-line votes. These amendments represent the only way to ensure full funding for IDEA in this legislation.

Second, the legislation jeopardizes the civil rights of children with disabilities. This bill would allow children with disabilities to be removed from their current educational placement for any violation of a code of student conduct. The bill also eliminates the current manifestation determination. Manifestation determinations ensure that children with disabilities are not unfairly punished for acts they cannot control. The discipline provisions in this legislation are simply unfair.

Last, I would like to express my disappointment that this legislation does not continue funding for the freely associated states. These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations. I hope this issue can be further addressed in conference, Mr. Chairman.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities. The disabled children of our Nation are best served by defeating this legislation today.

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But I cannot support the bill before us today.

The last time we reauthorized IDEA in 1997, we worked tirelessly with our majority colleagues to improve this program for children with disabilities and the schools which serve them.

Unfortunately, the pace at which this legislation has moved has left very little time for public input or bipartisan discussions.

This bill has fundamental flaws.

First, this legislation doesn't provide any additional resources for IDEA. It doesn't get us any closer to fully funding IDEA—an effort that many members have worked on for numerous years.

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In addition, the bill places a strait jacket on parents of children with disabilities by instituting a 1-year statute of limitations.

This restriction will prevent parents of disabled children from raising issues with the education of their children to those issues that are less than 1 year old. This unfairly constrains parents and their efforts to ensure their children receive an education.

Lastly, I'd like to express my disappointment that this legislation does not continue funding for the freely associated States.

These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations.

I believe it is our responsibility to ensure that the freely associated States receive funding under this legislation and their negotiated compacts of free association.

I hope this is an issue we can further address in conference.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities. The disabled children of our Nation are best served by defeating this legislation today.

Mr. BOEHNER. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD), another member of our committee and a subcommittee chairman.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I particularly appreciate the time right now.

We need to take just a minute and ask ourselves a question, and perhaps somebody can answer it. In 1975, IDEA was passed by a Democratic Congress and signed by a Republican President. From 1975 to 1995 the Congress was controlled by the Democrats. Where were my Democratic colleagues' amendments then to fund IDEA? Why did they not fund it in the 20 years while they were in control? Why has it been only since Republicans have been in control of this House that we have increased funding for IDEA?

There is a very good reason for that, my colleagues. If the Federal Government does not pay its share, it comes out of the school districts and that affects disabled children and nondisabled children.

I wish to advise the gentleman from California (Mr. GEORGE MILLER) that this bill protects the civil rights of 88 percent of our schoolchildren that are not in special education without reducing the civil rights of special education children. To say it otherwise is simply not the way it is done. It is not the truth.

I want to also just briefly mention the cap on attorneys' fees. The money from the school districts that is used to train our children is going into the pockets of attorneys rather than going to train our children, whether they are in special ed or whether they are not. There is no question in my mind that we need to deal with that.

Last, the discipline amendments in this bill. The discipline amendments in this bill are not unfair. What is unfair is how the bill was written in 1975. I strongly support this legislation. It does not go quite as far as I would like for it to go, but it greatly improves that bill that has been on the books for 25 years.

I have been trying to improve this discipline provision almost for 5 years. We have passed it in this House, I know, three different times. It has been taken out in the other body every time. I have done this because of my concern that the system we have today is a double-standard system for the behavior in our schools, one for special needs students and another for nonspecial needs students. It is critical to the safety of the special ed student that we pass these disciplinary provisions.

My colleagues know as well as I do that there are people, teachers, who have been harmed because they could not remove a dangerous child from school. Now, all we are really doing is saying that rather than after 10 days they can now have 55 days to discipline a special education student. They really do get a manifestation determination after 55 days. They do get special education.

The other very important part of this is that it says that State laws will prevail for students who bring weapons, drugs, or commit felonies in school. A special ed child who would bring a gun or a pair of scissors and kill one of my constituents does not make any difference to them whether the children in the classroom are in special ed or whether they are not. We cannot stand here and say that the disciplinary changes we are making in this bill are harmful to the students of America. It is very, very important for the students of America, the 12 percent that are special needs students and the 88 percent that are not.

I encourage my friend, the gentleman from Michigan (Mr. KILDEE), to vote for this bill. He is a good man. The gentleman from California (Mr. GEORGE MILLER) is a good man. They do want full funding for IDEA. They did not do it when they were in charge; but they do want it, just like we want it. This is the right thing to do at this stage. I plead with my colleagues to pass this thing and let us move forward with protecting the children in the classroom.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), another important member of the committee.

□ 1230

Mr. TIERNEY. Mr. Chairman, I rise in opposition to H.R. 1350 in its present form. As proposed, it is designed to dramatically undermine the ideals of IDEA, and doing so in the name of reauthorizing it.

In response to the previous speaker's question about funding over a period of time, from 1980 to 1992, we had a Republican in the White House. So we had a division between the leadership in the White House and in Congress, and that may explain some reason why things were not funded. But this year we had a Republican majority in the House, one in the Senate, and in the White House. If they have the will, they certainly have the way to move forward for full funding.

I am joined in my position of opposition to this bill in its present form by parents, educators, and advocates for the disability community, all making clear that this bill is not responsive to the needs of the true consumers of the law, and that is children.

The majority is asserting something is better than nothing, and in this case I am afraid that is wrong. These counterproductive changes in the bill mean that the children would be better served by the Individuals with Disabilities Education Act in its current form. The civil rights of these children and the due process rights of their parents are not being quality protected in the legislation. Foremost, as has been mentioned, this bill fails to fully fund that 40 percent of the average per-pupil expenditure that Members have been promising for 30 years to fund in order to help our States and local governments as they try to educate children who, before 1975, and before the courts stepped in to make it, otherwise were ignored or mistreated.

We cannot afford to rely on promises from the majority that some day we are going to fully fund it. We have to make it positive and firm right now. As our President rather inarticulately tried to say some time ago, Fool me once, shame on me. Fool me twice, and I did it just like he did.

The problem is that we cannot do that. We cannot just rely on their promises. Nobody can rely on that statement as inarticulately set forth. The fact of the matter is that their promises have fallen behind on the education bill; their promises have fallen behind on this bill; their promises have fallen behind on civil rights, due process rights and on funding. I ask Members to not support the bill.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CARTER), a member of the Committee on Education and the Workforce.

Mr. CARTER. Mr. Chairman, I thank the gentleman for his hard work on this bill and the committee for bringing this bill forward. I am encouraged that the improvements in this bill will help reduce litigation, restore trust and refocus the system on improving the education of children with disabilities.

In 1997, Congress required the States to set up and maintain mediation systems that would allow school districts and parents to handle their disputes in less hostile fashion. The change significantly reduced the amount of litigation and helped restore trust between parents and school personnel. This bill builds upon the 1997 improvements by requiring States to establish and maintain voluntary arbitration systems. Given the interest in resolving disputes through nonlitigation, it is expected this will reduce the litigation burden and restore the focus on educating children.

Importantly, this system is voluntary, and voluntary means the parents can choose, the school can choose. If both parties do not choose voluntary arbitration, then the complaint goes through the regular due process system.

This bill also clarifies that the parent is obligated to provide clear and specific notice to the LEA or SEA before a due process hearing can be held.

This change is important to ensure that a school district has a clear understanding of what the problem is. Without this clear and specific notice, the school district cannot attempt to resolve the issue.

The resolution session created by this bill allows parents and the school district officials to explore the problem and attempt to resolve the problem in a rapid time frame, so that the child can be better served. Instead of waiting to air concerns at the due process hearing, the parent and the school district will meet within 15 days of the filing of the complaint to see if they can resolve the problem. If they cannot, the parent can still go to a due process hearing. This does not delay the parent's right to a due process hearing in any way. The IDEA regulations require a due process hearing to commence within 45 days of a parent filing a complaint. The language in the bill does not modify or delay that timeline in any way. This resolution session gives parents and school districts a new opportunity to sit down and work out the issues and is a sensible change to ensure that everyone's efforts are focused on improving results for the child.

The improvements included in H.R. 1350 should clear some of the legal landmines and allow for more productive, less hostile relations between parents and schools that refocuses on the Act's primary role of educating children with disabilities. IDEA currently has no statute of limitations and leaves school districts open to litigation for all of the 12 years a child is in school, whether or not the child has been identified as a child with a disability. School districts are often surprised by claims from parents involving issues that occurred in an elementary school program when the child may currently be a high school student.

Such an unreasonably long threat of litigation hanging over a school district forces them to document every step they take with every child, even if the parent agrees with the action, because parents could later change their mind and sue. The fear of far-removed litigation raises the tension between the school and the parent. This improvement will align IDEA with other federal statutes that have explicit statutes of limitations (civil rights claims, federal tort claims, Social Security, ERISA) and allow for timely resolution of issues.

I encourage my colleagues to support this bill and these provisions as we continue to work to improve the education results for children with disabilities.

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

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in support of children with disabilities and their families and in opposition to H.R. 1350. They say, ''If it ain't broke, don't fix it.'' The fundamentals of IDEA are widely appreciated by parents. In an e-mail I received, it says, ''Do not dilute IDEA legislation in any way. Our family has personally benefited from almost every part of IDEA rights,'' says the father of an autistic son.

We say, ''First, do no harm.'' Unfortunately, this legislation does do harm. It changes the features of the Individualized Education Program in a way that hurts children and makes it easier to kick children with disabilities out of their classrooms, even when they are doing their best to comply and to do everything right, and it may be the result of their disability.

Third, it diminishes the legal rights of parents to get the best education for children.

Finally, this legislation still is dismally underfunded. If we want to do something good for IDEA, we should provide full funding and vote against H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield myself 4 minutes.

I rise in strong support of this legislation. Sometimes when we hear debates, we do not get the full significance of what we are doing. We are dealing with a piece of legislation which the chairman and others on the Democrat side have worked very hard on to make educational opportunities better for children with disabilities in this country.

We have been involved for 2 years doing this. We have had 7 hearings, we started a Web site, we had something like 3,000 suggestions on that Web site. We have had many discussions with many people in trying to work out a lot of differences, and there are a lot of problems in dealing with this issue.

I have talked to many, many individual Members, but at the heart of it, this legislation is aimed at trying to help children with disabilities get a better education and help other children being educated in our schools. I thank the parents and children in Delaware, many of whom I have spent time with, and my judgment is this is good legislation, excellent legislation which is going to move us forward.

For too many years children who had disabilities were denied access to education. In 1975 Congress, this House and the Senate, provided that educational opportunity. According to the Department of Education, about 6.6 million students currently participate in these programs across the Nation. Of those, almost 50 percent of the children with disabilities spend 80 percent or more of their day in a regular education classroom. Mr. Chairman, 30 years ago that would not have happened. Probably zero of those children would have spent time in a regular classroom. That is happening today. Each 5 years, we come along in Congress and try to improve that. There is room for improvement.

These are children who are at the greatest risk of being left behind. We have to give children with disabilities access to an education that maximizes their unique abilities and provides them with tools for later successful, productive lives. We must work together to do this in every way we can. This bill aims to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, and addressing the problem of overidentification of minority students as disabled.

In addition, the bill seeks to reduce litigation and reform special education financing and funding. One of the great benefits of No Child Left Behind, H.R. 1, is that we have raised expectations and will hold school districts accountable for the annual progress of all of their students, including students with disabilities.

Although we have made great progress in including students with disabilities in regular classrooms, we now must make equally great process in ensuring that they receive a quality education in a regular classroom. We need to align IDEA and No Child Left Behind.

This bill will help reduce the paperwork burden so school districts are able to retain and recruit highly qualified special education teachers. The excessive amount of paperwork currently inherent in special education continues to overwhelm and burden teachers. We hear that from all of them, robbing them of time with their students. Based on that, we have tried to amend the individual education plan without reconvening the entire IEP team at all times. We also establish a rule of construction stating that nothing beyond what is explicitly included in the Act is required in a child's IEP, and requires the secretary to develop model forms for the IEP, something a lot of people asked for.

Secondly, we permit the use of alternative means of meeting participation, such as teleconferencing and videoconferencing.

All of these measures will give teachers the ability to spend more time in classrooms. Furthermore, we are committed to implementing reforms that would reduce the number of students that are misidentified or overrepresented in special ed programs. Minorities are often significantly overrepresented in these programs. In fact, African Americans are nearly 3 times, more likely twice, to be labeled as mentally retarded and almost twice as likely to be labeled emotionally disturbed. Thousands of children are misidentified every year, while many are not identified early enough.

We address these issues in this legislation. By providing these services to children at an earlier age, we can prevent people from being identified as having learning disabilities and help them in their education process. We also seek to reduce litigation, restore trust between parents and school districts, and many other steps have been taken in this legislation that we think are tremendously helpful in improving the opportunities for children with disabilities. I urge Members to support the legislation.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA) who is also an important member of the committee.

Mr. HINOJOSA. Mr. Chairman, I rise to oppose H.R. 1350 in its present form. The Improving Results for Children With Disabilities Act is the bill that we are debating. It includes amendments that I offered in committee to improve our knowledge as to how well special education serves limited English-proficient children, and to support research on best practices for identifying, assessing and providing instructional and other services to these left children.

H.R. 1350 also ensures that disabled children in migrant worker families are not placed at risk because their school records are not transferred to their next school. I believe that these additions to the bill will put us on the right path to improving services to migrant children and left children with disabilities.

These improvements, however, do not compensate for the draconian discipline provisions that are in H.R. 1350. Under this bill, schools could suspend or expel a child with disabilities for any infraction of the school code of conduct without considering whether the behavior was the result of a disability. This manifestation determination has been one of the key protections for children with disabilities under the current law. Given the disproportionate suspension and expulsion rates for Hispanic and black youth in general, it is hard to imagine that H.R. 1350 will not push more of these young people out of school.

Finally, the fast pace of this bill has shortchanged debate and full discussion on this and other important issues. I have heard from respected flagship university experts in my State in the field of special education research who are very concerned about transfer of special education research to the Institute for Education Sciences. We all recognize the value of education research is its direct link to practice. Moving special education research outside of the special ed program undermines that link. Because of the serious deficiencies in the bill, I oppose and ask my colleagues to oppose H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. ISAKSON), a member of the Committee on Education and the Workforce.

Mr. ISAKSON. Mr. Chairman, I commend the gentleman from Delaware (Mr. CASTLE) and his great work on this bill. I have heard from a lot of Members about their concerns about the alignment of No Child Left Behind in IDEA. If there is ever a child that should not be left behind, it is a child with disabilities.

We are ensuring through this legislation and No Child Left Behind that goals are aligned, that we have meaningful goals and standards for children with disabilities, and that we give them meaningful assessments to determine whether schools need improvement. And then if that determination is made, we provide additional funds through subgrants so local education agencies can fund professional and staff development for special education and regular teachers alike who teach our children with disabilities.

If Members are for children with disabilities and the improvement of their education, if Members are for lifting their sights and raising standards, if Members are for funding professional and necessary staff development, Members should be for this bill, and I urge all Members to vote in favor of it.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I commend the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Delaware (Mr. CASTLE), and the gentlewoman from California (Ms. WOOLSEY) for the spirited hearings and debate and discussions that we have had on this legislation.

While it is not supportable to me, I do believe we made some progress, and I thank the gentleman from Delaware (Mr. CASTLE), chairman of the subcommittee for his sensitivity to an issue which I raised through proposed amendment and which we subsequently worked out for inclusion in the base bill.

The issue related to the disproportionately high number of African American males being placed in special education. The new language states in the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities or the placement in particular educational settings of such children in accordance with paragraph (1), the State or the secretary, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures and practices used in such identification or placement to ensure that such policies, procedures and practices comply with the requirements of this Act, and shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1).

Even though I am pleased with this section, the inability to provide full funding and some onerous discipline provisions makes this Act unacceptable to me. I urge a no vote.

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

Mr. KELLER. Mr. Chairman, I rise today in support of the IDEA bill for two reasons. First, we have tripled the IDEA special education funding from $3 billion in over $10 billion since 1995, when Republicans took control of the House.

□ 1245

Second, this bill will help reduce the paperwork burden on teachers so that they are able to spend more time in the classroom with the students rather than wasting hours a day filling out forms and performing clerical duties.

I recently spent time in the classroom with some of our special education teachers. While working as a special education teacher for a day in an elementary and a high school in Orlando, Florida, I learned firsthand that special education teachers spend approximately 2 hours a day completing government-required paperwork. I have tried to address this problem head on by drafting the paperwork reduction provisions in this IDEA bill. These paperwork reduction provisions incorporate the good ideas we received from parents; teachers; the Council for Exceptional Education, which is a nonprofit, nonpartisan organization; and the President's Commission on Excellence in Special Education. For example, this IDEA legislation helps reduce the paperwork burden on teachers by requiring the Secretary to develop model forms for the IEP, by creating a pilot program for 10 States, and by allowing parents the flexibility to choose to develop the multiple-year IEP for their child to a maximum of 3 years.

Mr. Chairman, I urge my colleagues to vote ''yes'' on this IDEA bill because it will improve the lives of disabled children in Orlando, Florida, and all across the country by making a historic increase in special education funding and by reducing the paperwork on teachers.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman's courtesy in allowing me to speak on this bill.

Twenty years ago, Congress made a law and a commitment. The law was to extend equal education opportunity for all children. The commitment was to provide 40 percent funding to meet this goal. We have no reason to put off fulfilling this commitment for yet another decade. Nearly every State is facing serious financial difficulty, few as serious as my State of Oregon. We need

help as never before. Yet we are told full funding is not realistic at this point. Yet we have the President and leadership of his party proposing a half trillion dollars in additional tax cuts for those who need help the least. Whatever dubious economic benefits claimed are clearly minuscule compared with investing in our communities and meeting the commitments to our schools and our children.

The authors of today's bill should be thanked for their commitment to move in the right direction and for some genuine improvements like dealing with some burdensome paperwork, which has been discussed here on the floor. But without providing full funding, the bill ought to be rejected until we do what we know is right and what is clearly within our power. I for one would be embarrassed to go home to a State that is stressed like many of my colleagues, giving cover for those who would avoid meeting this long-standing commitment for another decade. My community and my colleagues' deserve better. By all means, embrace the positive elements in this bill; but let us not pass it until we make sure we have fulfilled our commitment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I thank the gentleman from Delaware (Mr. CASTLE) and the gentleman from Ohio (Mr. BOEHNER), the chairman, for their efforts to improve the Individuals with Disabilities Education Act.

As a new grandfather for the first time, as the husband of a very hard-working school teacher, and with 17 years' experience on the Education Committee in the South Carolina State senate, I know the most important aspect of improving education is ensuring each classroom has a teacher committed to the task of educating children. Special education also requires teachers with this dedication. Teachers who choose to work with children with disabilities are especially gifted and especially valued.

The particular legislation we have before us today brings some very positive changes. First, the bill focuses on reducing unnecessary paperwork which is not educationally relevant to the teacher's interaction with the child. Second, to further reduce the paperwork burden, the bill requires GAO to review paperwork requirements and report to Congress on strategic proposals to reduce paperwork burdens on teachers. Third, we have shifted the goal of the State Improvement Grant to focus grants entirely on the activities to support the professional development of regular and special education teachers and administrators.

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

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS), a member of the committee.

Mr. BURNS. Mr. Chairman, I rise in strong support of H.R. 1350. This is an important bill that contains much-needed improvements that address the needs of children with disabilities throughout this great Nation. I am especially grateful for the changes in this bill to help address the problem of misidentification of minority students as having a disability. I find it very troubling that we are continuing to identify three times as many African Americans as having mental retardation and twice as many African Americans as being emotionally disturbed. We must reduce these excessive figures.

This bill makes great strides in this area. I would like to point out that the bill permits local educational agencies to use funds for prereferral services for children not yet identified as needing special services. I believe that this will have a significant impact on the current overidentification of students, especially minority students, having disabilities. Finally, I am pleased that the bill allows personnel preparation programs, research and technical assistance projects to address the issue of overidentification of minority students. We must and we will solve this problem. I urge my colleagues to support this bill.

Ms. WOOLSEY. Mr. Chairman, I continue to reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise, first of all, to commend the gentleman from Delaware for the very hard work and the dedication he has for improving education for special needs children. I have some concerns about the bill, and I bring them up because I hope they will be addressed in conference. Number one, I read through the bill and spoke to staff. It does not seem to have any mechanism in there to inform parents of services that actually are available to them for their children. The second concern that I have is that a parent might choose a 3-year IEP because of a misunderstanding or being misinformed by the school district. We must ensure that parents are not intimidated by school districts into agreeing to a 3-year IEP when, indeed, there needs to be more follow-up for many students. And, third, we need to make sure that there are not any retaliation tactics that may occur at some school districts. Parents tell me that very often they fear retaliation. I would encourage the sponsor of the bill to make sure that these considerations are taken in when they do the conference.

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

Mr. Chairman, actually the key here is mandatory funding because no matter what we authorize on this committee, no matter what we vote for today on H.R. 1350, whether it is 18 percent of the 40 percent Federal commitment, whether it is 21 percent of the 40 percent commitment, or if it is 25 percent of the 40 percent Federal commitment, the funding has to be spent. We can authorize it, but the Committee on Appropriations spends it. Unless we tell the Committee on Appropriations through changing the rules of H.R. 1350 and IDEA, unless we tell them that it is mandatory that they spend what we authorize, it will not get spent; and it is going to be the year 2035 before we even come close to reaching 40 percent.

Later on today the gentleman from California (Mr. MCKEON) and I have an amendment that will pass all new funding after the year 2003, pass any new funding that is appropriated directly to the school districts and to the schools. But if we do not get any new funding because indeed the appropriators do not choose to add funding, then we pass along nothing to school districts because 100 percent of nothing is still nothing.

The Federal commitment to IDEA 30 years ago was 40 percent that Federal Government would match the mandate that the States educate all kids, which is absolutely the right thing to do, and provide them a free education and equally educate all children in the public school system. That was 40 years ago. We are at 18 percent of that 40 percent today, and we are never going to get there if we do not say that it is something that must be done. And in so doing, we will be making it possible for schools to count on the funding they need, we will be removing the emotion that parents pit themselves against each other because there is so little funding available for education in the first place, and we will make sure that special education funding does not come out of the funding necessary for other programs.

We make promises. We do not fulfill them. Voting for H.R. 1350 would be another broken promise unless H.R. 1350 includes mandatory full funding over the next 6-year, 7-year period.

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

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. GILLMOR).

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

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

I rise in support of the bill.

Mr. Chairman, I rise today in support of H.R. 1350. Reauthorizing and improving the Individuals with Disabilities Education Act is important to the future of many American children and their families. The special education community is now in a state of crisis—teachers are leaving, students are being over-identified, and litigation has taken the place of education. The true spirit of this legislation has been lost and because of this lost vision many children have been denied an appropriate education.

I commend my colleagues on the Education Committee who, under the leadership of my

colleague from Ohio, Chairman BOEHNER, reported a bill that brings back the spirit of the original legislation. This bill not only empowers local school districts, but more importantly it empowers parents with the freedom to choose what education plan best suits the needs of their child. Reducing bureaucratic red-tape, supporting teachers, and empowering parents are the keys to restoring faith in the special education community and the keys to providing those children with special needs a quality education. Mr. Chairman, I would urge all of my colleagues to support this legislation and insure that no child is ever left behind.

Mr. CASTLE. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I would like to take this 1½ minutes to address this issue of funding because I think there has been perhaps a misunderstanding here. Some of it, frankly, is a little bit political; but I think we need to sort of clear the air if we can.

This bill, as we all know, I think, now at this point, was first passed in 1975. From 1975 until 1995, which was a time, frankly, that the Congress was controlled by the Democrats for the most part here, the funding for the Federal share of this never got above 7 percent. Starting in 1996 and thereafter up until now in the year 2003 and then 2004, that funding as the percentage share of the Federal Government, even with the cost-of-living increases and everything else, has gone to 18 percent. The funding in the budget bill for this next year, 2004, which is the yellow line on this chart, is actually at 21 percent, on our way to 40 percent. In this legislation is a guide path by authorization to take that funding to the full 40 percent in 7 years. Even under the mandatory funding bills that those advocates are talking about in terms of handling the funding would not get there for 6 years. It would take an additional $10.2 billion, and everybody realizes that that cannot be done.

□ 1300

This Congress has committed to it. This Republican Party under this President has absolutely committed to doing this, and is making extraordinary gains. In fact, that increase is 282.3 percent in that period of time, from 1996 to 2003. We wish our stocks had increased that much in value. The average yearly funding for IDEA between 1996 and 2003 has grown at 18.6 percent per year. Those are astounding increases for any kind of Federal program, all of which usually increase, at best, at a rate of cost of living.

So, the truth of the matter is, the bottom line is that we have met our responsibilities, and I would encourage everyone to support the legislation.

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

Mr. Chairman, I would like to thank the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), and certainly my ranking member, the gentleman from California (Mr. GEORGE MILLER), for what has gone into this legislation. We truly have worked hard to make this be something that we could all vote for, and I believe in your sincerity and I know you believe in our's and our passion on all of this.

There are reasons why I will not be able to vote for this. Reason number one is the discipline provisions. This bill will allow students to be moved indefinitely to alternative placements for any violation of a school code of conduct, and we have gone over that. That could severely affect a disabled child.

This bill has no guarantee of full funding. We can say we want full funding, but if we do not guarantee it, it probably is not going to happen. And, yes, we have done a much better job over the last few years. We have just gone through some really good prosperous years in this country. Now this country is in an economic downturn and the challenges for the same dollars are going to be much, much greater.

This bill weakens due process protection for parents. It would bar parents from raising new issues at due process hearings, even if new evidence has surfaced since the hearing was scheduled.

This bill has a pilot program for 10 State waivers. It permits the Secretary of Education to waive IDEA provisions to reduce paperwork. Criteria for the approach of these pilot programs are completely open-ended and would be defined by the Secretary.

Mr. Chairman, the other thing this bill does that will make it impossible for me to vote for it is it puts a cap on attorney fee reimbursements, which makes it even more difficult for low income parents to get their due process.

Mr. Chairman, I am hoping Democrats and those on the Republican side who want full funding and want that funding to be mandatory, who want our children's discipline provisions not to go backwards, but to go forward, will vote against this bill.

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

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

Mr. Chairman, let me again thank my colleague, the gentleman from Delaware (Mr. CASTLE) and all of the members on our committee who have played an important role in bringing this bill to us today.

I also want to congratulate the members of our staff, including Sally Lovejoy, Krisann Pearce, David Cleary, Melanie Looney and Elisabeth Wheel; Sarah Rittling, a staff member of the gentleman from Delaware (Mr. CASTLE); and Jacqueline Norris, a staff member of the gentleman from Florida (Mr. KELLER), for all of their hard work and dedication over the last year or so as we were bringing this bill together.

Mr. Chairman, this is a very difficult piece of legislation. It has been very difficult for Congress to deal with it ever since they first brought it up in 1975. But I think that Members on both sides of the aisle have worked closely together to craft a bill that will help special needs children all across our country.

I think it is important to note that that is our goal here. It is to make sure that children with disabilities get the free and appropriate public education that they are entitled to in the least restrictive manner. We believe that the bill that we have before us today does, in fact, provide that, and does not weaken any safeguards for those children or their parents.

Let us not forget the importance of the requirements under No Child Left Behind where school districts are going to have to focus in on results for these children. This is a huge shift in dynamics for how schools are going to have to deal with their IDEA children. As a result, being able to change the paperwork requirements, to ease those for classroom teachers, to make the process more simple for school districts and administrators to enact, will not diminish the services for these students, because these same schools are going to have to show results for these children.

So this is a very big change, and I do believe it will lead to much better results for our special needs children.

The last point I would make is this is a bipartisan bill. We will talk about more of it as we get into the amendments.

Mr. UDALL of Colorado. Mr. Chairman, I rise today as a firm supporter of providing a free and quality education to students with and without disabilities, but also in opposition to H.R. 1350, the Reauthorization of the Individuals with Disabilities Act (IDEA).

When IDEA was initially enacted into law, Congress determined that the cost of educating a student with a disability was, on average, twice the cost of educating a student without a disability. In the original legislation, the Federal Government required States to provide an education to students with disabilities, but also agreed to help states fund the ''extra cost'' of educating disabled children by 40 percent of the total cost. It has been 28 years since the original implementation of IDEA, and Congress has yet to appropriate the full 40 percent to states for their special education programs. For 28 years, State and local governments have struggled to fulfill their obligation to disabled students with less than half of the funding that is necessary for the task.

This year, Congress again had the opportunity to fulfill the Federal Government's obligation. Members on both sides of the isle and education organizations representing not only administrators and teachers, but students and their parents have voiced their support of appropriating full funding. H.R. 1350 allocates the highest percentage ever to IDEA, yet the funding level is barely over half of that that is required, at 21 percent.

Even at a time when full funding for IDEA is almost unanimously supported, and education is touted as a priority by almost every Member of Congress, H.R. 1350 does not come close to backing IDEA's 28 year old promise. It is clear that in order to ensure substantial funding to the nation's disabled children, funding for IDEA must become a mandatory program

that requires the Federal Government to appropriate the full 40 percent every appropriations cycle. It is past time for us to fulfill our obligation to this Nation's disabled children. H.R. 1350 does not appropriate full funding, and does not make full funding of IDEA mandatory, and so I feel it is my duty to oppose the bill.

I also have serious concerns with the discipline provisions of this bill. Under the ''manifestation determination'' previously required in IDEA, when students with disabilities are disciplined the potential that their disability was a fundamental reason for the problem must be considered. H.R. 1350 would no longer require schools to determine whether a student's action was the result of the disability. Under the bill a child with cerebral palsy could be expelled for accidentally making contact with his teacher or a developmentally disabled child could be expelled for ''inappropriate public affection''. While the majority of schools and administrators would not expel a student for minor infractions, the original intent of IDEA was to protect students with disabilities. If every school was enthusiastic and dedicated to the education of disabled students there would have never been any need for IDEA in the first place.

I understand the concerns voiced by national teachers and administrators regarding their need to have the authority to discipline students with and without disabilities. However, in order to protect the students from punishment for their disability, the law must include a requirement for the disability always to be taken into account before deciding on consequences. I have received many calls from parents in my district voicing anxiety over what will happen to their disabled children next time he or she makes a mistake related to their disability in school. I believe it is necessary to discipline disabled children, just as it is necessary to discipline children without disabilities, but we must ensure that the disabilities are always taken into account. H.R. 1350 would omit this requirement, and this was another reason that I cannot vote for the bill.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise today with deep concerns with H.R. 1350, the bill to reauthorize the Individuals with Disabilities Education Act.

Prior to IDEA being passed in 1975, many children with disabilities did not receive access to education, and worse they were denied any educational services at all.

As a result of court decisions and congressional action, schools were required to offer children with disabilities a free appropriate public education.

Since then, Congress has acted to strengthen these laws time and time again regardless of whether it was a Republican-controlled or Democratic-controlled Congress.

Today under H.R. 1350, we are taking a large step backward especially with regards to disciplining students.

Current law allows a school to suspend or expel a student with disabilities if he or she brings a weapon or drugs to school, or is found by a hearing officer to be likely to injure themselves or others. Education services must be provided for up to 45 days in an alternative setting.

In addition, current law requires schools to determine if the problem which caused the student to be suspended or expelled was due to his or her disability. This bill removes these important safety provisions completely.

Mr. Chairman, H.R. 1350 allows students of all disabilities to be removed from classrooms for any behavior for an indefinite period of time.

Mr. Chairman, I am the first person to say we need to protect our children from violence in the classroom. Therefore if a student with attention deficit disorder hits another student, the student with attention deficit disorder can be expelled indefinitely.

As a nurse, I can tell you that attention deficit disorder is widely misunderstood by teachers and principals throughout the country. However, it is recognized by Congress as disability under the law we are amending today and the Americans with Disabilities Act.

Mr. Chairman, this provision in H.R. 1350 alone cuts out the very heart of IDEA. IDEA was created to prevent this type of discrimination against disabled students. If a student's health problem is the reason for causing trouble in the classroom, the health problem must be taken into account before the child is expelled indefinitely. We should be strengthening the current law instead of weakening it. It's just common sense.

As a student with disabilities, a nurse, a mother, and a Member of Congress, I am hopeful that we protect all children.

With that, I urge all my colleagues to vote against this bill that takes the heart out of IDEA.

We should be doing more not less for our students.

Mrs. CHRISTENSEN. Mr. Chairman, the Americans with Disabilities Act, ADA, and the Individuals with Disabilities Action IDEA, are two primary and most important laws that protect the rights of a special segment of our population—individuals with disabilities. Today, we debate the passage of H.R. 1350, a bill to reauthorize IDEA, which was created to ensure that all children with disabilities are afforded a free and appropriate public education within the least restrictive environment, and that the rights of children with disabilities and parents of such children are protected. H.R. 1350, undermines the original intent of the law and essentially guts the protections it was intended to provide.

I support, 100 percent improving the quality of education for children with disabilities, but despite the statements of its proponents, this bill would not achieve this goal.

The base bill undermines civil rights provisions, something that seems under attack on many fronts by this administration, and as in the Leave No Child Behind Act, fails to fully fund it. This reauthorization would make IDEA nothing more than an empty promise.

I am also very much opposed to the DeMint voucher proposal. Is this yet another opportunity for the Republicans to force one of their favorite programs upon the unsuspecting public. It has been said that the amendment that Representative DEMINT is scheduled to offer is not a voucher, since it allows vouchers without requiring them. That is a distinction without a difference. A voucher is a voucher is a voucher.

On behalf of approximately 1617 students with disabilities in my district, the U.S. Virgin Islands, and all the major organizations representing children with disabilities, I urge my colleagues to resolve the issues raised by voting for the Democratic amendments and to oppose final passage of the bill if these issues have not been successfully addressed.

Mr. CUMMINGS. Mr. Chairman, the Individuals With Disabilities Education Act, IDEA, is the Nation's main statute ensuring children with disabilities receive the special education they need for success. Today, Congress had the opportunity to make a difference in the lives of millions of children with the reauthorization of IDEA. However, H.R. 1350 squanders this opportunity and that is why I urge all of my colleagues to vote against this legislation.

Congress had the opportunity to support mandatory full funding for the IDEA. Two amendments that would have made IDEA a mandatory program and would have guaranteed that the Federal Government contribute 40 percent of the cost as promised in the original 1975 law were not allowed to be offered.

Congress authorized the Federal Government to pay up to 40 percent of each State's excess cost of educating children with disabilities. As we have learned with the No Child Left Behind Act, promises to fund education through authorizations are often not kept. It is time we renew our commitment to all of our Nation's children and pay our share of the cost of IDEA.

States across the Nation are dealing with an economic crisis, facing large State budget deficits and making deep cuts to services. IDEA's unfunded mandate is $10 billion—this is money our States and school districts could be spending to alleviate State budget crises, reduce class sizes, build and modernize schools and further technology advances in education. This is an unfortunate trade off that our States should not have to make.

Fully funding IDEA is not just about special education. It is about keeping the promise of funding the mandate the Federal Government has put on the States and relieving the school funding crisis that States across the Nation are facing.

Congress needs to focus on real increases in IDEA funding and on aiding our States and local communities in times of tight budgets. Congress must follow through on the promise made to our special needs students years ago.

H.R. 1350 in its current form does not fulfill that promise. Please oppose H.R. 1350.

Mr. GIBBONS. Mr. Chairman, I rise today in support of H.R. 1350. As a father of three, I know the importance of educating our children. There should be no greater priority then providing our children with the educational tools needed to succeed in life.

H.R. 1350 fulfills our commit to the youth of this Nation, by providing special education children with the mechanisms and funding needed for success.

Mr. Chairman, since the Republicans have controlled Congress we have increased IDEA part B funding by $6.5 billion or 282 percent. All the while, the political rhetoric continues to fly in the face of these facts.

However, this is still not enough. Since 1975, when IDEA was originally established, Congress committed to provide Federal funding at 40 percent. Since 1975, IDEA funding levels have not even come close to reaching the 40 percent level.

H.R. 1350 sets up a bold plan, by setting a clear 7-year path to reach the 40 percent goal to make the full funding of IDEA a reality. I strongly support this effort, and this is one of the reasons I will be voting in favor of this bill.

Still, many on the other side of the aisle will confuse the issue, by asserting that this needs to be done by making IDEA a new Federal entitlement program.

Mr. Chairman, this is a misguided attempt. Making the program a mandatory Federal entitlement will only make it nearly impossible to make much needed reforms in IDEA for the future.

Making IDEA a new Federal entitlement spending program will cause an explosion of new paperwork and bureaucracy in special education at the very time teachers and parents are seeking a simpler process to ensure children with disabilities receive the education they deserve.

In addition, this could even prevent IDEA from receiving substantial funding increases in the upcoming years.

Finally, mandatory spending through a Federal entitlement will remove the accountability and oversight mechanisms that Congress provides through the annual discretionary appropriations process.

Instead, we need to continue our commitment to increasing the IDEA budget as well as the overall education budget to ensure real academic improvements results for children with disabilities and their peers.

Mr. Chairman, education is a top priority for this Republican-controlled House and Senate and this bill is a shining example of this continuing commitment to our children's education.

In spite of the continuing challenges of war and economic recovery—the Republican administration and Congress remain dedicated to funding our priorities. For this reason, I am proud to support the full funding of IDEA and H.R. 1350.

Mr. ETHERIDGE. Mr. Chairman, I rise to speak about this bill to reauthorize the Individuals with Disabilities Education Act.

As the only former State schools chief serving in Congress, I know firsthand the tremendous challenges facing our schools, teachers, parents and students when it comes to educating disabled children. Congress has an obligation to provide a fair share of funding for special education, and although this bill makes some progress toward that important goal, it unfortunately falls short.

Since 1975, the Federal Government has pledged to fund 40 percent of the costs of educating children with disabilities, but it has never made good on that promise. When I first arrived in this body, Congress was only funding its special education obligations at about 14 percent. This year that level will rise to about 18 percent, and this legislation will provide for additional increases perhaps as high as 21 percent. But Mr. Chairman, that still is not good enough. Congress must live up to its commitments and fully fund IDEA.

I also urge my colleagues to vote against the voucher amendments on this bill. Specifically, the DeMint amendment would siphon off precious public resources and funnel them to fund private schools. Vouchers are not good public policy. Taking taxpayer dollars to fund private school tuition is wrong. I urge my colleagues to vote against any and all voucher amendments.

Vouchers are a bad idea because they drain needed public resources away from our public schools, where more than 90 percent of the children in this country are educated, in favor of private schools that have no accountability to the American taxpayers. Rather than siphoning funds from the public schools, we need to invest more in initiatives like school construction, teacher training, class size reduction, tutoring and in other proven methods to raise academic achievement.

Finally, Mr. Chairman, let me state that this bill is not all bad, and I am hopeful it can be improved in the upcoming conference with the Senate. If the conference can fix its shortcomings, I could support the final version of this legislation. But this House can do better than the bill before us now, and I will vote no today on H.R. 1350.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 1350, the ''Improving Education Results for Children with Disabilities Act.''

Once again, the Republican majority is failing to match their rhetoric with their actions. This time the victims are children with disabilities. This bill will not improve education for children with disabilities as its title claims. it fails to invest the funds necessary to make that improvement real and it contains damaging provisions that actually inhibit such improvements. These are steps backward, not improvements at all.

The parents of children with disabilities are likely wondering why Congress is allowing this to happen? Well, its because the Republicans are refusing to honor the commitment Congress made almost 30 years ago to significantly invest in educating children with disabilities. Back then, the Federal Government promised to pay 40 percent of the national average per pupil for providing this education. Today, we only pay about 18 percent. Nothing in this bill improves on that. Talk about passing the buck to local schools. Its no wonder many school districts are cutting back on education for every child—not to mention their failing for children with disabilities.

As if the under-funding weren't bad enough, this bill goes further. This bill ignores the fact that the learning process for any child can be very sensitive to changes in their home lives or their health conditions. This is more likely to be true for children with disabilities, many of whom confront very difficult physical and mental health conditions that create barriers to their successful learning. it is critical for schools to constantly monitor the situation of students with disabilities and ensure that their educational needs are addressed as quickly as possible. Instead of promoting this need, the bill eliminates the requirement that every school have short-term instructional objectives for each student. This greatly decreases the chance for students with disabilities to succeed because their individual educational needs may well go unaddressed for what could be years.

In the biggest step backward, this bill provides schools with the right to unilaterally expel and child with a disability if they violate, even once, that school's code of conduct, regardless of the severity. Republicans eliminate the review process and the requirement for behavioral assessments and positive interventions in these discipline cases. Without these protections, there is no limit to the number of students with disabilities who can be kicked out of school with no questions asked. This provision is wrong and unfair and has no place in any legislation claiming to improve education for children with disabilities.

It is long overdue for Congress to make good on our promise to give children with disabilities a better chance to succeed. It is in that spirit that I urge my colleagues to join me in voting against the ''Improving Education Results for Children with Disabilities Act'' because it flatly fails that promise. I hope the Senate will fix many of the damaging provisions in this bill and pass an IDEA reauthorization bill that really does improve education and opportunity for children with disabilities. Then, maybe after a conference, we can vote on a bill that truly achieves the goal of its title.

Mr. RUSH. Mr. Chairman, I rise against this ill-conceived and ill-advised piece of legislation. Yet again the Republicans say that education is their number one priority but every time they have a chance to demonstrate their commitment to education they slash the funding or eliminate the programs designed to educate our children.

Since the enactment of the Individuals with Disabilities Education Act in 1975, we have failed to fully fund this worthy program. It has now been 28 years since we wrote children with disabilities a bad check and today its time to make good on that debt. The only way to ensure free appropriate public education is to fully fund special education. Let us not politicize this issue. We know that the program is working. Millions of children with special needs have benefitted greatly from IDEA. Let us not return to the dark ages where children with special needs were considered second class citizens. Our children deserve better.

Not only do we negate to fully fund special education but we do away with our children's basic civil rights protections. By removing due process procedures in this Act, many children with special needs will be the target of discriminatory practices. This is troubling to me because even with the current safeguard, minorities are disproportionately suspended or expelled from school compared to their majority counterparts. Its seems that this legislation is geared towards educating just the privileged few.

Again, I urge my colleagues on both sides of the aisle to rise on behalf of the 600,000 children with disabilities so that no child will be left behind.

Mr. LEVIN. Mr. Chairman, I rise in opposition to the rule and against the bill. The legislation before the House today fails to live up our promises to fully fund special education. It fails the parents of children with disabilities. Worst of all, it fails the kids who need our help the most.

The Bush Administration and many in this Congress have said over and over that the education policies of this country should leave no child behind. If it becomes law, this bill would leave more than 600,000 children with disabilities behind.

For more than 28 years, Congress has pledged time and time again to provide full funding for special education in this country, but not once has Congress provided the promised 40 percent Federal cost share of the states' cost of educating children and disabilities. Currently, the Federal Government pays just 18 percent. To illustrate my point, this year my home state of Michigan, will receive $308 million in IDEA Part B grants. Michigan should receive almost $704 million, if this Congress would only meet its obligation to fully fund this program, as it has promised.

IDEA is really the poster child for unfunded federal mandates. The fiscal crisis confronting the states makes it increasingly difficult for

them to pick up the unfunded federal share. Proponents of this legislation will claim that this bill fully funds IDEA by 1010. This House can authorize higher spending limits for IDEA until it is blue in the face, but it doesn't mean anything to our nation's disabled school children unless we follow up and actually appropriate the money to meet these authorization levels. And that's where the problem has been.

If the Majority is really serious about fully funding special education, as it claims, why not make the funding mandatory? It is ironic that at the same time the Majority is pushing to lock in a permanent $550 billion tax cut that chiefly benefits the very rich, it is unwilling to provide the same assurance of funding to disabled school kids. This speaks volumes about priorities around here.

I urge my colleagues to join me in opposing the rule and opposing this bill. We can do much better.

Mr. PAUL. Mr. Chairman, I rise to oppose H.R. 1350, the Improving Education Results for Children with Disabilities Act. I oppose this bill as a strong supporter of doing everything possible to advance the education of persons with disabilities. However, I believe this bill is yet another case of false advertising by supporters of centralized education, as it expands the federal education bureaucracy and thus strips control over education from local communities and the parents of disabled children. Parents and local communities know their children so much better than any federal bureaucrat, and they can do a better job of meeting a child's needs than we in Washington. There is no way that the unique needs of my grandchildren, and some young boy or girl in Los Angeles, CA or New York City can be educated by some sort of ''Cookie Cutter'' approach. In fact, the ''Cookie Cutter'' approach is especially inappropriate for special needs children.

At a time when Congress should be returning power and funds to the states, IDEA increases Federal control over education. Under this bill, expenditures on IDEA will total over $100 billion by the year 2011. After 2011, congressional appropriators are free to spend as much as they wish on this program. This flies in the face of many members' public commitment to place limits on the scope of the Federal bureaucracy.

There are attempts in this bill to reduce the role of bureaucracy and paperwork, and some provisions will benefit children. In particular, I applaud the efforts of the drafters of those who drafted it to address the over-prescription of psychotropic drugs, such as Ritalin by ensuring that no child shall be placed on these drugs without parental consent.

However, H.R. 1350 still imposes significant costs on state governments and localities. For example, this bill places new mandates on state and local schools to offer special services in areas with significant ''overidentification'' of disabled students. Mr. Chairman, the problem of overidentification is one created by the Federal mandates and federal spending of IDEA! So once again, Congress is using problems created by their prior mandates to justify imposing new mandates on the states!

When I think of imposing new mandates on local schools, I think of a survey of teachers my office conducted last year. According to this survey, over 65 percent of teachers felt that the federal mandates are excessive. In fact, the area where most teachers indicated there is too much federal involvement is disabilities education.

I would ask all my colleagues to consider whether we are truly aiding education by imposing new mandates, or just making it more difficult for hard-working, education professionals to properly educate our children?

The major federal mandate in IDEA is that disabled children be educated in the least restrictive setting. In other words, this bill makes mainstreaming the federal policy. Many children may thrive in a mainstream classroom environment; however, I worry that some children may be mainstreamed solely because school officials believe federal law requires it, even though the mainstream environment is not the most appropriate for that child.

On May 10, 1994, Dr. Mary Wagner testified before the Education Committee that disabled children who are not placed in mainstream classrooms graduate from high school at a much higher rate than disabled children who are mainstreamed. Dr. Wagner quite properly accused Congress of sacrificing children to ideology.

H.R. 1350 also burdens parents by requiring them to go through a time-consuming process of bureaucracy and litigation to obtain a proper education for their child. I have been told that there are trial lawyers actively soliciting dissatisfied parents of special needs children as clients for lawsuits against local schools! Parents and school districts should not be wasting resources that could go to educating children enriching trial lawyers.

Instead of placing more federal control on education, Congress should allow parents of disabled children the ability to obtain the type of education appropriate for that child's unique needs by passing my Help and Opportunities for Parents of Exceptional Children (HOPE for Children) Act of 2003, H.R. 1575. This bill allows parents of children with a learning disability a tax cut of up to $3,000 for educational expenses. Parents could use this credit to pay for special services for their child, or to pay tuition at private school or even to home school their child. By allowing parents of special needs children to control the education dollar, the HOPE for Children Act allows parents to control their child's education. Thus, this bill helps parents of special needs children provide their child an education tailored to the child's unique needs.

The HOPE for Children Act allows parents of special needs children to provide those children with an education that matches their child's unique needs without having to beg permission of education bureaucrats or engage in lengthy and costly litigation.

Mr. Chairman, it is time to stop sacrificing children on the altar of ideology. Every child is unique and special. Given the colossal failure of Washington's existing interference, it is clear that all children will be better off when we get Washington out of their classroom and out of their parents' pocketbooks. I therefore urge my colleagues to cast a vote for constitutionally limited government and genuine compassion by opposing H.R. 1350 and supporting the HOPE for Children Act.

Mr. HOLT. Mr. Chairman, none of the goals of IDEA can be achieved without full funding. Today, the majority is refusing even to allow amendments to improve the funding level in the bill.

Congress authorized full funding of IDEA 28 years ago and still has failed to deliver. In 1975, Congress authorized funding to cover 40 percent of the excess cost of educating a child with a disability.

President Bush has requested $1 billion increases for IDEA in each of his last 2 budgets. But according to the U.S. Department of Education, providing $1 billion increases each year will never allow IDEA to reach full funding.

When it comes to IDEA funding, Republicans are dwelling on the past, rather than focusing on the future. The majority consistently points to increases in IDEA funding in past years and this is true. However, this doesn't respond to the needs of school districts now. That is why we need to ensure full funding of IDEA over the next six years.

During debate on the No Child Left Behind Act, the majority claimed we had to reform IDEA before providing full funding. The bill before us supplies the Majority's reforms, yet reneges on full funding. What is the excuse now? Since 1977, 22 separate bills and resolutions have passed in the House and Senate calling for fund funding of IDEA with support of a majority of Republicans. It is time for Congress to make good on this promise.

In recent years, the Republican majority have said that there is not enough money to appropriate full funding, however they seem to be able to find enough money to give a large tax cut to those who don't need it.

I offered an amendment in the Education and the Workforce Committee with Representative Andrews to remove the funding cap from the bill. I did so because today seven states stand to lose IDEA funding under this cap, and another seven may soon be affected. While the Chairman did agree to move the cap to 13.5 percent—and I thank him for working with us—I still believe that a cap is fundamentally unfair. Not just unfair to the 50 states but also to the American children.

Even with this cap on funding, states and schools are still required to educate students that are identified as having special need even when the population exceeds the cap. So, why not allow the funding?

While I recognize that the cap reflects an attempt to reduce inappropriate identification of students as disabled, I believe that a cap does not get at the problem. Simply setting a cap does not address the issue of how students are being identified.

I believe that states and localities should be allowed to improve this inappropriate identification through professional development.

I applaud the chairman for including increased funding for professional development and research funding to reduce inappropriate identification of children with disabilities, including disproportionate assignment of minority children. We should allow these funds to work.

Let me point out a good point of today's bill. I am glad to see that section 674(c) recognizes the continued importance of funding an organization that ''provides free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.'' As you may know, Mr. Speaker, Recording for the Blind & Dyslexic, located in New Jersey in my district, has received federal funding for nearly thirty years to produce, distribute and promote the use of accessible-format versions of printed textbooks free to students. During this time,

they have helped hundreds of thousands of students who would have otherwise not had access to the textbooks they need to receive the kind of ''free and appropriate'' education that is outlined under IDEA. I commend RFB&D and want to bring to the attention of my colleagues in the Congress the oustanding work of this organization.

I would to thank Chairman BOEHNER and Subcommittee Chairman CASTLE for maintaining this important program in the law. I would like to express my concern, however, that funding for this activity is no longer a requirement for the Secretary of Education, as is the case under current law. I believe this must be changed and this requirement should be restored, and I look forward to working with the Chairman and my colleagues to resolve this issue during conference with the Senate.

Mr. NUSSLE. Mr. Chairman, I rise in support of H.R. 1350, which reforms and re-Authorizes the Individuals with Disabilities Education Act (IDEA), the Nation's primary special education law. This reauthorization of IDEA offers an opportunity to renew our commitment to students with special needs in Iowa and across the country.

IDEA laws and funding decisions impact all students, regardless of whether they have special educational needs.

I commend the Education Committee for authorizing in this bill special education funding increases for the next two years in line with the amounts provided in the fiscal year 2004 conference budget resolution. This includes a $2.2 billion increase in 2004, followed by another $2.5 billion increases on top of that for 2005.

These funding increases would bring us more than halfway toward our ultimate goal of funding 40 percent of the national average per pupil expenditure for each child served under IDEA. These funding levels will result in the Federal Government paying 21 percent of these costs in 2004 and 25 percent the following year.

Let's take a moment to acknowledge just how far we have come in funding special education in recent years. The increases in this bill build upon the dramatic rise in special education funding already provided by the Republican Congress.

Since 1995, annual special education funding has risen from $2.3 billion to $8.9 billion. We've gone from 7 percent Federal funding to 17 percent.

In the first few years of the previous administration, special education funding remained essentially flat, with no increase in the Federal share.

I also want to point out that the fiscal year 2004 budget resolution includes mandatory funding to help address the national shortage of special education teachers by allowing Federal loan forgiveness of up to $17,500 for special education teachers who teach in disadvantaged school districts.

Funding is only one piece of the puzzle in improving education. We must ensure that significant improvements are made to the system. Iowa's students deserve no less. I am pleased this bill includes critical reforms to enhance educational performance while reducing the bureaucratic red tape that teachers and school administrators in Iowa tell me can get in the way of what is most important: teaching.

H.R. 1350 substantially reduces the paperwork requirement of annual individualized education plans (IEPS) by giving parents the option of choosing a three-year IEP, instead of having to craft a new one every year.

The bill grants school districts greater flexibility to more accurately classify students to avoid wrongly identifying as disabled those who may have a less severe condition. This growing problem hinders the progress of affected students and indirectly impacts all students.

There will be expanded choices for parents by allowing IDEA funds to be used in some cases to obtain supplemental education services, including services offered by private educational providers.

The bill also increases the flexibility of local school districts in making decisions about discipline for individual special education students. This flexibility can enhance the educational environment for all students. This is a necessary step I have been advocating for some time.

I support this bill and applaud the efforts of Mr. BOEHNER and Mr. CASTLE to improve the Nation's special education law at a time as we continue working to ensure that no child is left behind in America's classrooms.

Mr. BALLENGER. Mr. Chairman, not since Congress first passed legislation to help children with disabilities to receive a free and appropriate public education has a bill done so much for disabled students, parents, and their teachers. That is why I am proud to support the Improving Education Results for Children with Disabilities Act.

One important aspect of this legislation is that it helps to reduce the over-identification and mis-identification of non-disabled students. For far too long, students that were not disabled were classified as being disabled—stigmatizing these children for the rest of their education even though they were fully capable students.

H.R. 1350 encourages the use of early intervention strategies, which we all know that an ounce of prevention is worth a pound of cure. By reducing the number of non-disabled students receiving services, students who truly need assistance will have more resources available to them.

I would also like to point out that our litigious society has fostered an atmosphere of mistrust and apprehension between parents and teachers. H.R. 1350 gives parents and schools increased flexibility in resoling disputes. Through mediation and voluntary binding arbitration, the trust between parents and teachers can be restored.

While I understand the fears and concerns of some regarding changes to IDEA, I believe that H.R. 1350 goes a long way towards increasing accountability and flexibility for both teachers and parents. I strongly urge my colleagues to support this legislation.

Mr. KIND. Mr. Chairman, over a quarter century ago, President Ford signed historic legislation seeking to ensure educational equity for children with disabilities and special needs. This legislation, now known as the Individuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion of students with exceptional needs. It helped open the door to fairness and access for millions of such youngsters and paved the way to greater educational success for many students with disabilities.

IDEA is both a grants statute and a civil rights statute. It mandates that all disabled students be provided a free appropriated public education in the least restrictive environment. Over six million children with disabilities are no longer limited by their families' ability to afford private education; they are no longer forced to attend costly state institutions, or worse, stay home and miss out entirely on the benefits of an education. IDEA ensures that children with disabilities may attend public school alongside their peers. There is no question about it: students, schools, communities are enriched when all children have a right to a free, appropriate public education.

As a member of the Education and Workforce Committee since 1997, I have worked hard to improve the quality of education for our children. Consistently, I have called on the federal government to fully fund IDEA. In fact, during reauthorization of the Elementary and Secondary Education Act I offered an amendment to fully fund IDEA. Unfortunately the House leadership prevented the amendment from being debated on the House floor.

Again, during committee consideration of H.R. 1350, I supported an amendment for mandatory full funding offered by Representative WOOLSEY. I am disappointed by the Committee's failure to adopt this important amendment. This is not the time to withhold necessary funds from out states. In the end, it is all our students nationwide, with an without disabilities, who suffer from the lack of federal funds for special education.

While I realize that H.R. 1350 is not a perfect bill, I feel that it resolves some significant issues that are problematic in Wisconsin, such as increasing instructional time with students through paperwork reduction, improving early intervention strategies, reducing overidentification and working to resolve conflicts between schools and parents early and with less litigation. I hope, that as we move forward we can continue to improve the bill and work with the Senate to produce the best bill possible.

Specicially, I am pleased that H.R. 1350 includes several amendments I offered during committee that focus on professional development. Frequently, during my visits with special education personnel in Wisconsin I heard how difficult it is to access professional development, this being more pronounced in those rural school systems in my district. For example, in Wisconsin a special education teacher is required to obtain six credit hours of professional development training every five years.

Thus, my amendment encourages the use and development of state-of-the-art strategies to deliver professional development training for school personnel working with special education students through the use of technology, peer networks, and distance learning. The training will include special and regular education teachers, principals, superintendents, and other related services personnel.

Furthermore, to better assist states in encouraging the development and use of distance learning and technology for special education personnel, it is critical to raise awareness of what is currently available in the area of distance learning for professional development. Therefore, I requested GAO to research the existing and developing distance learning and technology program offered to special education personnel. This knowledge will help better focus resources and time on developing programs where they are needed.

I offered an additional professional development amendment that will include principals,

superintendents, and administrators in the states personnel preparation programs. As district Special Education Directors leave, retire, or are cut due to budgetary shortfalls, principals, and superintendents are being tapped to fill this void. In the 423 school districts in Wisconsin, less than half, only 185 school districts presently have directors of special education. In the 238 districts without a director of special education, school principals and superintendents provide leadership of special education programs. Yet, few have had training needed to administer these complicated programs. This amendment will allow states to include administrators in special education professional development programs.

Finally, H.R. 1350 includes a new provision that permits states to establish and implement cost- and risk-sharing funds, consortiums or cooperatives to assist students with severe disabilities. I offered my amendment, which was accepted, that would allow states to prioritize a certain percentage of funding for school districts to finance these programs. High-cost, low-incidence students have a significant impact on the budgets of the school districts, and this can be very pronounced in rural areas. I am pleased this amendment was accepted and know it will have a positive impact for Wisconsin.

Mr. Chairman, our educators are doing everything they can to meet the needs of disabled students, despite the federal government's failure to fully-fund IDEA. Congress has gone less than half way in its promise to fund 40 percent of education costs for children with disabilities. Therefore, until it does, we have to provide whatever help we can and I feel that H.R. 1350 is a step forward in helping our local education communities reach the goal of providing the best possible education system for students with disabilities.

Ms. ESHOO. Mr. Chairman, it's with great disappointment that I rise today in opposition to H.R. 1350, the Individuals with Disabilities Education Act reauthorization.

H.R. 1350 fails special ed kids for these reasons: It undermines their civil rights and their educational opportunity by removing parental involvement in actions relating to the identification, evaluation and education of their child.

It limits the dialogue between school professionals and families. It institutes a one-year statute of limitations on parents to bring about any grievances with their child's education.

It eliminates short term objectives for a student's Individualized Education Program and limits a teacher of special ed to participate in the process.

It makes changes to disciplinary procedures which allow disabled children to be punished or removed for behavior due to their disability.

And H.R. 1350 fails to fully fund IDEA. It calls for full funding over seven years, but there isn't any guarantee that these dollars will be there in seven years.

Congress made a commitment in 1975 to our children and our school districts to fully fund special education at forty-percent. What an insult it is that twenty-eight years later, Congress is still funding less than half of this commitment. The budget passed by the House this year authorizes only $8.5 billion, far short of the $20.2 billion needed to fulfill our obligation.

Today every state across the nation is struggling fiscally, the worst condition of states since the Great Depression and school funding is being slashed.

It's critical that our nation's Governors unite with Congress now to uphold the special education commitment to school districts. I support the Woolsey-McKeon amendment which requires that any additional increases in IDEA federal funding be passed down directly to the local level.

I regret that the House is missing a critical opportunity to invest in our children and our schools through IDEA reauthorization. The reality of this bill is that it's bad for our children and it will set back the progress we've made.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise in support of H.R. 1350 as I believe it will make many necessary reforms to better serve our Nation's special-needs students, but wish to makes my reservations known about funding levels for part B of the Individuals with Disabilities Education Act. It is well known that Congress committed to contribute up to 40 percent of the average per pupil expenditure of educating special needs children, and Congress' failure to achieve even half of that 40 percent promise is even more well known. In fact, in 28 years Congress has never contributed more than 17.6 percent, leaving local school districts with too heavy a burden to provide for their special needs children. Thus, I am currently cosponsor to H.R. 1094, legislation that would authorize appropriations to achieve the full, 40 percent funding for part B of IDEA by 2008. I believe it is imperative that the Federal Government keep its promise to our Nation's special needs children.

While I am pleased that funding for IDEA has steadily risen in the last several years, Congress is long overdue in providing its promise of 40 percent. That said, I support H.R. 1350, although I realize that its funding levels for part B of IDEA are lower than those that would be authorized if H.R. 1094 were signed into law. While I realize this discrepancy, I do believe that H.R. 1350 puts forth a good-faith effort to dramatically increase the Federal Government's expenditure for special needs children. H.R. 1350 will set in motion a plan to finally achieve the 40 percent funding, and thus makes a statement that Congress realizes its current funding shortfall of IDEA. I will continue to fight for full funding for part B of IDEA in the budget for FY2004 and beyond.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1350

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 ''Improving Education Results for Children With Disabilities Act of 2003''.

TITLE I—GENERAL PROVISIONS

SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 601 through 603 of the Individuals with Disabilities Education Act (20 U.S.C. 1400–1402) are amended to read as follows:

''SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

''(a) SHORT TITLE.—This Act may be cited as the 'Individuals with Disabilities Education Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''PART A—GENERAL PROVISIONS

''Sec. 601. Short title; table of contents; findings; purposes.
''Sec. 602. Definitions.
''Sec. 603. Office of Special Education Programs.
''Sec. 604. Abrogation of State sovereign immunity.
''Sec. 605. Acquisition of equipment; construction or alteration of facilities.
''Sec. 606. Employment of individuals with disabilities.
''Sec. 607. Requirements for prescribing regulations.
''Sec. 608. State administration.

''PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

''Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
''Sec. 612. State eligibility.
''Sec. 613. Local educational agency eligibility.
''Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
''Sec. 615. Procedural safeguards.
''Sec. 616. Monitoring, enforcement, withholding, and judicial review.
''Sec. 617. Administration.
''Sec. 618. Program information.
''Sec. 619. Preschool grants.

''PART C—INFANTS AND TODDLERS WITH DISABILITIES

''Sec. 631. Findings and policy.
''Sec. 632. Definitions.
''Sec. 633. General authority.
''Sec. 634. Eligibility.
''Sec. 635. Requirements for statewide system.
''Sec. 636. Individualized family service plan.
''Sec. 637. State application and assurances.
''Sec. 638. Uses of funds.
''Sec. 639. Procedural safeguards.
''Sec. 640. Payor of last resort.
''Sec. 641. State Interagency Coordinating Council.
''Sec. 642. Federal administration.
''Sec. 643. Allocation of funds.
''Sec. 644. Authorization of appropriations.

''PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

''Sec. 651. Findings.

''SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

''Sec. 652. Purpose.
''Sec. 653. Eligibility and collaborative process.
''Sec. 654. Applications.
''Sec. 655. Use of funds.
''Sec. 656. State grant amounts.
''Sec. 657. Authorization of appropriations.

''SUBPART 2—SCIENTIFICALLY BASED RESEARCH; TECHNICAL ASSISTANCE; MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND PERSONNEL PREPARATION PROGRAMS

''Sec. 661. Purpose.
''Sec. 662. Administrative provisions.
''Sec. 663. Research to improve results for children with disabilities.
''Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.

''Sec. 665. Personnel preparation programs to improve services and results for children with disabilities.
''Sec. 666. Studies and evaluations.
''Sec. 667. Authorization of appropriations.
''SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES
''Sec. 671. Purposes.
''Sec. 672. Parent training and information centers.
''Sec. 673. Community parent resource centers.
''Sec. 674. Technical assistance for parent training and information centers.
''Sec. 675. Technology development, demonstration, and utilization; and media services.

''(c) FINDINGS.—Congress finds the following:

''(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

''(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the special educational needs of millions of children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.

''(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

''(4) Over 25 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

''(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order—

''(i) to meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

''(ii) to be prepared to lead productive and independent adult lives, to the maximum extent possible;

''(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

''(C) coordinating this Act with other local, State, and Federal school improvement efforts, including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

''(D) supporting high-quality, intensive professional development for personnel who work with children with disabilities;

''(E) providing incentives for scientifically based reading programs and prereferral intervention services to reduce the need to label children as disabled in order to address their learning needs;

''(F) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

''(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children with disabilities.

''(5) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government has a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

''(6) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

''(7)(A) The Federal Government must respond to the growing needs of an increasingly diverse society.

''(B) America's ethnic profile is rapidly changing. In the year 2000, nearly one of every three persons in America was a member of a minority group or was limited English proficient.

''(C) Minority children comprise an increasing percentage of public school students.

''(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

''(8)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

''(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

''(C) This poses a special challenge for special education in the referral, assessment, and provision of services for our Nation's students from non-English language backgrounds.

''(9)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

''(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

''(C) African American children are overidentified as having mental retardation and emotional disturbance at rates greater than their white counterparts.

''(D) In the 1998–99 school year, African American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

''(E) Studies have found that schools with predominantly Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

''(10)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

''(B) The opportunity for full participation by minority individuals, organizations, and historically black colleges and universities in awards for grants and contracts, boards of organizations receiving assistance under this Act, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

''(d) PURPOSES.—The purposes of this title are—

''(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

''(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

''(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

''(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

''(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

''(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

''SEC. 602. DEFINITIONS.

''Except as otherwise provided, as used in this Act:

''(1) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

''(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

''(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

''(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

''(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

''(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

''(3) CHILD WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'child with a disability' means a child—

''(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

''(ii) who, by reason thereof, needs special education and related services.

''(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 or any subset of that age range, including ages 3 through 5, may, at the discretion of the State and the local educational agency, include a child—

''(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

''(ii) who, by reason thereof, needs special education and related services.

''(4) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—

''(A) means a regional public multiservice agency—

''(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

''(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

''(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

''(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

''(6) EQUIPMENT.—The term 'equipment' includes—

''(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

''(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audiovisual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

''(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

''(A) amounts received—

''(i) under part B of this title;

''(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

''(iii) under title III of that Act; and

''(B) any State or local funds expended for programs that would qualify for assistance under any of the provisions of law described in subparagraph (A).

''(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—

''(A) have been provided at public expense, under public supervision and direction, and without charge;

''(B) meet the standards of the State educational agency;

''(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

''(D) are provided in conformity with the individualized education program required under section 614(d).

''(9) HIGHLY QUALIFIED.—The term 'highly qualified' has the same meaning as that term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(10) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.

''(11) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

''(12) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

''(13) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given such term in section 636.

''(14) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

''(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

''(A) has the meaning given that term in subsection (a) or (b) of section 101 of the Higher Education Act of 1965; and

''(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

''(16) LOCAL EDUCATIONAL AGENCY.—

''(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

''(B) The term includes—

''(i) an educational service agency, as defined in paragraph (4); and

''(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(17) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or, in the case of a child, the language normally used by the parents of the child.

''(18) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(19) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(20) PARENT.—The term 'parent'—

''(A) includes a legal guardian; and

''(B) except as used in sections 615(b)(2) and 639(a)(5), includes an individual assigned under either of those sections to be a surrogate parent.

''(21) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given that term in section 672(g).

''(22) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under sections 672 and 673.

''(23) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

''(24) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

''(25) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(26) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

''(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

''(B) instruction in physical education.

''(27) SPECIFIC LEARNING DISABILITY.—

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

''(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

''(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

''(28) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

''(30) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

''(31) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a child with a disability that—

''(A) is designed within a results-oriented process, that is focused on improving the academic and developmental achievement of the child with a disability to facilitate the child's move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

''(B) is based upon the individual child's needs, taking into account the child's skills, preferences, and interests; and

''(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

''(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

''(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

''(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.''.

SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 605 through 607 of the Individuals with Disabilities Education Act (20 U.S.C. 1404–1406) are amended to read as follows:

"SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

''(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

''(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

''(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

''(2) appendix A of part 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

"SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

''The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities, particularly as teachers, related services personnel, early intervention providers, and administrators, in programs assisted under this Act.

"SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue regulations under this Act only to the extent that such regulations are reasonably necessary to ensure that there is compliance with the specific requirements of this Act.

''(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would—

''(1) violate or contradict any provision of this Act; and

''(2) procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

''(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 60 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

''(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including on issues of national significance) that—

''(1) would violate or contradict any provision of this Act; or

''(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.

''(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

''(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

''(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall—

''(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

''(B) ensure that all such correspondence is issued, where applicable, in compliance with section 553 of title 5, United States Code.

''(f) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under this Act shall include an explanation in the written response that the response—

''(1) is issued, when required, in compliance with the requirements of section 553 of title 5, United States Code; and

''(2) is provided as informal guidance and represents only the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented in the original question.''.

SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Part A of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following:

"SEC. 608. STATE ADMINISTRATION.

''(a) RULEMAKING.—Each State that receives funds under this Act shall—

''(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and

''(2) minimize the number of rules, regulations, and policies to which the State's local educational agencies and schools are subject to under this Act.

''(b) SUPPORT AND FACILITATION.—All State rules, regulations, and policies relating to this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.''.

SEC. 104. GAO REVIEW; REPORT.

(a) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 105. GAO REVIEW OF CERTAIN STATE DEFINITIONS AND EVALUATION PROCESSES.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(1) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms ''emotional disturbance'', ''other health impairments'', and ''specific learning disability''; and

(2) the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 106. ADDITIONAL GAO STUDY AND REPORT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 107. STUDY ON LIMITED ENGLISH PROFICIENT STUDENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

Section 611 of the Individuals with Disabilities Education Act (20 U.S.C. 1411) is amended to read as follows:

"SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES.—

''(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

''(2) MAXIMUM AMOUNTS.—The maximum amount of the grant a State may receive under this section for any fiscal year is—

''(A) the number of children with disabilities in the State who are receiving special education and related services—

''(i) aged 3 through 5 if the State is eligible for a grant under section 619; and

''(ii) aged 6 through 21; multiplied by

''(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.

''(3) LIMITATION.—Notwithstanding subparagraphs (A) and (B) of paragraph (2), the maximum amount of the grant a State may receive under this section for a fiscal year may not be based on the number of children ages 3 through 17, inclusive, in excess of 13.5 percent of the number of all children in that age range in the State.

''(b) OUTLYING AREAS.—

''(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than one percent, which shall be used to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21.

''(2) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas under this section.

''(c) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

''(d) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—After reserving funds for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

''(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in the subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

''(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall allocate—

''(I) to each State the amount it received for fiscal year 1999;

''(II) 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

''(III) 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for fiscal year 1999; and

''(bb) one-third of one percent of the amount by which the amount appropriated under subsection (i) exceeds the amount appropriated under this section for fiscal year 1999;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

''(i) the amount it received for fiscal year 1999; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

''(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount it received for fiscal year 1999.

''(ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

''(e) STATE-LEVEL ACTIVITIES.—

''(1) IN GENERAL.—

''(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2), (3), and (4).

''(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(C) A State may use funds it retains under subparagraph (A) without regard to—

''(i) the prohibition on commingling of funds in section 612(a)(18)(B); and

''(ii) the prohibition on supplanting other funds in section 612(a)(18)(C).

''(2) STATE ADMINISTRATION.—

''(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

''(i) each State may use not more than 20 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

''(ii) each outlying area may use up to 5 percent of the amount it receives under this section for any fiscal year or $35,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater.

''(B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES.—Each State may use not more than 4 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.

''(4) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under paragraph (1) and does not use under paragraph (2) or (3) for any of the following:

''(A) Support and direct services, including technical assistance and personnel development and training.

''(B) Administrative costs of monitoring and complaint investigation.

''(C) To establish and implement the mediation and voluntary binding arbitration processes required by sections 612(a)(17) and 615(e), including providing for the costs of mediators, arbitrators, and support personnel.

''(D) To assist local educational agencies in meeting personnel shortages.

''(E) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart.

''(F) To support paperwork reduction activities, including expanding the appropriate use of technology in the IEP process under this part.

''(G) To develop and maintain a comprehensive, coordinated, prereferral educational support system for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who are not enrolled in special education but who need additional academic and behavioral support to succeed in a general education environment.

''(H) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

''(I) For subgrants to local educational agencies for the purposes described in paragraph (5)(A).

''(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular education teachers, based on scientifically based research to improve educational instruction.

''(B) MAXIMUM SUBGRANT.—For each fiscal year, the amount referred to in subparagraph (A) is—

''(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

''(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(6) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

''(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

''(B) how those amounts will be allocated among the activities described in this subsection to meet State priorities based on input from local educational agencies; and

''(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.

''(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (e) to local educational agencies, including public charter schools that operate as local educational agencies, in the State that have established their eligibility under section 613, for use in accordance with this part.

''(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

''(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

''(g) DEFINITIONS.—For the purpose of this section—

''(1) the term 'average per-pupil expenditure in public elementary and secondary schools in the United States' means—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

''(ii) any direct expenditures by the State for the operation of those agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

''(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

''(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

''(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year. Of the amount described in the preceding sentence—

''(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and

''(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

''(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as 'BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

''(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

''(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

''(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

''(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

''(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

''(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

''(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

''(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring, enforcement, and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

''(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

''(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

''(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

''(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

''(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(E) ANNUAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior an annual report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

''(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

''(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services

to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

''(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(22), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

''(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

''(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

''(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

''(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

''(E) provide assistance in the preparation of information required under paragraph (2)(D).

''(6) ANNUAL REPORTS.—

''(A) IN GENERAL.—The advisory board established under paragraph (5) shall prepare and submit to the Secretary of the Interior and to the Congress an annual report containing a description of the activities of the advisory board for the preceding year.

''(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—

''(1) $11,074,398,000 for fiscal year 2004;
''(2) $13,374,398,000 for fiscal year 2005;
''(3) $15,746,302,000 for fiscal year 2006;
''(4) $17,918,205,000 for fiscal year 2007;
''(5) $20,090,109,000 for fiscal year 2008;
''(6) $22,262,307,000 for fiscal year 2009;
''(7) $25,198,603,000 for fiscal year 2010; and
''(8) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.''.

SEC. 202. STATE ELIGIBILITY.

(a) IN GENERAL.—(1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)) is amended in the matter preceding paragraph (1) by striking ''demonstrates to the satisfaction of'' and inserting ''reasonably demonstrates to''.

(2) Paragraphs (1) through (11) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:

''(1) FREE APPROPRIATE PUBLIC EDUCATION.—

''(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

''(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

''(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

''(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

''(I) were not actually identified as being a child with a disability under section 602(3) of this Act; or

''(II) did not have an individualized education program under this part.

''(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

''(3) CHILD FIND.—

''(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

''(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

''(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

''(5) LEAST RESTRICTIVE ENVIRONMENT.—

''(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

''(B) ADDITIONAL REQUIREMENT.—

''(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

''(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

''(6) PROCEDURAL SAFEGUARDS.—

''(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

''(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this Act will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

''(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.

''(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(d) (relating to the confidentiality of records and information).

''(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

''(10) CHILDREN IN PRIVATE SCHOOLS.—

''(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

''(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

''(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

''(II) In calculating the proportionate share of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

''(III) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

''(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.

''(V) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

''(ii) CHILD-FIND REQUIREMENT.—

''(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

''(II) EQUITABLE PARTICIPATION.—The child-find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of such children.

''(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.

''(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local

education agency has met its obligations under clause (i).

''(V) COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

''(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with representatives of children with disabilities parentally-placed in private schools during the design and development of special education and related services for these children including—

''(I) the child-find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

''(II) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

''(III) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; and

''(IV) how, where, and by whom special education and related services will be provided for parentally-placed private school children, including a discussion of alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made.

''(iv) COMPLIANCE.—

''(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

''(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

''(v) PROVISION OF SERVICES.—

''(I) DIRECTLY OR THROUGH CONTRACTS.—An agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

''(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.

''(vi) PUBLIC CONTROL OF FUNDS.—

''(I) IN GENERAL.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

''(II) PROVISION OF SERVICES.—The provision of services under this Act shall be provided—

''(aa) by employees of a public agency; or

''(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

''(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

''(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

''(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

''(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

''(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

''(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

''(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

''(I) if—

''(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

''(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

''(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

''(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

''(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

''(I) shall not be reduced or denied for failure to provide such notice if—

''(aa) the school prevented the parent from providing such notice;

''(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or

''(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

''(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

''(aa) the parent is illiterate or cannot write in English; or

''(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

''(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

''(A) IN GENERAL.—The State educational agency is responsible for ensuring that—

''(i) the requirements of this part are met; and

''(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

''(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

''(II) meet the educational standards of the State educational agency.

''(B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

''(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.''.

(3) Paragraphs (13) through (22) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)–(22)) are amended to read as follows:

''(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

''(14) PERSONNEL STANDARDS.—

''(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

''(B) STANDARDS DESCRIBED.—Such standards shall—

''(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;

''(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and

''(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

''(C) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT.—The State educational agency encourages the development and use of research-based innovative strategies, such as strategies using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that—

''(i) improve educational results for students with disabilities; and

''(ii) are both cost-effective and easily accessible.

''(15) PERFORMANCE GOALS AND INDICATORS.—The State—

''(A) has established goals for the performance of children with disabilities in the State that—

''(i) promote the purposes of this Act, as stated in section 601(d);

''(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

''(iii) address dropout rates, as well as such other factors as the State may determine; and

''(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

''(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and

''(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.

''(16) PARTICIPATION IN ASSESSMENTS.—

''(A) IN GENERAL.—(i) All children with disabilities are included in all general State and district-wide assessment programs, including assessments described under title I of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, where necessary and as indicated in their respective individualized education programs.

''(ii) The State (or, in the case of a district-wide assessment, the local educational agency) has developed and implemented guidelines for the provision of accommodations described in clause (i).

''(iii) The State (or, in the case of a district-wide assessment the local educational agency)—

''(I) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under clause (i); and

''(II) conducts those alternate assessments.

''(B) REPORTS.—The State educational agency (or, in the case of a district-wide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

''(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

''(ii) The number of children with disabilities participating in alternate assessments.

''(iii) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information would not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

''(17) DISPUTE RESOLUTION.—The State has in effect systems of mediation and voluntary binding arbitration pursuant to section 615(e).

''(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

''(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

''(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

''(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

''(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

''(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

''(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

''(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

''(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

''(21) STATE ADVISORY PANEL.—

''(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

''(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

''(i) parents of children with disabilities (ages birth through 26);

''(ii) individuals with disabilities;

''(iii) teachers;

''(iv) representatives of institutions of higher education that prepare special education and related services personnel;

''(v) State and local education officials;

''(vi) administrators of programs for children with disabilities;

''(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

''(viii) representatives of private schools and public charter schools;

''(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

''(x) representatives from the State juvenile and adult corrections agencies.

''(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities ages birth through 26.

''(D) DUTIES.—The advisory panel shall—

''(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

''(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

''(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

''(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

''(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

''(22) SUSPENSION AND EXPULSION RATES.—

''(A) IN GENERAL.—The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

''(i) among local educational agencies in the State; or

''(ii) compared to such rates for nondisabled children within such agencies.

''(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.''.

(4) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)–(22)) is amended by adding at the end the following:

''(23) INSTRUCTIONAL MATERIALS.—

''(A) IN GENERAL.—The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

''(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

''(C) DEFINITION.—For purposes of this paragraph, the term 'instructional materials' means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom.

''(24) OVERIDENTIFICATION AND DISPROPORTIONALITY.—The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to prevent the overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3).

''(25) PROHIBITION ON PSYCHOTROPIC MEDICATION.—The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.''.

(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—Section 612(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(b)) is amended to read as follows:

''(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

''(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

''(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).''.

(c) EXCEPTION FOR PRIOR STATE PLANS.—Section 612(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(c)) is amended to read as follows:

''(c) EXCEPTION FOR PRIOR STATE PLANS.—

''(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

''(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

''(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.''.

(d) APPROVAL BY THE SECRETARY.—Section 612(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(d)) is amended to read as follows:

''(d) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

''(2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State—

''(A) with reasonable notice; and

''(B) with an opportunity for a hearing.''.

(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Section 612(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(e)) is amended to read as follows:

''(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.''.

SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Section 613 of the Individuals with Disabilities Education Act (20 U.S.C. 1413) is amended to read as follows:

''SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

''(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency reasonably demonstrates to the State educational agency that it meets each of the following conditions:

''(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

''(2) USE OF AMOUNTS.—

''(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

''(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

''(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

''(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

''(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

''(ii) a decrease in the enrollment of children with disabilities;

''(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

''(I) has left the jurisdiction of the agency;

''(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

''(III) no longer needs such program of special education; or

''(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

''(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.

''(ii) If a local educational agency chooses to use the authority under clause (i), then the agency shall use those local funds to provide additional funding for programs under the Elementary and Secondary Education Act of 1965, including, but not limited to, programs that address student achievement, comprehensive school reform, literacy, teacher quality and professional development, school safety, before- and after- school learning opportunities.

''(iii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a), the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for that fiscal year, but only if it is authorized to do so by the State constitution or a State statute.

''(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

''(i) the number of children with disabilities participating in the schoolwide program; multiplied by

''(ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by

''(II) the number of children with disabilities in the jurisdiction of that agency.

''(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612 of this Act and section 1119 of the Elementary and Secondary Education Act of 1965.

''(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

''(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

''(B) PREREFERRAL SERVICES.—To develop and implement a system of comprehensive coordinated prereferral education support services in accordance with subsection (f).

''(C) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium of which the local educational agency is a part, to pay for high cost special education and related services.

''(D) CASE MANAGEMENT AND ADMINISTRATION.—To purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.

''(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNATED FOR IMPROVEMENT.—For the reasonable additional expenses (as determined by the local educational agency) of any necessary accommodations to allow children with disabilities who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) to be provided supplemental educational services under section 1116(e) of such Act on an equitable basis.

''(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency—

''(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing supplemental and related services on site at the charter school when the local educational agency has a policy or practice of providing those services on site to its other schools; and

''(B) provides funds under this part to those schools on the same basis as it provides those funds to its other public schools (including, at the option of such agency, proportional distribution based on relative enrollment of children with disabilities at such charter schools), and at the same time as such agency distributes other Federal funds to those schools, consistent with the State's charter law.

''(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard described in section 612(a)(23).

''(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

''(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

''(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

''(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

''(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

''(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

''(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

''(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

''(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

''(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

''(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

''(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

''(1) JOINT ESTABLISHMENT.—

''(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

''(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

''(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.

''(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

''(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

''(B) be jointly responsible for implementing programs that receive assistance under this part.

''(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

''(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

''(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

''(ii) be carried out only by that educational service agency.

''(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

''(f) PREREFERRAL SERVICES.—

''(1) IN GENERAL.—A local educational agency may use not more than 15 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

''(2) ACTIVITIES.—In implementing comprehensive coordinated prereferral educational services under this subsection, a local educational agency may carry out the following activities:

''(A) Professional development (which may be provided by entities other than local educational agencies) for teachers to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction.

''(B) Providing educational evaluations, services, and supports, including scientifically based literacy instruction and speech therapy.

''(C) Providing behavioral evaluations and services and supports, including positive behavioral interventions and supports.

''(3) EXCLUSION.—Nothing in this subsection shall be construed to either limit or create a right to a free appropriate public education under this part.

''(4) REPORTING.—Each local educational agency that develops and maintains comprehensive coordinated prereferral educational support services under this subsection shall annually report to the State educational agency on—

''(A) the number of students served under this subsection; and

''(B) the number of students served under this subsection who subsequently receive special education and related services under this Act during the preceding 2-year period.

''(5) COORDINATION WITH THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

''(A) IN GENERAL.—Comprehensive coordinated prereferral educational support services provided under this subsection may be aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965, such as the Reading First program under subpart 1 of part B of title I of such Act, the Early Reading First program under subpart 2 of part B of title I of such Act, reading and math supports under part A of title I of such Act, and behavior intervention supports, that improve results for children with disabilities.

''(B) MAINTENANCE OF EFFORT.—Funds used under this section shall be used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965.

''(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

''(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children

with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

''(A) has not provided the information needed to establish the eligibility of such agency under this section;

''(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

''(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

''(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

''(2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.

''(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

''(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

''(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

''(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.''.

SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

Section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) is amended to read as follows:

''SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

''(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS.—

''(1) INITIAL EVALUATIONS.—

''(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.

''(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, a State educational agency, other State agency as appropriate, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

''(C) PROCEDURES.—Such initial evaluation shall consist of procedures—

''(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

''(ii) to determine the educational needs of such child.

''(D) PARENTAL CONSENT.—

''(i) IN GENERAL.—

''(I) CONSENT FOR INITIAL EVALUATION.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

''(II) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

''(ii) ABSENCE OF CONSENT.—

''(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child through the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.

''(II) FOR SERVICES.—If the parent of such child does not provide consent for services under clause (i)(II), or the parent fails to respond to a request to provide the consent, the local educational agency shall not provide special education and related services to the child through the procedures described in section 615.

''(III) EFFECT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under subclause (I), or for which there is an absence of consent for services under subclause (II)—

''(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

''(bb) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.

''(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

''(2) REEVALUATIONS.—

''(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

''(i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or

''(ii) if the child's parent or teacher requests a reevaluation.

''(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—

''(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and

''(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

''(b) EVALUATION PROCEDURES.—

''(1) NOTICE.—The local educational agency shall provide notice to the parent of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

''(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

''(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—

''(i) whether the child is a child with a disability; and

''(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;

''(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

''(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

''(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

''(A) assessments and other evaluation measures used to assess a child under this section—

''(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

''(ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate academic and developmental data;

''(iii) are used for the purposes for which the assessments or measures are valid and reliable;

''(iv) are administered by trained and knowledgeable personnel; and

''(v) are administered in accordance with any instructions provided by the producer of such tests;

''(B) the child is assessed in all areas of suspected disability; and

''(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

''(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

''(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

''(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

''(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

''(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);

''(B) lack of instruction in math; or

''(C) limited English proficiency.

''(6) SPECIFIC LEARNING DISABILITIES.—

''(A) IN GENERAL.—Notwithstanding section 607 of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension,

written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

''(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process which determines if a child responds to scientific, research-based intervention.

''(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

''(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

''(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments, and classroom-based observations, and teacher and related services providers observations; and

''(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

''(i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

''(ii) the present levels of academic achievement and related developmental needs of the child;

''(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

''(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

''(2) SOURCE OF DATA.—The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

''(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

''(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

''(A) shall notify the child's parents of—

''(i) that determination and the reasons for it; and

''(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

''(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

''(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section prior to graduation, and before determining that the child is no longer a child with a disability, only in instances where the IEP Team is not in agreement regarding the change in eligibility.

''(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

''(1) DEFINITIONS.—As used in this title:

''(A) INDIVIDUALIZED EDUCATION PROGRAM.—

''(i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

''(I) a statement of the child's present levels of academic achievement, including—

''(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

''(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

''(cc) until the beginning of the 2005–2006 school year, a description of benchmarks or short-term objectives, except in the case of children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives shall continue to be included;

''(II) a statement of measurable annual goals designed to—

''(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

''(bb) meet the child's other educational needs that result from the child's disability;

''(III) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

''(aa) to advance appropriately toward attaining the annual goals;

''(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

''(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

''(IV) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (III)(cc);

''(V)(aa) a statement of any individual appropriate accommodations in the administration of State or districtwide assessments of student achievement that are necessary to measure the academic achievement of the child consistent with section 612(a)(16)(A)(ii); and

''(bb) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

''(AA) why that assessment is not appropriate for the child; and

''(BB) how the child will be assessed consistent with 612(a)(16)(A);

''(VI) the projected date for the beginning of the services and modifications described in subclause (III), and the anticipated frequency, location, and duration of those services and modifications;

''(VII)(aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

''(bb) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

''(cc) beginning at least 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(l); and

''(VIII) a statement of—

''(aa) how the child's progress toward the annual goals described in subclause (II) will be measured; and

''(bb) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of the sufficiency of their child's progress toward the annual goals described in subclause (II).

''(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require—

''(I) that additional information be included in a child's IEP beyond what is required in this subsection; and

''(II) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

''(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

''(i) the parents of a child with a disability;

''(ii) a regular education teacher of such child, but such teacher shall not be required to attend a meeting or part of a meeting of the IEP Team involving issues not related to the child's participation in the regular education environment, nor shall multiple regular education teachers, if the child has more than one regular education teacher, be required to attend a meeting, or part of a meeting, of the IEP team;

''(iii) at least 1 special education teacher, or where appropriate, at least 1 special education provider of such child;

''(iv) a representative of the local educational agency who—

''(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

''(II) is knowledgeable about the general education curriculum; and

''(III) is knowledgeable about the availability of resources of the local educational agency;

''(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

''(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

''(vii) whenever appropriate, the child with a disability.

''(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

''(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

''(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

''(i) consistent with State policy; and

''(ii) agreed to by the agency and the child's parents.

''(3) DEVELOPMENT OF IEP.—

''(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

''(i) the results of the initial evaluation or most recent evaluation of the child;

''(ii) the academic and developmental needs of the child;

''(iii) the strengths of the child; and

''(iv) the concerns of the parents for enhancing the education of their child.

''(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

''(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

''(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

''(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

''(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

''(v) consider whether the child needs assistive technology devices and services.

''(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (1)(B)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).

''(D) IEP TEAM ATTENDANCE.—The parent of a child with a disability and the local educational agency may jointly excuse any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member's attendance is not necessary. The IEP Team shall obtain the member's input prior to an IEP meeting from which the member is excused.

''(E) AGREEMENT ON MEETING.—In making changes to a child's IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop a written document to amend or modify the child's current IEP.

''(F) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of IEP Team meetings for a child.

''(G) AMENDMENTS.—Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (E), by amending the IEP rather than by redrafting the entire IEP.

''(4) REVIEW AND REVISION OF IEP.—

''(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

''(i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

''(ii) revises the IEP as appropriate to address—

''(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

''(II) the results of any reevaluation conducted under this section;

''(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

''(IV) the child's anticipated needs; or

''(V) other matters.

''(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team, shall, consistent with this section, participate in the review and revision of the IEP of the child.

''(5) MULTI-YEAR IEP.—

''(A) DEVELOPMENT.—The local educational agency may offer to the parent of a child with a disability the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to cover the natural transition points for the child. With the consent of the parent, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the appropriate multi-year period, which includes a statement of—

''(i) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

''(ii) measurable annual goals for determining progress toward meeting the goals described in clause (i).

''(B) REVIEW AND REVISION OF MULTI-YEAR IEP.—

''(i) REQUIREMENT.—The IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP at each of the child's natural transition points.

''(ii) STREAMLINED ANNUAL REVIEW PROCESS.—In years other than a child's natural transition points, the local educational agency shall ensure that the IEP Team—

''(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and

''(II) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.

''(iii) COMPREHENSIVE REVIEW PROCESS.—If the IEP Team determines, on the basis of the review under clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team reviews the IEP under paragraph (4), within 30 calendar days.

''(iv) PARENTAL PREFERENCE.—At the request of the parent, the IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP rather than a streamlined annual review under clause (ii).

''(C) DEFINITION.—As used in this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-secondary activities, but in no case longer than 3 years.

''(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

''(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

''(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

''(i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(V) of this subsection (relating to participation of children with disabilities in general assessments).

''(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VII) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

''(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

''(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

''(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP team meetings and placement meetings pursuant to this section and 615, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.''.

SEC. 205. PROCEDURAL SAFEGUARDS.

(a) ESTABLISHMENT OF PROCEDURES.—Section 615(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(a)) is amended to read as follows:

''(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.''.

(b) TYPES OF PROCEDURES.—Section 615(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(b)) is amended to read as follows:

''(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

''(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain as appropriate an independent educational evaluation of the child;

''(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

''(3) written prior notice to the parents of the child whenever such agency—

''(A) proposes to initiate or change; or

''(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

''(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

''(5) an opportunity for mediation and voluntary binding arbitration, in accordance with subsection (e);

''(6) an opportunity to present complaints—

''(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

''(B) which set forth a violation that occurred not more than one year before the complaint is filed;

''(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

''(i) to the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and

''(ii) that shall include—

''(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;

''(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

''(III) a proposed resolution of the problem to the extent known and available to the parents at the time;

''(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and

''(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).''.

(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section 615(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(c)) is amended to read as follows:

''(c) CONTENT OF PRIOR WRITTEN NOTICE.—The notice required by subsection (b)(3) shall include—

''(1) a description of the action proposed or refused by the agency;

''(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

''(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

''(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.''.

(d) PROCEDURAL SAFEGUARDS NOTICE.—Section 615(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(d)) is amended to read as follows:

''(d) PROCEDURAL SAFEGUARDS NOTICE.—

''(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

''(A) upon initial referral or parental request for evaluation;

''(B) annually, at the beginning of the school year; and

''(C) upon written request by a parent.

''(2) CONTENTS.—The procedural safeguards notice shall include a description of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

''(A) independent educational evaluation;

''(B) prior written notice;

''(C) parental consent;

''(D) access to educational records;

''(E) opportunity to present complaints;

''(F) the child's placement during pendency of due process proceedings;

''(G) procedures for students who are subject to placement in an interim alternative educational setting;

''(H) requirements for unilateral placement by parents of children in private schools at public expense;

''(I) mediation, early dispute resolution, and voluntary binding arbitration;

''(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

''(K) civil actions; and

''(L) attorneys' fees.''.

(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—Section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)) is amended to read as follows:

''(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—

''(1) MEDIATION.—

''(A) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

''(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(i) The procedures shall ensure that the mediation process—

''(I) is voluntary on the part of the parties;

''(II) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

''(III) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

''(I) a parent training and information center in the State established under section 672; or

''(II) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

''(iii) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).

''(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(2) VOLUNTARY BINDING ARBITRATION.—

''(A) IN GENERAL.—A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j).

''(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(i) The procedures shall ensure that the voluntary binding arbitration process—

''(I) is voluntarily and knowingly agreed to in writing by the parties; and

''(II) is conducted by a qualified and impartial arbitrator.

''(ii) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final, unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator.

''(iii) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(iv) The arbitration shall be conducted according to State law on arbitration or, if there is no such applicable State law, in a manner consistent with the Revised Uniform Arbitration Act.

''(v) The voluntary binding arbitration shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.''.

(f) IMPARTIAL DUE PROCESS HEARING.—Section 615(f) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)) is amended to read as follows:

''(f) IMPARTIAL DUE PROCESS HEARING.—

''(1) IN GENERAL.—

''(A) ACCESS TO HEARING.—Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.

''(B) RESOLUTION SESSION.—

''(i) IN GENERAL.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents—

''(I) within 15 days of receiving notice of the parents' complaint; and

''(II) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint;

unless the parents and the local educational agency agree in writing to waive such meeting.

''(ii) DUE PROCESS HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).

''(iii) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (i) shall not be considered—

''(I) a meeting convened as a result of an administrative hearing or judicial action; or

''(II) an administrative hearing or judicial action for purposes of subsection (h)(3).

''(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

''(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

''(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

''(3) LIMITATION ON HEARING.—

''(A) HEARING OFFICER.—A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—

''(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

''(ii) any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

''(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues at the due process hearing that were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees otherwise.

''(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination of whether or not the child received a free appropriate public education.''.

(g) APPEAL.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by striking subsection (g).

(h) SAFEGUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (h) as subsection (g); and

(2) by amending subsection (g) (as redesignated) to read as follows:

''(g) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (j) shall be accorded—

''(1) the right to be represented by counsel and by non-attorney advocates and to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;

''(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

''(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

''(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(d)) (relating to the confidentiality of data, information, and records).''.

(i) ADMINISTRATIVE PROCEDURES.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) in subsection (h) (as redesignated)—

(A) in paragraph (1)—

(i) by striking ''IN GENERAL.—'' and all that follows through ''A decision made in a hearing'' and inserting ''IN GENERAL.—A decision made in a hearing'';

(ii) by striking ''(k)'' and inserting ''(j)'';

(iii) by striking ''subsection (g) and''; and

(iv) by striking subparagraph (B);

(B) in paragraph (2)(A), by striking ''subsection (f) or (k) who does not have the right to an appeal under subsection (g)'' and inserting ''subsection (f) or (j)''; and

(C) in paragraph (3), by amending subparagraph (C) to read as follows:

''(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—

''(i) IN GENERAL.—Fees awarded under this paragraph shall be based on rates determined by the Governor of the State (or other appropriate State official) in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

''(ii) NOTICE.—The Governor of the State (or other appropriate State official) shall make available to the public on an annual basis the rates described in clause (i).''.

(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (j) as subsection (i); and

(2) by amending subsection (i) (as redesignated) to read as follows:

''(i) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (j)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.''.

(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (k) as subsection (j); and

(2) by amending subsection (j) (as redesignated) to read as follows:

''(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

''(1) AUTHORITY OF SCHOOL PERSONNEL.—

''(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities).

''(B) ADDITIONAL AUTHORITY.—Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the local educational agency.

''(C) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) shall—

''(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

''(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.

''(2) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.

''(3) PARENT APPEAL.—

''(A) IN GENERAL.—If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.

''(B) AUTHORITY OF HEARING OFFICER.—If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including duration of the punishment, the hearing officer may determine whether the decision regarding such action was appropriate.

''(4) PLACEMENT DURING APPEALS.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

''(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

''(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

''(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

''(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

''(ii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

''(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern in writing about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

''(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

''(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

''(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

''(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

''(A) IN GENERAL.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

''(B) TRANSMISSION OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.''.

(l) RULE OF CONSTRUCTION.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesignating subsection (l) as subsection (k).

(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (m) as subsection (l); and

(2) by amending subsection (l) (as redesignated) to read as follows:

''(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

''(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

''(A) the public agency shall provide any notice required by this section to both the individual and the parents;

''(B) all other rights accorded to parents under this part transfer to the child;

''(C) the agency shall notify the individual and the parents of the transfer of rights; and

''(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

''(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.''.

SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

Section 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(1) by amending the heading to read as follows:

''SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.'';

(2) by redesignating subsections (a) through (c) as subsections (e) through (g), respectively; and

(3) by inserting before subsection (e) (as redesignated) the following:

''(a) FEDERAL MONITORING.—

''(1) IN GENERAL.—The Secretary shall monitor implementation of this Act.

''(2) FOCUSED MONITORING.—The primary focus of Federal monitoring activities shall be to improve educational results for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

''(b) INDICATORS.—

''(1) REQUIRED INDICATORS.—The Secretary shall examine relevant information and data related to States' progress on improving educational results for children with disabilities by reviewing—

''(A) achievement results of children with disabilities on State or district assessments, including children with disabilities taking State or district assessments with appropriate accommodations;

''(B) achievement results of children with disabilities on State or district alternate assessments;

''(C) graduation rates of children with disabilities and graduation rates of children with disabilities as compared to graduation rates of nondisabled children; and

''(D) dropout rates for children with disabilities and dropout rates of children with disabilities as compared to dropout rates of nondisabled children.

''(2) PERMISSIVE INDICATORS.—The Secretary also may establish other priorities for review of relevant information and data, including data provided by States under section 618, and also including the following:

''(A) PRIORITIES FOR THIS PART.—The Secretary may give priority to monitoring on the following areas under this part:

''(i) Provision of educational services in the least restrictive environment, including—

''(I) education of children with disabilities with nondisabled peers to the maximum extent appropriate;

''(II) provision of appropriate special education and related services;

''(III) access to the general curriculum with appropriate accommodations;

''(IV) provision of appropriate services to students whose behavior impedes learning; and

''(V) participation and performance of children with disabilities on State and local assessments, including alternate assessments.

''(ii) Secondary transition, including the extent to which youth exiting special education are prepared for post-secondary education, employment, and adult life, and are participants in appropriate transition planning while in school.

''(iii) State exercise of general supervisory authority, including effective monitoring and use of complaint resolution, mediation, and voluntary binding arbitration.

''(B) PRIORITIES FOR PART C.—The Secretary may give priority to monitoring on the following areas under part C:

''(i) Child find and public awareness to support the identification, evaluation and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral.

''(ii) Provision of early intervention services in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services in natural environments to meet the needs of individual children.

''(iii) Effective early childhood transition to services under this part.

''(iv) State exercise of general supervisory authority, including—

''(I) effective monitoring and use of other mechanisms such as complaint resolution;

''(II) implementation of mediation and voluntary binding arbitration; and

''(III) coordination of parent and child protections.

''(3) DATA COLLECTION AND ANALYSIS.—The Secretary shall review the data collection and analysis capacity of States to ensure that data and information is collected, analyzed, and accurately reported to the Secretary. The Secretary may provide technical assistance to improve the capacity of States to meet data requirements.

''(c) ADDITIONAL PRIORITIES.—

''(1) IN GENERAL.—The Secretary may develop additional priorities for monitoring the effective implementation of this Act.

''(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on any additional priority proposed under this part or part C.

''(3) DATE OF ENFORCEMENT.—The Secretary may not begin to enforce a new priority until one year from the date of publication of the priority in the Federal Register as a final rule.

''(d) COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall review State data to determine whether the State is in compliance with the provisions of this Act.

''(2) LACK OF PROGRESS.—If after examining data, as provided in section (b) or (c), the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary shall take one or more of the following actions:

''(A) Advise the State of available sources of technical assistance that may help the State address the lack of progress, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies. Such technical assistance may include—

''(i) the provision of advice by experts to address the areas of noncompliance, including explicit plans for ensuring compliance within a specified period of time;

''(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

''(iii) designating and using distinguished superintendents, principals, special education administrators, regular education teachers, and special education teachers to provide advice, technical assistance, and support; and

''(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

''(B) Direct the use of State level funds for technical assistance on the area or areas of unsatisfactory performance.

''(C) Each year withhold at least 20 but no more than 50 percent of the State's funds under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

''(3) SUBSTANTIAL NON-COMPLIANCE.—

''(A) INITIAL DETERMINATION.—When the Secretary determines that a State is not in substantial compliance with any provision of this part, the Secretary shall take one or more of the following actions:

''(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

''(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant.

''(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within one year.

''(iv) Recovery of funds under section 452 of the General Education Provisions Act.

''(v)(I) Withholding of payments under subsection (e).

''(II) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

''(B) CONTINUED NON-COMPLIANCE.—

''(i) SECRETARIAL ACTION.—If the Secretary has imposed special conditions on a grant under subparagraph (A)(ii) for substantially the same compliance problems for three consecutive years, and at the end of the third year the State has not demonstrated that the violation has been corrected to the satisfaction of the Secretary, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in clauses (iii) through (v) of subparagraph (A).

''(ii) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.''.

SEC. 207. ADMINISTRATION.

Section 617 of the Individuals with Disabilities Education Act (20 U.S.C. 1417) is amended to read as follows:

''SEC. 617. ADMINISTRATION.

''(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

''(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to—

''(A) the education of children with disabilities; and

''(B) carrying out this part; and

''(2) provide short-term training programs and institutes.

''(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction.

''(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

''(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

''(e) PILOT PROGRAM.—The Secretary is authorized to grant waivers of paperwork requirements under this part for a period of time not to exceed 4 years with respect to not more than 10 States based on proposals submitted by States for addressing reduction of paperwork and non-instructional time spent fulfilling statutory and regulatory requirements.

''(f) REPORT.—The Secretary shall include in the annual report to Congress under section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e)—

''(1) in reducing the paperwork burden on teachers, administrators, and related services providers and non-instructional time spent by teachers in complying with this part, including any specific recommendations for broader implementation; and

''(2) in enhancing longer-term educational planning, improving positive outcomes for children with disabilities, promoting collaboration between IEP Team members, and ensuring satisfaction of family members, including any specific recommendations for broader implementation.

''(g) MODEL FORMS.—Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate widely to States, local educational agencies, and parent training and information centers—

''(1) a model individualized education program form;

''(2) a model form for the procedural safeguards notice described in section 615(d); and

''(3) a model form for the prior written notice described in section 615(b)(3);

that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements.''.

SEC. 208. PROGRAM INFORMATION.

Section 618 of the Individuals with Disabilities Education Act (20 U.S.C. 1418) is amended to read as follows:

''SEC. 618. PROGRAM INFORMATION.

''(a) IN GENERAL.—Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

''(1)(A) on—

''(i) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

''(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

''(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

''(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

''(v) the number and percentage of children with disabilities, by race and ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

''(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

''(vii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

''(viii)(I) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;

''(II) the acts or items precipitating those removals;

''(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

''(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

''(ix) the number of complaints resolved through voluntary binding arbitration; and

''(x) the number of mediations held and the number of settlement agreements reached through mediation;

''(B) on the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and

''(C) on the number of children served with funds under section 613(f); and

''(2) on any other information that may be required by the Secretary.

''(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

''(c) DISPROPORTIONALITY.—

''(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

''(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

''(B) the placement in particular educational settings of such children; and

''(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

''(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be—

''(A) shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act;

''(B) shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

''(C) shall require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).''.

SEC. 209. PRESCHOOL GRANTS.

Section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1419) is amended to read as follows:

''SEC. 619. PRESCHOOL GRANTS.

''(a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part—

''(1) to children with disabilities aged 3 through 5, inclusive; and

''(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

''(b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State—

''(1) is eligible under section 612 to receive a grant under this part; and

''(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

''(c) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—The Secretary shall allocate funds among the States in accordance with paragraph (2) or (3), as appropriate.

''(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall—

''(I) allocate to each State the amount it received for fiscal year 1997;

''(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

''(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for fiscal year 1997; and

''(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

''(i) the amount it received for fiscal year 1997; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

''(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

''(d) RESERVATION FOR STATE ACTIVITIES.—

''(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

''(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

''(e) STATE ADMINISTRATION.—

''(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

''(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

''(1) for support services (including establishing and implementing the mediation and voluntary binding arbitration process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

''(2) for direct services for children eligible for services under this section;

''(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart; or

''(4) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

''(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

''(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

''(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

''(i) DEFINITION.—For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.''.

TITLE III—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 631 through 638 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1438) are amended to read as follows:

''SEC. 631. FINDINGS AND POLICY.

''(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

''(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

''(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

''(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

''(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

''(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

''(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

''(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

''(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

''(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

''(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

''SEC. 632. DEFINITIONS.

''As used in this part:

''(1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

''(2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641.

''(3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

''(4) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means developmental services that—

''(A) are provided under public supervision;

''(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

''(C) are designed to address family-identified priorities and concerns that are determined by individualized family service plan team to relate to enhancing the child's development in any one or more of the following areas—

''(i) physical development;

''(ii) cognitive development;

''(iii) communication development;

''(iv) social or emotional development; or

''(v) adaptive development;

''(D) meet the standards of the State in which they are provided, including the requirements of this part;

''(E) include—

''(i) family training, family therapy, counseling, and home visits;

''(ii) special instruction;

''(iii) speech-language pathology and audiology services;

''(iv) occupational therapy;

''(v) physical therapy;

''(vi) psychological services;

''(vii) service coordination services;

''(viii) medical services only for diagnostic or evaluation purposes;

''(ix) early identification, screening, and assessment services;

''(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

''(xi) social work services;

''(xii) vision services;

''(xiii) assistive technology devices and assistive technology services; and

''(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

''(F) are provided by qualified personnel, including—

''(i) special educators;

''(ii) speech-language pathologists and audiologists;

''(iii) occupational therapists;

''(iv) physical therapists;

''(v) psychologists;

''(vi) social workers;

''(vii) nurses;

''(viii) registered dietitians;

''(ix) family therapists;

''(x) vision specialists, including ophthalmologists and optometrists;

''(xi) orientation and mobility specialists; and

''(xii) pediatricians and other physicians;

''(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

''(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

''(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'—

''(A) means an individual under 3 years of age who needs early intervention services because the individual—

''(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

''(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

''(B) may also include, at a State's discretion, at-risk infants and toddlers; and

''(C) may also include, at a State's discretion, a child aged 3 through 5, who previously received services under this part and who is eligible for services under section 619, if—

''(i) services provided to this age group under this part include an educational component that promotes school readiness and incorporates scientifically based pre-literacy, language, and numeracy skills; and

''(ii) parents are provided a written notification of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs assisted under section 619.

''SEC. 633. GENERAL AUTHORITY.

''The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

''SEC. 634. ELIGIBILITY.

''In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—

''(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

''(2) has in effect a statewide system that meets the requirements of section 635.

''SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

''(a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:

''(1) A definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part.

''(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

''(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

''(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

''(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

''(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619 of this Act, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers.

''(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

''(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—

''(A) shall include—

''(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

''(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and

''(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and

''(B) may include—

''(i) training personnel to work in rural and inner-city areas; and

''(ii) training personnel in the emotional and social development of young children.

''(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services.

''(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

''(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

''(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

''(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

''(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

''(E) the resolution of intra- and interagency disputes; and

''(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

''(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

''(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

''(13) Procedural safeguards with respect to programs under this part, as required by section 639.

''(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

''(15) A State interagency coordinating council that meets the requirements of section 641.

''(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

''(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

''(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

''(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

''(c) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—

''(1) IN GENERAL.—If a State includes children described in section 632(5)(C) in the system described in section 633, the State shall be considered to have fulfilled any obligation under part

B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

''SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

''(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

''(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

''(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

''(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the child's entrance in school.

''(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

''(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

''(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

''(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

''(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

''(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the goals is being made and whether modifications or revisions of the goals or services are necessary;

''(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

''(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

''(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

''(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

''(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

''(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

''SEC. 637. STATE APPLICATION AND ASSURANCES.

''(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

''(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

''(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

''(3) information demonstrating eligibility of the State under section 634, including a description of services to be provided to infants and toddlers with disabilities and their families through the system;

''(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

''(5) a description of the State policies and procedures requiring the referral of a child under the age 3 who is involved in a substantiated case of child abuse or neglect consistent with section 635(a)(5) or who is born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication, or neonatal physical or neurological harm resulting from prenatal drug exposure;

''(6) a description of the uses for which funds will be expended in accordance with this part;

''(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

''(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

''(9) a description of the policies and procedures to be used—

''(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

''(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

''(ii) the lead agency designated or established under section 635(a)(10) will—

''(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

''(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

''(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

''(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

''(C) to establish a transition plan;

''(10) a description of State efforts to promote collaboration between Early Head Start programs, child care, and services under part C of this Act; and

''(11) such other information and assurances as the Secretary may reasonably require.

''(b) ASSURANCES.—The application described in subsection (a)—

''(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

''(2) shall contain an assurance that the State will comply with the requirements of section 640;

''(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

''(4) shall provide for—

''(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

''(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

''(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

''(A) will not be commingled with State funds; and

''(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

''(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

''(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

''(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

''(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

''(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

''(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

''(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

''(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

''(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

''(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

''SEC. 638. USES OF FUNDS.

''In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

''(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

''(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

''(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

''(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

''(A) identifying and evaluating at-risk infants and toddlers;

''(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

''(C) conducting periodic followup on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.''.

SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 641 through 645 of the Individuals with Disabilities Education Act (20 U.S.C. 1441–1445) are amended to read as follows:

''SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

''(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

''(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The council shall be composed as follows:

''(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

''(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

''(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

''(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

''(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

''(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

''(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

''(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

''(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

''(J) MENTAL HEALTH AGENCY.—At least one representative from the State agency responsible for children's mental health.

''(K) CHILD WELFARE AGENCY.—At least one representative from the State agency responsible for child protective services.

''(L) OFFICE OF THE COORDINATOR FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—At least one representative designated by the Office of the Coordinator.

''(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

''(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

''(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

''(e) FUNCTIONS OF COUNCIL.—

''(1) DUTIES.—The council shall—

''(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

''(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

''(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

''(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

''(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

''(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

''SEC. 642. FEDERAL ADMINISTRATION.

''Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

''(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

''(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''SEC. 643. ALLOCATION OF FUNDS.

''(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

''(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

''(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

''(b) PAYMENTS TO INDIANS.—

''(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

''(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total number of such children served by all tribes, tribal organizations, or consortia.

''(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

''(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for

parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make an annual report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

''(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

''(c) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

''(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

''(A) one-half of one percent of the remaining amount described in paragraph (1); or

''(B) $500,000.

''(3) RATABLE REDUCTION.—

''(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

''(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

''(4) DEFINITIONS.—For the purpose of this subsection—

''(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

''(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"SEC. 644. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $447,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.''.

TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended to read as follows:

"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

"SEC. 651. FINDINGS.

''The Congress finds the following:

''(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

''(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations, to develop and implement comprehensive strategies that improve educational results for children with disabilities.

''(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

''(4) An effective educational system serving students with disabilities should—

''(A) maintain high academic standards and clear achievement goals for children, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

''(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

''(C) promote transition services, as described in section 602(31), and coordinate State and local education, social, health, mental health, and other services, to address the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

''(5) The availability of an adequate number of qualified personnel is critical in order to serve effectively children with disabilities, fill leadership positions in administrative and direct-service capacities, provide teacher training, and conduct high-quality research to improve special education.

''(6) High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

''(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

''(8) Continued support is essential for the development and maintenance of a coordinated and high-quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

''(9) A comprehensive research agenda should be established and pursued to promote the highest quality and rigor in research on special education and related services, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

''(10) Technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

''(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

''(12) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

''(A) creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between such parents and schools, encouraging dispute resolution at the earliest point in time possible, and discouraging the escalation of an adversarial process between such parents and schools;

''(B) ensuring the involvement of such parents in planning and decision-making with respect to early intervention, educational, and transitional services;

''(C) achieving high-quality early intervention, educational, and transitional results for children with disabilities;

''(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

''(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 602(31);

''(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(G) supporting those parents who may have limited access to services and supports due to economic, cultural, or linguistic barriers.

''(13) Support is needed to improve technological resources and integrate technology into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

"Subpart 1—State Professional Development Grants

"SEC. 652. PURPOSE.

''The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for professional development in early intervention, educational, and related and transition services in order to improve results for children with disabilities.

"SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.

''(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a period of not less than 1 year and not more than 5 years.

''(b) PARTNERS.—

''(1) REQUIRED PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall enter into a partnership agreement with local educational agencies, at least one institution of higher education in the State, and other State agencies involved in, or concerned with, the education of children with disabilities.

''(2) OPTIONAL PARTNERS.—In addition, a State educational agency may enter into a partnership agreement with any of the following:

''(A) The Governor.

''(B) Parents of children with disabilities ages birth through 26.

''(C) Parents of nondisabled children ages birth through 26.

''(D) Individuals with disabilities.

''(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

''(F) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities.

''(G) The lead State agency for part C.

''(H) General and special education teachers, related services personnel, and early intervention personnel.

''(I) The State advisory panel established under part C.

''(J) The State interagency coordinating council established under part C.

''(K) Institutions of higher education within the State.

''(L) Individuals knowledgeable about vocational education.

''(M) The State agency for higher education.

''(N) The State vocational rehabilitation agency.

''(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

''(P) Other providers of professional development that work with students with disabilities.

''(Q) Other individuals.

''SEC. 654. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

''(2) STATE PLAN.—The application shall include a plan that addresses the State and local needs for the professional development of administrators, principals, teachers, related services personnel, and individuals who provide direct supplementary aids and services to children with disabilities, and that—

''(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965, as appropriate; and

''(B) is designed to enable the State to meet the requirements of section 612(a)(15) of this Act.

''(b) ELEMENTS OF STATE PLAN.—Each State plan shall—

''(1) describe a partnership agreement that—

''(A) specifies—

''(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

''(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

''(B) is in effect for the period of the grant;

''(2) describe how grant funds, including part B funds retained for use at the State level under sections 611(e) and 619(d), and other Federal funds will be used to support activities conducted under this subpart;

''(3) describe the strategies the State will use to implement the plan to improve results for children with disabilities, including—

''(A) how the State will align its professional development plan with the plans submitted by the State under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

''(B) how the State will provide technical assistance to local educational agencies and schools to improve the quality of professional development available to meet the needs of personnel that serve children with disabilities; and

''(C) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the achievement goals and indicators in section 612(a)(16);

''(4) describe, as appropriate, how the strategies described in paragraph (3) will be coordinated with public and private sector resources; and

''(5) include an assurance that the State will use funds received under this subpart to carry out each of the activities specified in the plan.

''(c) COMPETITIVE AWARDS.—

''(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

''(2) PRIORITY.—The Secretary may give priority to applications on the basis of need.

''(d) PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall evaluate applications under this subpart using a panel of experts who are qualified by virtue of their training, expertise, or experience.

''(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

''(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

''(e) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—

''(1) describe the progress of the State in implementing its plan;

''(2) analyze the effectiveness of the State's activities under this subpart and of the State's strategies for meeting its goals under section 612(a)(16); and

''(3) identify any changes in such strategies needed to improve its performance.

''SEC. 655. USE OF FUNDS.

''(a) IN GENERAL.—

''(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

''(A) PROFESSIONAL DEVELOPMENT.—

''(i) Carrying out programs that support the professional development of early intervention personnel, related services personnel, and both special education and regular education teachers of children with disabilities, such as programs that—

''(I) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development;

''(II) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965;

''(III) promote collaborative and consultive models of providing special education ad related services; and

''(IV) increase understanding as to the most appropriate placements and services for all students to reduce significant racial and ethnic disproportionality in eligibility, placement, and disciplinary actions.

''(ii) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

''(iii) Providing professional development activities that improve the knowledge of special education and regular education teachers concerning—

''(I) the academic and developmental needs of students with disabilities; and

''(II) effective instructional strategies, methods, and skills, use of challenging State academic content standards and student academic achievement standards, and use of State assessments, to improve teaching practices and student academic achievement.

''(iv) Providing professional development activities that—

''(I) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, related services personnel and paraprofessionals, concerning effective instructional practices;

''(II) provide training in how to teach and address the needs of students with different learning styles;

''(III) involve collaborative groups of teachers and administrators;

''(IV) provide training in methods of—

''(aa) positive behavior interventions and supports to improve student behavior in the classroom;

''(bb) scientifically based reading instruction, including early literacy instruction; and

''(cc) early and appropriate interventions to identify and help students with disabilities;

''(V) provide training to enable special education and regular education teachers, related services personnel, and principals to involve parents in their child's education, especially parents of low-income and limited English proficient children with disabilities; or

''(VI) train administrators and other relevant school personnel in conducting facilitated individualized education program meetings.

''(v) Developing and implementing initiatives to promote retention of highly qualified special education teachers, including programs that provide—

''(I) teacher mentoring from exemplary special education teachers, principals, or superintendents;

''(II) induction and support for special education teachers during their first 3 years of employment as teachers; or

''(III) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities improve their academic achievement.

''(vi) Carrying out programs and activities that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

''(I) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

''(II) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

''(B) STATE ACTIVITIES.—

''(i) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

''(I) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories;

''(II) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

''(III) special education and regular education teacher certification (including recertification)

or licensing requirements are aligned with challenging State academic content standards; and

''(IV) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students meet challenging State student academic achievement standards.

''(ii) Carrying out programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become highly effective special education teachers, such as individuals with a baccalaureate or master's degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

''(iii) Carrying out teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

''(iv) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

''(v) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

''(vi) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

''(vii) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

''(viii) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

''(ix) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for special education teachers.

''(x) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

''(xi) Coordinating with, and expanding, centers established under section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

''(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

''(A) shall, consistent with its partnership agreement under section 654(b)(1), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State plan under this subpart; and

''(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

''(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—

''(1) not less than 90 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(A); and

''(2) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

''(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

''SEC. 656. STATE GRANT AMOUNTS.

''(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

''(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(2) not less than $80,000, in the case of an outlying area.

''(b) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

''(1) the amount of funds available for making the grants;

''(2) the relative population of the State or outlying area; and

''(3) the types of activities proposed by the State or outlying area, including—

''(A) the alignment of proposed activities with paragraphs (14) and (15) of section 612(a);

''(B) the alignment of proposed activities with the plans submitted under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965; and

''(C) the use, as appropriate, of scientifically based research.

''SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

''Subpart 2—Scientifically Based Research; Technical Assistance; Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

''SEC. 661. PURPOSE.

''The purpose of this subpart is to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional results for children with disabilities.

''SEC. 662. ADMINISTRATIVE PROVISIONS.

''(a) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than section 663) in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted under subpart 1.

''(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on the plan.

''(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

''(4) REPORTS TO CONGRESS.—The Secretary shall annually report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 12 months after the date of the enactment of Improving Education Results for Children With Disabilities Act of 2003.

''(b) ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

''(A) A State educational agency.

''(B) A local educational agency.

''(C) A public charter school that is a local educational agency under State law.

''(D) An institution of higher education.

''(E) Any other public agency.

''(F) A private nonprofit organization.

''(G) An outlying area.

''(H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

''(I) A for-profit organization if the Secretary finds it appropriate given the specific purpose of the competition.

''(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

''(c) SPECIAL POPULATIONS.—

''(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

''(2) REQUIRED OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for either or both of the following activities:

''(A) Providing outreach and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

''(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant applicants meet the criteria established by the Secretary under this subpart.

''(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rulemaking procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

''(1) projects that address one or more—

''(A) age ranges;

''(B) disabilities;

''(C) school grades;

''(D) types of educational placements or early intervention environments;

''(E) types of services;

''(F) content areas, such as reading; or

''(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

''(2) projects that address the needs of children based on the severity or incidence of their disability;

''(3) projects that address the needs of—

''(A) low-achieving students;

''(B) underserved populations;

''(C) children from low-income families;

''(D) children with limited English proficiency;

''(E) unserved and underserved areas;

''(F) rural or urban areas;

''(G) children whose behavior interferes with their learning and socialization;

''(H) children with intractable reading difficulties; and

''(I) children in public charter schools;

''(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; and

''(5) any activity that is expressly authorized in this subpart or subpart 3.

''(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

''(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

''(A) involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project; and

''(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

''(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

''(A) to share in the cost of the project;

''(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

''(C) to disseminate such findings and products; and

''(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

''(f) APPLICATION MANAGEMENT.—

''(1) STANDING PANEL.—

''(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than section 663) that, individually, request more than $75,000 per year in Federal financial assistance.

''(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

''(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high-quality programs of personnel preparation;

''(ii) individuals who design and carry out scientifically-based research targeted to the improvement of special education programs and services;

''(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically-based research findings to improve educational and transitional results for children with disabilities;

''(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

''(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

''(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

''(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

''(viii) individuals with disabilities.

''(C) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years.

''(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

''(A) COMPOSITION.—The Secretary shall ensure that each subpanel selected from the standing panel that reviews applications under this subpart (other than section 663) includes—

''(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

''(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

''(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each subpanel that reviews an application under this subpart (other than section 663) shall be individuals who are not employees of the Federal Government.

''(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

''(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

''(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

''(g) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

''(h) MINIMUM FUNDING REQUIRED.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

''(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

''(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

''(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

''(2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

''(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

''SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established, in the Institute of Education Sciences established under section 111 of the Education Sciences Reform Act of 2002 (Public Law 107–279; 116 Stat. 1944) (hereinafter in this section referred to as 'the Institute'), the National Center for Special Education Research.

''(B) COMMISSIONER.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research (hereinafter in this section referred to as 'the Commissioner'). The Commissioner shall be appointed by the Director of the Institute (hereinafter in this section referred to as 'the Director') in accordance with section 117 of the Education Sciences Reform Act of 2002. The Commissioner shall have substantial knowledge of the Center's activities, including a high level of expertise in the fields of research and research management.

''(2) APPLICABILITY OF EDUCATION SCIENCE REFORM ACT OF 2002.—Parts A and E of the Education Sciences Reform Act of 2002, as well as the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134 of such Act, shall apply to the Secretary, the Director, and the Commissioner in carrying out this section.

''(b) COMPETITIVE GRANTS.—The Director shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to expand the fundamental knowledge and understanding of the education of infants, toddlers, and children with disabilities in order to improve educational results for such individuals, in accordance with the priorities determined under this section.

''(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include research activities—

''(1) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

''(2) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

''(3) to examine the special needs of preschool-aged children and infants and toddlers with disabilities, including factors that may result in developmental delays;

''(4) to investigate scientifically based related services and interventions that promote participation and progress in the general education curriculum;

''(5) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

''(6) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 1111(b)(2)(B);

''(7) to examine State content standards and alternate assessments for students with a significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate educational settings, and improved post-school results;

''(8) to examine the educational and developmental needs of children with high-incidence and low-incidence disabilities;

''(9) to examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

''(10) to improve reading and literacy skills for children with disabilities;

''(11) to examine and improve secondary and postsecondary education and transitional needs of children with disabilities;

''(12) to examine methods of early intervention for children with disabilities who need significant levels of support;

''(13) to examine universal design concepts in the development of assessments, curricula, and instructional methods as a method to improve educational results for children with disabilities;

''(14) to improve the professional preparation for personnel who provide educational and related services to children with disabilities, including children with low-incidence disabilities, to increase academic achievement of children with disabilities;

''(15) to examine the excess costs of educating a child with a disability and expenses associated with high-cost special education and related services; and

''(16) to examine the special needs of limited English proficient children with disabilities.

''(d) PLAN.—The National Center for Special Education Research shall propose to the Director a research plan, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, that—

''(1) is consistent with the priorities and mission of the Institute of Educational Sciences and the mission of the Special Education Research Center and includes the activities described in paragraph (3);

''(2) shall be carried out pursuant to subsection (c) and, as appropriate, be updated and modified; and

''(3) carries out specific, long-term research activities that are consistent with the priorities and mission of the Institute of Educational Sciences, and are approved by the Director.

''(e) IMPLEMENTATION.—The National Center for Special Education Research shall implement the plan proposed under subsection (d) to carry out scientifically valid research that—

''(1) is consistent with the purposes of this Act;

''(2) reflects an appropriate balance across all age ranges of children with disabilities;

''(3) provides for research that is objective and that uses measurable indicators to assess its progress and results;

''(4) includes both basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives;

''(5) ensures that the research conducted under this section is relevant to special education practice and policy;

''(6) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance as well as activities authorized under this part, the findings and results of education research conducted or supported by the National Center for Special Education Research; and

''(7) assist the Director in the preparation of a biennial report, as a described in section 119 of the Education Sciences Reform Act of 2003.

''(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require.

''SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.

''(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including regional resource centers and clearinghouses to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

''(b) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

''(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

''(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965;

''(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

''(4) identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

''(A) provide effective transitions between educational settings or from school to post school settings; and

''(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

''(5) demonstrating and applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

''(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

''(1) applying and testing research findings in typical service settings to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

''(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

''(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

''(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

''(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

''(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

''(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

''(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

''(A) to schools and agencies serving deaf-blind children and their families;

''(B) to programs and agencies serving other groups of children with low-incidence disabilities and their families;

''(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

''(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

''(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

''(10) disseminating information on how to reduce racial and ethnic disproportionalities identified under section 618.

''(d) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

''(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Evaluation and Regional Assistance established under the Education Sciences Reform Act.

''(f) APPLICATIONS.—

''(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract 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 may require.

''(2) STANDARDS.—To the maximum extent feasible, each applicant shall demonstrate that the project described in its application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

''(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

''SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

''(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities;

''(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children;

''(3) to encourage increased focus on academics and core content areas in special education personnel preparation programs;

''(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom;

''(5) to provide high-quality professional development for principals, superintendents, and other administrators, including training in—

''(A) instructional leadership;

''(B) behavioral supports in the school and classroom;

''(C) paperwork reduction;

''(D) promoting improved collaboration between special education and general education teachers;

''(E) assessment and accountability;

''(F) ensuring effective learning environments; and

''(G) fostering positive relationships with parents; and

''(6) to ensure that all special education teachers teaching in core academic subjects are highly qualified.

''(b) PERSONNEL PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, including activities for high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

''(A) Promoting activities undertaken by institutions of higher education, local educational agencies, and other local entities—

''(i) to improve and reform their existing programs, and to support effective existing programs, to prepare teachers and related services personnel—

''(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

''(II) to work collaboratively in regular classroom settings; and

''(ii) to incorporate best practices and scientifically based research about preparing personnel—

''(I) so they will have the knowledge and skills to improve educational results for children with disabilities; and

''(II) so they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or overidentification, of children as having a disability, especially minority and limited English proficient children.

''(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce shortages in personnel.

''(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

''(D) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams to improve results for children with disabilities, particularly within the general education curriculum.

''(E) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

''(F) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

''(G) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school board members to improve results for children with disabilities.

''(H) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

''(I) Developing and improving programs to train special education teachers with an expertise in autism spectrum disorders.

''(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing persons who—

''(i) have prior training in educational and other related service fields; and

''(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with low-incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

''(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low-incidence disabilities.

''(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with low-incidence disabilities through early intervention, educational, and transitional services.

''(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

''(E) Preparing personnel who provide services to deaf and hard-of-hearing children by providing direct language and communication access to the general education curriculum through spoken or signed languages, or other modes of communication.

''(F) Preparing personnel to be qualified educational interpreters, to assist children with low-incidence disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

''(3) DEFINITION.—As used in this section, the term 'low-incidence disability' means—

''(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

''(B) a significant cognitive impairment; or

''(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

''(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

''(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

''(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

''(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

''(e) APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract 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 may require.

''(2) IDENTIFIED STATE NEEDS.—

''(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

''(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the project.

''(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide assurances from one or more States that such States—

''(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities; and

''(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

''(f) SELECTION OF RECIPIENTS.—

''(1) IMPACT OF PROJECT.—In selecting recipients under this section, the Secretary shall consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

''(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

''(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

''(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

''(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

''(g) SERVICE OBLIGATION.—

''(1) IN GENERAL.—Each application for funds under subsections (b) and (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

''(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (d) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

''(h) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

''SEC. 666. STUDIES AND EVALUATIONS.

''(a) IN GENERAL.—

''(1) PROGRESS ASSESSMENT.—The Secretary shall, in accordance with the priorities determined under this section and in section 663, directly or through competitive grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

''(A) a free appropriate public education to children with disabilities; and

''(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

''(2) DELEGATION.—Notwithstanding any other provision of law, the Secretary shall designate the Director of the Institute for Education Sciences to carry out this section.

''(3) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support objective studies, evaluations, and assessments, including studies that—

''(A) analyze issues identified in the research agenda in section 663(d);

''(B) meet the standards in section 663(c); and

''(C) undertake one or more of the following:

''(i) An analysis of the measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies

through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

''(ii) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

''(iii) An assessment of educational and transitional services and results for children with disabilities from minority backgrounds, including—

''(I) data on—

''(aa) the number of minority children who are referred for special education evaluation;

''(bb) the number of minority children who are receiving special education and related services and their educational or other service placement;

''(cc) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

''(dd) the number of minority children who drop out of the educational system without a regular diploma; and

''(II) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students.

''(iv) A measurement of educational and transitional services and results of children with disabilities served under this Act, including longitudinal studies that—

''(I) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

''(II) examine educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.

''(v) An identification and report on the placement of children with disabilities by disability category.

''(b) NATIONAL ASSESSMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

''(A) to determine the effectiveness of this Act in achieving its purposes;

''(B) to provide timely information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

''(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

''(2) PUBLIC COMMENT.—

''(A) PLAN.—Not later than 12 months after the date of enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall publish in the Federal Register for public comment a comprehensive plan for developing and conducting the national assessment.

''(B) COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 30 days on such plan.

''(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the—

''(A) implementation of programs assisted under this Act and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable them to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

''(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

''(C) implementation of the professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

''(D) effectiveness of schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary in achieving the purposes of this Act by—

''(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

''(ii) improving the participation of children with disabilities in the general education curriculum;

''(iii) improving the transitions of children with disabilities at natural transition points;

''(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

''(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

''(vi) addressing the reading and literacy needs of children with disabilities;

''(vii) reducing the overidentification of children, especially minority and limited English proficient children, as having a disability;

''(viii) improving the participation of parents of children with disabilities in the education of their children; and

''(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including mediation and voluntary binding arbitration.

''(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

''(A) an interim report that summarizes the preliminary findings of the assessment not later than 30 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003; and

''(B) a final report of the findings of the assessment not later than 5 years after the date of the enactment of such Act.

''(c) ANNUAL REPORT.—The Secretary shall provide an annual report to the Congress that—

''(1) summarizes the research conducted under section 663;

''(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

''(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

''(4) describes the extent and progress of the national assessment; and

''(5) describes the findings and determinations resulting from reviews of State implementation of this Act.

''SEC. 667. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out sections 663, 664, and 666 $171,861,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out section 665 $90,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

''Subpart 3—Supports To Improve Results for Children With Disabilities

''SEC. 671. PURPOSES.

''The purposes of this subpart are to ensure that—

''(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services;

''(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

''SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

''(b) REQUIRED ACTIVITIES.—Each parent and community training and information center that receives assistance under this section shall—

''(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, including underserved parents and parents of children who may be inappropriately identified, to enable children with disabilities—

''(A) to meet developmental and challenging academic achievement goals that have been established for all children; and

''(B) to be prepared to lead productive independent adult lives to the maximum extent possible;

''(2) ensure that the training and information provided meets the needs of low-income parents and parents of children with limited English proficiency;

''(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

''(4) assist parents—

''(A) to better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

''(B) to communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention, transition services, and related services;

''(C) to participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

''(D) to obtain appropriate information about the range, type and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home;

''(E) to understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

''(F) to participate in activities at the school level which benefit their children;

''(5) assist parents in resolving disputes in the most expeditious way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the use of individualized education program facilitators and mediation and voluntary binding arbitration processes described in section 615(e);

''(6) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

''(7) network with appropriate clearinghouses, including organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

''(8) annually report to the Secretary on—

''(A) the number and demographics of parents to whom it provided information and training in the most recently concluded fiscal year; and

''(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

''(c) OPTIONAL ACTIVITIES.—A parent training and community and information center that receives assistance under this section may—

''(1) provide information to teachers and other professionals to assist them in improving results for children with disabilities; and

''(2) assist students with disabilities to understand their rights and responsibilities under section 615(l) on reaching the age of majority.

''(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

''(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

''(2) to work with community-based organizations, including those that work with low-income parents and parents of children with limited English proficiency.

''(e) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

''(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

''(f) QUARTERLY REVIEW.—

''(1) REQUIREMENTS.—

''(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

''(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

''(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

''(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that—

''(1) has a board of directors—

''(A) the majority of whom are parents of children with disabilities ages birth through 26;

''(B) that includes—

''(i) individuals working in the fields of special education, related services, and early intervention; and

''(ii) individuals with disabilities; and

''(C) the parent and professional members of which are broadly representative of the population to be served, including low-income and limited English proficient parents of children with disabilities; or

''(2) has—

''(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

''(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

''SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

''(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

''(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

''(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

''(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

''(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b);

''(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and

''(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

''(c) DEFINITION.—As used is this section, the term 'local parent organization' means a parent organization, as defined in section 672(g), that either—

''(1) has a board of directors the majority of whom are from the community to be served; or

''(2) has—

''(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

''(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

''SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

''(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities (as defined in section 662(b)), provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 672 and 673.

''(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

''(1) effective coordination of parent training efforts;

''(2) dissemination of scientifically based research and information;

''(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

''(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

''(5) including children with disabilities in general education programs;

''(6) facilitation of transitions from—

''(A) early intervention services to preschool;

''(B) preschool to elementary school;

''(C) elementary school to secondary school; and

''(D) secondary school to postsecondary environments; and

''(7) promotion of alternative methods of dispute resolution, including mediation and voluntary binding arbitration.

''SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

''(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities (as defined in section 662(b)) to support activities described in subsections (b) and (c).

''(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

''(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:

''(A) Conducting research on, and promoting the demonstration and use of—

''(i) innovative and emerging technologies for children with disabilities; and

''(ii) improved transfer of technology from research and development to practice.

''(B) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

''(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

''(D) Supporting the implementation of research programs.

''(E) Communicating information on available technology and the uses of such technology to assist children with disabilities.

''(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—In carrying out this section, the Secretary may support—

''(1) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

''(2) providing video description, open captioning, or closed captioning of television programs, videos, or other materials with an education-based content for use in the classroom setting when such services are not provided by the producer or distributor of such information, including programs and materials associated with new and emerging technologies such as CDs, DVDs, video streaming, and other forms of multimedia;

''(3) distributing materials described in paragraphs (1) and (2) through such mechanisms as a loan service; and

''(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.

''(d) APPLICATIONS.—Any eligible entity (as defined in section 662(b)) that wishes to receive a grant, or enter into a contract 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 may require. For purposes of subsection (c)(4), such entity shall—

''(1) be a national, nonprofit entity with a track record of meeting the needs of students with print disabilities through services described in paragraph (4);

''(2) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

''(3) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 674 $32,710,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out sections

672 and 673 $26,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.''.

SEC. 402. CONTINUATION OF FUNDING FOR COMMUNITY PARENT AND RESOURCE CENTERS.

Notwithstanding any other provision of law, the Secretary of Education is authorized to use amounts made available for a fiscal year to carry out subpart 3 of part D of the Individuals with Disabilities Education Act (as added by section 401) to continue to provide funding under grants made to, or contracts or cooperative agreements entered into with, local parent organizations under section 683 of such Act (as such section was in effect on October 1, 2002).

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–79. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 108–79.

AMENDMENT NO. 1 OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, pursuant to the rule, I offer Amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. CASTLE:

Strike sections 104 through 107 of the bill and insert the following (and conform the table of contents accordingly):

SEC. 104. GAO REPORTS.

(a) PAPERWORK STUDY.—

(1) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).

(b) DISABILITY DEFINITIONS.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(A) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms ''emotional disturbance'', ''other health impairments'', and ''specific learning disability''; and

(B) the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).

(c) DISTANCE LEARNING PROFESSIONAL DEVELOPMENT PROGRAMS.—

(1) STUDY.—The Comptroller General shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(d) LIMITED ENGLISH PROFICIENT CHILDREN WITH DISABILITIES.—

(1) STUDY.—The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(e) DEFINITION.—In this section, the term ''appropriate congressional committees'' means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

In section 611(a)(3) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''subparagraphs (A) and (B) of''.

In section 611(e)(3) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''4 percent'' and insert ''40 percent''.

In section 611(i)(2) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''$13,374,398,000'' and insert ''$13,574,398,000''.

In section 614(a)(1)(D)(i)(I) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), strike ''602(3)(A) or 602(3)(B)'' and insert ''602(3)''.

In section 614(b)(3)(A)(ii) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), strike '', to the extent practicable,''.

In section 614(b)(3)(A)(ii) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), add at the end before the semicolon the following: '', unless it is clearly not feasible to do so''.

Strike subparagraphs (B) and (C) of section 615(f)(3) of the Individuals with Disabilities Education Act (as amended by section 205(f) of the bill), and insert the following:

''(B) SUBJECT MATTER OF HEARING.—No party shall be allowed to raise issues at the due process hearing that were not raised in the complaint, discussed during the meeting conducted pursuant to paragraph (1)(B), or properly disclosed pursuant to paragraph (2), unless both parties agree otherwise.''.

In section 617(b) of the Individuals with Disabilities Education Act (as amended by section 207 of the bill), after ''content,'' insert ''academic achievement standards and assessments,''.

In section 665(c)(2) of the Individuals with Disabilities Education Act (as amended by section 401 of the bill), insert the following:

''(G) Preparing personnel who provide services to children with low-incidence disabilities with limited English proficiency.

In section 665(d)(2)(B) of the Individuals with Disabilities Education Act (as amended by section 401 of the bill), add at the end before the semicolon the following: '', including children with disabilities with limited English proficiency''.

In the matter preceding subclause (I) of section 666(a)(3)(C)(iii) of the Individuals with Disabilities Education Act, strike ''backgrounds, including'' and insert ''backgrounds or are limited English proficient, including''.

In items (aa) through (dd) of section 666(a)(3)(C)(iii)(I) of the Individuals with Disabilities Education Act, strike ''of minority'' each place it appears and insert ''of such''.

In section 666(a)(3)(C)(iii)(II) of the Individuals with Disabilities Education Act, strike ''children with disabilities from minority backgrounds'' and insert ''such children with disabilities''.

In section 675(c)(2) of the Individuals with Disabilities Education Act, strike ''videos, or other materials with an education based content for use in the classroom setting'' and insert ''videos or other materials that would be appropriate for use in the classroom setting, or news (until the end of fiscal year 2006),''.

Strike section 402 of the bill (and conform the table of contents accordingly).

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Nebraska (Mr. OSBORNE), the vice chairman of the Subcommittee on Education Reform.

Mr. OSBORNE. Mr. Chairman, as I have traveled my district, I hear a lot of concerns from teachers, administrators and parents, and the most common concerns that I have heard reflect on excessive paperwork and litigation.

This bill obviously addresses those. We attempt to streamline the administrative process. It provides for less legislation through arbitration.

The second major issue we have talked about a great deal here today is funding. I am convinced that the chairman of the committee, the subcommittee chairman and others, are fully committed to full funding of 40 percent within the next 7 years. The track record pretty much backs this up. In the last 8 years, we have seen a 300 percent increase in funding for IDEA. So we are very convinced that this full funding will occur.

The third issue I would like to address is over identification. We find that some schools have 40 to 50 percent of their student body identified as learning disabled, and, generally speaking, this is simply due to reading difficulties. So if we have adequate Head Start and early learning programs, we can eliminate this process.

Mr. Chairman, I urge support of the bill. It is a good bill, and I appreciate the chairman's offering it.

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

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

There was no objection.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

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

Mr. Chairman, we worked with the majority on this amendment. We do not oppose it, and would hope that it could be passed right now.

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

Mr. CASTLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first I appreciate the bipartisan support for the amendment. Secondly, I think it would be worth taking this 2 minutes to try to read what is actually in this amendment so we will know what we are voting for.

It is a technical amendment, it clarifies and consolidates a series of GAO reports that were added during the consideration of the bill by the Committee on Education and Workforce.

It redefines the percentage of funds that the State can reserve out of its State level activities for programs designed to serve children with disabilities with high cost, special education-related services needs to reflect the common understanding.

It updates authorization levels that were modified by the fiscal year 2004 budget resolution. This level reflects the increased funding in the fiscal year 2004 budget resolution included for IDEA Part B State Grants.

It clarifies that evaluations are provided to children in the language and form designed to obtain useful information and includes longstanding terminology used throughout the implementing regulations and elsewhere in the Act.

It modifies language in the section prohibiting the Federal control of curriculum to ensure that this exact language is included in the No Child Left Behind Act. This is an important change, by the way, that ensures consistent language addressing local control over the curriculum.

It revises language in the Part D programs to ensure that the needs of limited English-proficient children with disabilities are met through the training of school personnel and effective data collection.

It modifies the section regarding support for captioning programs to enable news programs to be captioned until 2006, which is when Federal Communications Commission requirements require all news programs to be captioned.

These amendments, Mr. Chairman, continue our well-balanced approach toward improving IDEA. As with the remainder of the bill, these improvements will result in improved services for students and improved achievement for students.

I urge my colleagues to adopt this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I rise in support of the text any California amendment, but opposing the bill.

I guess some people are wondering why I have concern about this legislation. Having my first two terms in Congress on the Committee on Education and Workforce, but also for many years as a State legislator in the State Senate in Texas on the Education Committee, it has been frustrating, both in Congress and as a legislator dealing with IDEA and the special-ed programs.

For more than a quarter of a century, the Individuals With Disabilities Education Act, IDEA, has helped countless disabled youth to complete their education and become contributing members of our society. I see it every day when I go home every weekend.

Although this program has succeeded in its efforts to ensure that all American children receive a free and appropriate public education, this Congress, and I am not talking about the majority Republican, I am talking about my first term when we were in the majority, although IDEA was not up for reauthorization, we failed to fully fund IDEA. This is my sixth term, and for five of those terms, as Democrats, we have not been in the majority, so somewhere along the way you are going to have to quit pointing back a decade ago and saying ''it is your all's fault.''

I am sure that almost every Member of Congress, at one point or another, expressed their support for full funding of IDEA. But when it comes down to putting our money where our mouths are, we once again come up short.

I know the frustration, because we see it in our schools, we see it on our State level, we see it with our parents, instead of requiring Congress to live up to the promise and fully fund the 40 percent of IDEA costs that we agreed to do originally, this legislation continues to leave the funding subject to the appropriations process.

Children with disabilities have a hard enough time making it in this world. We should not make them compete against all the other very worthwhile projects that we have. We should live up to the promise and provide mandatory funding for IDEA.

We also should not make it harder for students to receive their education by the provisions in this bill on discipline. I do not want somebody bringing guns or knives or scissors to school to hurt someone, but I also know we should not let minor infractions cause a student to be removed from an educational setting that works for them.

Mr. Chairman, I urge opposition to the bill and support for the amendment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

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

Mr. Chairman, I rise today in support of both this amendment and the underlying bill.

We all agree that we need to fully fund IDEA. This legislation will get us there sooner than ever before. We will be at 21 percent, over half of our promise, by 2004. We will reach full funding in 7 years.

But this bill contains more than financial matters. It makes it easier for parents and schools to meet to discuss the needs of a student. It frees teachers and administrators from a mountain of required paperwork that takes time away from their students.

Some parents have expressed concern over the 3-year Individualized Education Plan, or IEP. They are afraid that it may undermine their children's rights. I want to reassure them that this is simply an option. The parents must agree to a 3-year plan. Just like under current law, they can request a new IEP at any time.

Every single one of the due process rights parents have is continued under H.R. 1350. This bill will make special education work for all students.

Ms. WOOLSEY. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin (Mr. KIND), a member of the committee.

Mr. KIND. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY), my friend and the ranking member of the subcommittee, for yielding me this time and also for the work that she has put in with this important legislation. It has been invaluable. I also want to commend the gentleman from Delaware (Mr. CASTLE), my good friend, the chairman of the subcommittee, with the way he has conducted the process leading up to today's legislation, the outreach he has provided across the aisle and throughout the Nation looking for input on what I think is the most important piece of education legislation that we will be dealing with in this session of Congress. I do support the technical amendment before us right now.

This, Mr. Chairman, is an important piece of education legislation. It is about allowing children with special needs in our country to have access to quality education that the rest of our children now have. I think there was room for improvement on a variety of provisions. I think in a lot of respects this bill moves in the right direction to improving it: streamlining the IEP process, trying to reduce the paperwork burden, trying to increase some flexibility with regard to the disciplinary issues at the local level, and emphasizing the importance of professional development.

I especially appreciate the acceptance of a few amendments that I offered in committee during markup, one that does emphasize professional development and distance learning opportunities for our teachers and administrators, and one that calls for a GAO study that would encompass the entire country to determine what online materials are currently available for our teachers and administrators so that they can upgrade their skills.

But I especially appreciate a new provision that was accepted in committee that I offered that permits States to

establish and implement costs and risk-sharing funds, consortiums and cooperatives to assist students with severe disabilities. This is an area that is the fastest-growing area of education funding at the local level. Children who normally would not have survived to school age are surviving today because of the miracle of the advancement of medical research and technologies. But they are also bringing with them some exceptionally high costs that school districts have borne.

The amendment I put forward allows school districts to address these high-risk and exceptionally expensive students.

We do have to work much harder in this Congress, this year and the years ahead, to try to achieve the full funding which virtually every Member of this body is on record of supporting. I appreciate the fact that the majority party has a 7-year trend line to get to full funding on that. I am a little bit skeptical in regards to the institutional willingness and the willingness of the administration to make sure we achieve full funding. This is the granddaddy of unfunded mandates that our local school districts have been wrestling with since the creation of this bill back in the 1970s. We must do a better job so that we can stop pitting student against student in the classroom and end this controversy where it is merely a matter of political and institutional will to do what I think we all recognize must be done, and that is make sure the resources follow the rhetoric after today's debate. I am confident, in working again with the chairman of the subcommittee and others who are like-minded on this issue, that we are going to focus very closely in regard to the appropriation process and hold people to their word. Because if No Child Left Behind is any indication, I am skeptical that we are going to get there.

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

We have no further speakers, and I think we have 1 minute. I will just close by encouraging all of us to support the technical amendment. I do not think there is any disagreement about that, so we can go on to the other amendments.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–79.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, pursuant to the rule, 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. VITTER:

In section 104 of the bill—

(1) in subsection (a), by adding at the end the following new sentence: ''As part of such review, the Comptroller General shall include recommendations to reduce or eliminate the excessive paperwork burdens described in the preceding sentence.''; and

(2) in subsection (b), after ''Act,'' insert ''and once every 2 years thereafter,''.

The CHAIRMAN. Pursuant to House Resolution 206, 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.

I bring before the House an important amendment with regard to a central problem in IDEA and that is the excessive burden of excessive paperwork. I think there is great clarity and great consensus on this point that in the present system there is just too much paperwork required which drains resources and takes up the time of teachers who could otherwise be with students who need their help.

National surveys show that teachers of special needs students spend between a quarter and a third of each work week on regulatory compliance rather than education. That is ridiculous. Parents, overwhelmed by the system's complexity, often turn to IDEA lawyers for advice. That has become the norm rather than the exception. That is ridiculous. Teachers of special needs students always cite excessive paperwork and too many meetings as leading reasons for their decision to cease teaching special needs students, thus exacerbating a serious existing shortage of personnel. In fact, the National Association of Elementary School Principals supports dramatic paperwork reduction, saying that the proposals ''eliminate the dual-discipline system, streamline the due process system, and encourage professional development for principals.''

In light of this background, my amendment is very straightforward. It does two things. Number one, in part A of the GAO review section, it mandates that the review will include recommendations to reduce or eliminate the excessive paperwork burdens. Number two, in part B of that GAO report section, it requires that a GAO report be submitted 2 years after the date of enactment and resubmitted every 2 years. The benefit of this is very clear. We want a regular way to track progress and to demand progress on reducing this excessive paperwork burden.

So in those two simple, but important, ways, this amendment emphasizes the need to reform, streamline, and update the forms and requirements mandated on both teachers and parents.

Mr. Chairman, I would like to thank the committee for all of its hard work in bringing forward a very positive bill.

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

Mr. KIND. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

There was no objection.

Mr. KIND. Mr. Chairman, I yield myself such time as I may consume, only to say that we have no objection to this amendment.

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

Mr. VITTER. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I also want to thank him for his amendment.

I do not want to prolong this debate, because I am in agreement with the other two speakers. But I think it is important to understand the impact of paperwork and the meetings and the whole process of dealing with IDEA. There is not a person in this Chamber who does not wish to help children with disabilities to be educated. But part of the problem is that a lot of the teachers drop out of the system, a lot of them just cannot face all of the bureaucracy that goes along with it. I believe that the Vitter amendment moves strongly in the direction of making sure that we are providing oversight to that and doing that through a GAO report.

I might also, from a personal point of view, just say that I believe it is one of the reasons that I am happy that we do go through this reauthorization process every 5 or 6 years, which is necessary under the discretionary form of spending which we have. I think it is very, very important that we, as Members of Congress, do keep an eye on this. So I do support the amendment, and I encourage all of my colleagues to support it.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

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

Mr. VITTER. Mr. Chairman, I demand a recorded vote; and pending that, I make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108–79.

AMENDMENT NO. 3 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, pursuant to the rule, I offer amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BRADLEY of New Hampshire:

In section 611(e)(2)(A)(i) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill)—

(1) strike ''$500,000'' and insert ''$750,000''; and

(2) strike the parenthetical provision.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume.

There are two ways that States are able to administer IDEA requirements. One way is for States to have $500,000 of administrative funds as part of the grant that are capped, but with an inflation adjustment; or, alternatively, States are able to use up to 20 percent of that grant for administration purposes. However, small States such as mine, New Hampshire, generally do not qualify for this provision to be able to use the 20 percent figure because it is less than the $500,000.

This $500,000 cap, which was authorized as part of the reauthorization law in 1997, therefore places large administrative burdens on small States such as New Hampshire as the accountability standards of not only the Individuals With Disabilities Education Act, but also the No Child Left Behind law have increased. This increases costs to small States, federally mandated costs on States such as mine.

Some of the issues that are involved are greater accountability requirements, improving academic performance, expanded data collection, as well as fiscal accounting requirements.

What my amendment does is lift the cap from $500,000 to $750,000. Amendment No. 3 does not increase costs to the Federal Government, as there is nothing that mandates the expenditure of these funds. Rather, it allows States to spend up to this new cap, as needed, in order to comply with the accountability provisions of this law and the No Child Left Behind law as it affects special education.

So for that reason, Mr. Chairman, I urge my colleagues to support this amendment.

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

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

There was no objection.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume to say that we do not, on this side of the aisle, oppose the amendment.

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

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

The CHAIRMAN. The question is on the amendment offered by gentleman from New Hampshire (Mr. BRADLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 108–79.

AMENDMENT NO. 4 OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, pursuant to the rule, I offer amendment No. 4.

The CHAIRMAN. Is the gentlewoman from California the designee of the gentlewoman from California (Mrs. DAVIS)?

Ms. WOOLSEY. For the time being, yes.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WOOLSEY: In section 602(8)(C) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill), add at the end before the semicolon the following: ''that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum''.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from California (Ms. WOOLSEY), as the designee of the gentlewoman from California (Mrs. DAVIS), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WOOLSEY).

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

Amendment No. 4 would change the definition of a free appropriate public education, the language changed in the Supreme Court decision known as Rowley, which states that the goal of a child with disabilities is the same as all other children, to have educational and related services necessary for that child to access the general curriculum.

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

□ 1330

The CHAIRMAN. Does any Member seek time in opposition?

Mr. CASTLE. Although I do not oppose the amendment, Mr. Chairman, I ask to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Delaware (Mr. CASTLE) is recognized for the time in opposition.

There was no objection.

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

Mr. Chairman, we have had discussions on this, and it is our judgment that this is an amendment we should support. This clarifies what services are required to be provided by school districts. It specifies that the educational program and services provided under it must be reasonably calculated to provide an educational benefit that enables a child with a disability to access the general curriculum.

Children with disabilities should be provided instruction and services at public expense that meet the State's educational standards for the appropriate grade level that are reasonably calculated to enable the child to make progress in the general education curriculum and advance from grade to grade. That is what both No Child Left Behind and IDEA are really all about.

School districts have to provide the necessary services, but the act does not and should not require school districts to provide all services simply because a service exists that might have some benefit.

Essentially, this has been a matter of litigation, and it has been a matter of some interest. Our judgment is that the amendment encompasses improvements to IDEA. For that reason, I would encourage support for it.

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

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

For the purposes of legislative history, the intent of this amendment is to codify the interpretation of FAPE contained in the Supreme Court decision Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).

Mrs. DAVIS of California. Mr. Chairman, today Ms. WOOLSEY, as my designee, offered a very simple amendment to H.R. 1350, the Individuals with Disabilities Education Act. It does not change the law or the educational or related services that have long been provided in this act to each child with a disability—a free appropriate public education.

The language is simply designed to assure that when parents and teachers sit down at the table to craft an educational program appropriate for an individual child with a disability, everyone is on the same page about the goal.

The 18 words added to the definition are taken directly from an existing Supreme Court decision, Rowley, which provided controlling language on this issue. However, since most of us do not spend our time reading Supreme Court opinions, this places the language into the definition within the law, where it will be easily found. They are words that all of us can understand.

I want to share them with you. The phrase now reads that a ''free appropriate public education means special education and related services that'' are: Free—provided at public expense, under public supervision and without charge; meet the standards of the State education agency; and include an appropriate preschool, elementary, or secondary school education in the State involved. This amendment adds to that sentence the definition ''reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum.''

Educators of special-needs children who requested placement of these words in the law believe it will help them work with parents as part of the child's Individual Education Program teams to be able to test their proposals against a clear standard. It gives parents a tool to assure that school districts are not dumbing down the goals of education for their children as happened too often in the past. It enables all parties to look at the promise and make sure the child''s needs are served.

In response to questions from some Members, I would point out that this does not in any way change the results of that individual program as to whether the child is mainstreamed or not—only that the goal of the child's education is to access the curriculum content offered to all students.

During the long period of time during which the Education Committee members have been struggling with making this reauthorization of IDEA a better bill, there have been some key themes. Funding is, of course, one, including helping local school districts recover costs for non-educational expenses. Some of these issues need continued work as this bill moves ultimately to conference.

However, another theme has been reducing conflict which leads to expensive litigation over choosing the program that will best help the special needs student. I believe that this simple placement of existing language into the context of the definition will help achieve this goal of reducing conflict in providing an appropriate education to each child.

I urge your support of this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WOOLSEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 108–79.

AMENDMENT NO. 5 OFFERED BY MR. DEMINT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. DEMINT:

In section 612(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill, add at the end the following:

''(vii) PARENT OPTION PROGRAM.—If a State has established a program described in section 664(c)(11) (whether statewide or in limited areas of the State) that allows a parent of a child with a disability to use public funds to pay some or all of the costs of attendance at a public or private school—

''(I) funds allocated to the State under section 611 may be used to supplement those public funds, if the Federal funds are distributed to parents who make a genuine independent choice as to the appropriate school for their child;

''(II) the authorization of a parent to exercise this option fulfills the State's obligation under paragraph (1) with respect to the child during the period in which the child is enrolled in the selected school; and

''(III) a private school accepting those funds shall be deemed, for both the programs and services delivered to the child, to be providing a free appropriate public education and to be in compliance with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

In section 664(c)(9) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, strike ''and'' at the end;

In section 664(c)(10) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, strike the period at the end and insert ''; and''.

In section 664(c) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, add at the end the following:

''(11) supporting the post-award planning and design, and the initial implementation (which may include costs for informing the community, acquiring necessary equipment and supplies, and other initial operational costs), during a period of not more than 3 years, of State programs that allow the parent of a child with a disability to make a genuine independent choice of the appropriate public or private school for their child, if the program—

''(A) requires that the child—

''(i) have been determined to be a child with a disability in accordance with section 614;

''(ii) have spent the prior school year in attendance at a public elementary or secondary school unless the child was served under section 619 or part C during such year; and

''(iii) have in effect an individualized education program (as defined in section 614(d)(1)(A));

''(B) permits the parent to receive from the eligible entity funds to be used to pay some or all of the costs of attendance at the selected school (which may include tuition, fees, and transportation costs);

''(C) prohibits the selected school from discriminating against eligible students on the basis of race, color, or national origin; and

''(D) requires the selected school to be academically accountable to the parent for meeting the educational needs of the student.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from South Carolina (Mr. DEMINT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise today to ask for Members' consideration of my amendment to promote specialized education and to empower parents with children who have special needs.

I would like to thank the gentleman from Ohio (Chairman BOEHNER) and my colleagues on the Committee on Education and the Workforce for their hard work and determination in bringing this bill to the floor.

Mr. Chairman, I have concerns with special education today. Instead of meeting the needs of the children who are truly disabled, special education is becoming a label for every child that learns differently or has not been taught basic skills. Nearly one in eight of U.S. schoolchildren is currently considered disabled. As a result, education for truly disabled children is becoming less and less special.

My amendment permits States and encourages States to develop new, innovative systems that promote customization of special education. Giving States the flexibility to develop new and innovative approaches to serving the needs of disabled children will help those children receive the customized and truly special education that they deserve.

Children with special needs deserve education services that are customized to their unique needs. This legislation will ultimately provide parents with more resources and opportunities for their children with disabilities. I am confident my colleagues will support giving States the option to develop creative solutions to educating special needs children.

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

The CHAIRMAN. Does any Member seek to control time in opposition?

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the DeMint amendment.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for the time in opposition.

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

Mr. Chairman, I strongly oppose this amendment. Federal funds should not be used for private school vouchers for any children, but it is particularly dangerous to do this for children with disabilities.

Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is received.

When a special education child takes a voucher to a private school, all guarantees of rights under IDEA are lost. The McKay voucher program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if the parents are not happy with the education and services their child is receiving.

Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher, making it difficult or impossible for low-income parents to benefit from a voucher program.

Contrary to what people claim, vouchers do not increase parents' choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason, including the student's disability. So when it comes to vouchers, it is not the parents who have the choice; it is the private school. Whatever choices a private school makes, it does not have to let parents or the public know why.

Vouchers give private schools public taxpayer dollars, but the private schools are not held to any of the same standards of accountability that public schools are held to. Public schools must hold open meetings and make their test scores, dropout rates, and other basic information public. Private schools are subject to no public oversight.

Accountability to the child, to the parents, and to the public is the touchstone of IDEA, and also, supposedly, No Child Left Behind. We must not allow vouchers to jeopardize that accountability. I urge my colleagues to reject this amendment.

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

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague, the gentleman from South Carolina, for offering this amendment and congratulate him on his effort in promoting new and innovative ways to deal with children with special needs.

These children require the utmost in flexibility in their education; and the amendment before us encourages innovative options and provides States with much-needed flexibility.

The amendment would accomplish three goals. First, it encourages States to establish innovative solutions by providing seed money to develop new programs. Second, it answers the call of parents of children with disabilities to ensure that educational opportunities are not withheld and that States may choose to implement as much or as little flexibility as the State deems appropriate. Third, it allows States to use Federal dollars in flexible programs already utilizing State resources to provide services for children with special needs.

The amendment does not, as has been claimed by some critics, provide vouchers. It simply affords States the flexibility they are seeking to provide individualized options for students with disabilities.

This amendment is not a mandate in any way, shape, or form; but it makes new options available for States who choose, these are only for States who choose, to want to look at new options and new technology and more flexibility in terms of meeting the needs of special needs children, of all of their children in their State.

Each participating State must determine which approach and what type of program will best serve the children with disabilities in their State, including options such as public schools, charter schools, or private schools, whatever is in the best interests of the child. So children with disabilities today deserve every effort that can be made to provide them with a high-quality education, and their options and the options of the States should not be limited.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. CLYBURN).

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

Mr. Chairman, I rise in opposition to this amendment. Yesterday, it was choice. Today, it is options. Tomorrow, there is no telling what we will call it. But by whatever name we may call it, however we may cloak it, this is about vouchers.

I believe, Mr. Chairman, in innovations, but not innovations that supplant the due process clause of the United States Constitution. That is exactly what this amendment will accomplish.

Let us take, for instance, just the issue of choice, if I might use that term today. I know that the proponents of this amendment talk all the time about providing choice for parents and teachers. This amendment provides little choice for parents and students, but provides the ultimate choice to schools and administrators.

It allows these schools to cream, if I might use that term, off all of those children that may be a little bit disabled; but those children whose parents would like to have them participate who may be a little more disabled than the schools would like to tolerate, this amendment will allow those children to be rejected, and take away any choice or any option from those children to participate.

So, Mr. Chairman, I believe that it is in the best interests of public education and choice for parents that we reject this amendment.

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia (Mr. ISAKSON).

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

Mr. Chairman, it may have been about choice the other day, it may have been about options the other day; it is about children today. No lesser authority than the United States Supreme Court has authorized the portability of Federal funds for students with special education needs.

There is not a Member of this body that does not represent a State that does not have students whose tuition to private schools is paid in full under their eligibility because of IDEA and because the State determines that it cannot meet the needs of those children.

This is not about mandating choice to a parent. This is about giving the option of portability to a public school system that determines that might be necessary in a special ed case; for example, a student with severe hearing disability who goes on to an audio trainer in a rural system who might be able to serve a semester or a year in another institution to learn how to use that audio trainer; or a cerebral palsy student profoundly disabled and handicapped who, through assistive technology, may have the ability to learn how to function in the public school classroom.

Should we say no if a State makes that determination, and a parent chooses, to send most of the money which is theirs, the State's, to follow that student? I think not.

I understand the legitimate debate, and I understand the smokescreens; but I married a special education teacher. I worked all my life with handicapped children. I am not for blind programs that seem to fix things that do not; but I am 100 percent for the flexibility to address the uniquely specified needs, sometimes only temporarily, on behalf of a child who deserves the opportunity to enjoy the richness of life that every one of us without those disabilities enjoys right now in this House.

It is an effort to make a start. It is not a mandate; it is permissive. It is about children and their parents and a better life for both of them.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS), a member of the Committee.

Mrs. DAVIS of California. Mr. Chairman, I wanted to address for a moment the issue of accountability within the special education system.

I know when I was a board member in San Diego, I would hear repeatedly about how difficult it was in many cases to keep up without accountability. Yet we know that it is important.

I am pleased that during our discussion on this bill, that we talked about the need to reduce the paperwork and to find ways that we would be accountable, and yet we would make it reasonable and easier for our schools to respond and to address the needs of our children. I commend the chairman, the gentleman from Ohio (Mr. BOEHNER), for that work within the committee.

But please, we need to be careful that we not give up accountability when we suggest that any school would be able to deal with those issues. The people who work with special education in our communities and in our public school systems, they have been doing this for a long time.

□ 1345

They understand the importance of it and they make sure that it works for our children. I cannot imagine what it would be like to throw that open to a tuition system or a voucher system that really had little understanding of that.

Mr. DEMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me time and congratulate the chairman of the committee for bringing this piece of legislation forward.

I think the amendment that is being proposed by my colleague is important. It is an important amendment to the underlying legislation. We have made significant progress in the IDEA legislation, and this amendment would take it one step further. Currently, educational choice does exist under IDEA; but too often educational choice exists only for those parents who are wealthy enough to litigate to get their child placed somewhere else. With the important changes in this bill to reduce costly and needless litigation, we must restore to parents opportunities to ensure that their child receives the best education possible.

This amendment is very straightforward. It does not require anything. What it says is it will allow the State to use research and innovation dollars to research and develop new education systems for IDEA children that promote customization.

The intent here is very simple. Let us make sure we get the right program, the right resources, and the right skills necessary and match them with the child and allow the State the opportunity to experiment and innovate to move this process forward. This is a very, very good amendment. I hope that we have the opportunity to put this in place and let the States move forward and help all of our children.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, this amendment is a very bad idea. This law was built up about guaranteeing to these children and to their families that they would have certain rights that would provide them an access to a free and appropriate education in the least restrictive environment. And over the years we have built up a system of accountability to make sure that that education was, in fact, provided to these children.

Now we come along with this voucher amendment where immediately upon the exchange of money from the school district to the private school, or from the parent to the private school, those rights are eviscerated. Because this bill deems upon acceptance of the voucher that these children are getting a free and appropriate education. We do not know whether they will or not. If the children decide they are not and they come back to the public school system, does the school system get to bring some of the money back? Is the money stuck over there? Does the school system now have to pony up additional money to educate that child? I think the answer is yes, they do because they have an obligation.

The fact of the matter is these schools, they do not have to accept the child if the disability is too expensive. They do not have to accept the child. They get to pick and choose among the children. The public schools have to take the children as they come to give them a free and appropriate education. These schools do not have to be certified. They do not have to be qualified. They do not have to be State licensed.

What happens to the money? You just get to take this money, the taxpayers' money and not have these accountabilities. I can understand the desire; and, in fact, the law provides for parents who think their children can get a better education at a private school with special skills or special talents or a record of handling these children in the appropriate way. They can petition to go to these schools.

In 1997, we had so many people leaving the system that we said you cannot do that because you are sticking the school district for so much money. And there was no process, there was no determination whether or not this was a suitable placement. Now you can just opt out. If the parent is lucky and if the child is lucky and it works, fine. If it does not, the school district is out the money, the child is out the education, and we are back in the stew.

This is just an unacceptable amendment. Nobody is required to make adequate yearly progress with these children under Leave No Child Behind. There is no accountability under that. There is for the school. There is no accountability in this legislation. There is no accountability under, in many instances, State law. So I do not understand. The President, the Congress decided that we are going to build a system of accountability, and now, still, simply, you can opt out of that.

If students need supplemental services, your legislation provides for supplemental services without limit to provide for that child that is hearing impaired, that is sight impaired, where they can get additional services. I assume that is the purpose of the supplemental services. But this voucher goes far beyond that.

This voucher simply gives some level of scholarship to the parents to take. But that does not mean the parents will get into that school. They may settle for a school that does not quite provide those services. It turns out that does not work, and they are back in the public school system. Meanwhile, the public school system trying to hold on to a critical mass of people skilled to deal with the education of children with disabilities, finds out that the cost per service per child goes up.

Again, as we have seen in the McKay program, about 25 percent of these people go out into those things. They get their scholarships. They go to schools, and they are coming back. We do not know quite why yet they are coming back; but obviously as they come back to the public school system, they are more expensive than when they left.

There ought to be some screen to know that this, in fact, is going to enhance the children's education. We understand and deal with, all the time, parents who want another location for the child. That is not this system. This is just a wide open voucher system without any accountability. It ought to be rejected by the House.

The CHAIRMAN. All time has expired on the opposition side. The gentleman from South Carolina (Mr. DEMINT) is recognized.

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

The CHAIRMAN. The gentleman from South Carolina (Mr. DEMINT) has 2½ minutes.

Mr. DEMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Florida (Mr. PUTNAM).

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

Florida set an example for the rest of the Nation by creating a program giving parents of children with disabilities the choice they deserve. The John McKay Scholarship Program was put in place to increase parental choice by allowing the parents of children with disabilities who had been attending a public school that was not addressing their needs to decide where their child would excel the most, be it private or parochial. Currently in Florida, those scholarships are funded by the State.

In passing this amendment we would be able to reach more of the 374,000 students in Florida alone who are eligible for these scholarships. Today, over 9,000 students utilize these scholarships to receive the education they would otherwise not be afforded. Fifty percent of those students qualify for free and reduced lunch, a higher percentage of low-income students than in the general education population in Florida. Thanks to these scholarships, we are helping low income students receive services they deserve.

This amendment will allow States to participate if they wish, a chance to benefit from the program like the McKay Scholarship Program; a program, by the way, which has an 89 percent reenrollment rate by those parents who are satisfied with the choice that the McKay scholarship affords them.

Mr. Speaker, Florida has received very positive feedback from these parents and from the educational system, and the McKay scholarship continues to grow. Let us not turn our backs on these children who deserve these educational services and let us continue to help them achieve their goals.

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

Mr. Chairman, I appreciate the concerns of my colleagues on the other side of the aisle, but unfortunately they have apparently read the propaganda from the Teachers' Union rather than reading the legislation itself.

This legislation does not establish a voucher program. It establishes no program at all. It simply encourages the States to innovate in a way that will empower parents with more voluntary choices so that they can meet the needs of their kids. It allows States to expand the rights of parents with more choices, to expand the accountability by giving parents more voluntary options.

Mr. Chairman, this vote today is a vote to empower parents and to do what IDEA is supposed to do, and that is to provide personalized, customized services for children with special needs.

Mr. BACA. Mr. Chairman, I rise in opposition to the DeMint and Musgrave amendments. These are thinly veiled efforts to privatize special education in our public schools by means of vouchers.

Not only would vouchers divert much-needed funds from our public schools, but children with disabilities who attend private schools with these vouchers will be enrolled selectively and that is discriminatory.

The DeMint and Musgrave voucher amendments drain resources for special education costs. Under these amendments, federal funding for special education services for all disabled children would instead be siphoned off to pay for private school tuition. These amendments would take away Federal dollars from public schools, and place additional burdens on schools and communities to serve more children with less funds.

These voucher amendments would allow discrimination by private schools and fail to provide real parental choice. Worried mothers of disabled children from across the country have called my office concerned that this bill and these amendments will make it harder for them to educate their very dear and special children. These children ought not to be ignored because of their special needs. How can we justify to a mother of one of these beautiful children that their kid is not deserving of an adequate education?

No child with a disability would be entitled to go to a private school of their choice under the DeMint or Musgrave amendments. These voucher amendments give veto power to private schools. The schools choose which students they will accept, not the parents.

Children with multiple disabilities and those that require high cost services would likely be excluded from the program. Further, the DeMint voucher program will not pay the entire cost of tuition at a private school, meaning that some families could not afford for their disabled child to go to private school.

For these reasons and the fundamental unfairness of these amendments, I urge my colleagues to oppose these amendments that deprive our Nation's disabled from the education they deserve.

Mr. DEMINT. 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. DEMINT).

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

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House report 108–79.

AMENDMENT NO. 6 OFFERED BY MRS. MUSGRAVE

Mrs. MUSGRAVE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. MUSGRAVE:

In section 612(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill—

(1) redesignate clause (vi) as clause (vii); and

(2) insert after clause (v) the following:

''(vi) LOCAL EDUCATIONAL AGENCY OPTION.—A local educational agency may elect to fulfill its obligations under this subparagraph to children with disabilities enrolled by their parents in private elementary and secondary schools in the area served by the agency by offering certificates to all such parents for necessary special education and related services, if—

''(I) the certificates offered with respect to each child have an annual aggregate value that is equal to the lesser of—

''(aa) the per-pupil amount derived by dividing the proportionate share of Federal funds calculated under clause (i)(I) by the number of parentally-placed children with disabilities determined under clause (i)(II); and

''(bb) the actual cost of the necessary special education and related services for such child; and

''(II) the certificates may only be redeemed by the parents at eligible special education and related services providers, as determined by the local educational agency, that—

''(aa) provide information to the parents and such agency regarding the progress of the child as a result of the receipt of such services in a format and, to the extent practicable, a language that the parents can understand;

''(bb) meet all applicable Federal, State, and local health, safety, and civil rights laws;

''(cc) demonstrate that the provider has been lawfully operating as a business for not less than 1 year; and

''(dd) provide assurances to such agency that the provider is financially sound, is not in bankruptcy proceedings, and is not the subject of an investigation or legal judgment involving waste, fraud, or abuse on the part of the provider, or any employee of the provider, with respect to funds under the provider's control.

Clause (v)(II) shall not apply special education and related services furnished pursuant to such certificates. At the discretion of the local educational agency, and to the extent consistent with State law, State and local funds may be used to add to the value of such certificates.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from Colorado (Mrs. MUSGRAVE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this amendment that I am offering today is all about local control. It is all about meeting the needs of a group of children that is in private schools, special ed students that are there; and each one of us would certainly agree that we need to meet the needs of these students. Quite frankly, they are not being met today. Although these children generate funds and are in the count that the public school uses, the Federal dollars flow to the public school, and then these dollars very often do not reach the child in regard to purchasing the special services that they need.

This amendment would rectify that by giving the local school districts an option of issuing a certificate to the parents of these special ed students on an average amount of $1,400 so that the parents could purchase the services that these children need.

This makes great sense since we want to educate all children well. The children in public school have due process right with their parents.

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

Ms. WOOLSEY. Mr. Chairman, I rise in opposition to the Musgrave amendment and I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose this amendment. Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is actually received.

When a special education child takes a voucher to a private school, all guarantees and rights under IDEA are lost. The McKay Voucher Program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program gone wrong.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if parents are not happy with the education and services their children or their child is receiving. Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher making it difficult and usually impossible for low income parents to benefit from vouchers.

Contrary to what some people claim, vouchers do not increase parents' choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason including the student's disability. So when it comes to vouchers, it is not the parents who have the choice. It is the private school.

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

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Chairman, I rise in support of the amendment by the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mr. Chairman, it has been said that the States are the laboratories of the Nation. In Arizona at this time, when the special needs child comes into the public system, oftentimes the public system recognizes that they are not fully capable of meeting that special need at that time and they provide a certificate for that child to go to a private school or a private institution to meet that child's needs.

All the Musgrave amendment really does is to allow this same option, and I emphasize the word ''option,'' to be given to public schools in the context

of the IDEA legislation. This is not a Federal mandate. This is not what people call vouchers. This is simply an option for the local schools to do this. And in those cases where they do, it gives those parents the opportunity to direct the resources on behalf of their child.

Mr. Chairman, no one knows and loves these children more than these parents. Mr. Chairman, I thank the gentlewoman for offering such a noble amendment.

□ 1400

Ms. WOOLSEY. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) has 3 minutes remaining, and the gentlewoman from Colorado (Mrs. MUSGRAVE) has 3 minutes remaining.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PAYNE), a member of the committee.

Mr. PAYNE. Mr. Chairman, I stand in strong opposition to this amendment. Currently, IDEA guarantees every child with a disability a free and an appropriate public education. Diverting public funds to private and parochial schools through vouchers really undermines the public school system, and it undermines that guarantee that we have made to every youngster in this country. Vouchers would subsidize the enrollment of children in private schools that are not accountable nor subject to Federal civil rights laws.

Our Republican colleagues have pushed for accountability in education through the Leave No Child Behind Act; yet if this amendment passes, private schools would not be held to the same standards as public schools. We all know that. Public schools accept all children; but private and religious schools can and often do discriminate by rejecting students due to academic standards, disabilities, behavior problems, religious affiliations, and other criteria.

Public schools are simply that. They are public. Private and parochial are simply that. They are private and they are parochial. Under this amendment, private schools accepting voucher funds would not be required to recognize any of the parental rights contained within IDEA. It would be a step backwards.

We need to move forward in this new millennium. This is directly opposite to what IDEA was created to do, giving parents a voice in their children's education. Voucher programs will not pay for the entire cost; and, therefore, it would simply subsidize those. I strongly urge rejection of this amendment.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my colleague, the gentlewoman from Colorado, for yielding me this time.

I think this is an excellent amendment. Under current law, school districts are required to identify all children who have disabilities in a district, including private school children. All children. School districts are also obligated to provide special education and related services to these private school children as a group in an amount equal to the proportionate amount of Federal funds generated by these children to the district under IDEA.

Now, what does this mean? It means the school district receives a certain amount of dollars to provide services to these children. Under current law, however, no parentally placed private school child is entitled to individual services, even though the school district receives this money. The only requirement in the law is that the school's disabled population as a group must be helped.

In practicality, what this means is that many of the students who have been placed in a private or parochial school do not get the direct services specific to their needs; and when those services are available, they are often offered at times and at places that are inconvenient to the child's parents.

I support the Federal investment in meeting the education needs of all of our Nation's children with disabilities. Support this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me this time.

The arguments here are very similar to the previous amendment. One, it is a very bad idea in terms of policy and accountability and responsibility to these children, but it is also a bit of a hoax.

The idea that the parent can take the Federal share of the money, which the gentlewoman says is $1,400, maybe as high as $1,800, and go out and buy the same education they are going to get in the public school system for their children on the school-year basis, well, where does the rest of the money come from? At least if this bill had some intellectual integrity, it would say take all the money the school district is going to spend, take the $6,000 on a national average, give that to the parent and let them try to find this education.

Obviously, if the parent cannot come up with the additional money, they cannot provide for an education. Or if the child is severely disabled, this will not begin to cover those services. Remember, most of the people who go out to get these services end up suing the school district for those services and the school pays the whole amount. They pay $15,000, $20,000, $30,000, $40,000, or $50,000 because of the kind of intense services that these children need in order to qualify to get a free and appropriate education.

That is not what this amendment is about. This is just a shuck and a jive, that somehow you can go out and get these first-class services for a severely disabled child for $1,400. Again, the bill allows for, and I think it makes sense on one level, supplemental services. If $1,400 will buy the kind of services for a child that is moderately disabled or has a reading problem or something, and is labeled as disabled, fine, give them the supplemental services. But the notion someone can go out and buy an education for $1,400 is a hoax on the parents.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Chairman, this is one of the few times I have ever been accused of shucking and jiving. It is not usually what I do for a living.

The gentleman from California (Mr. GEORGE MILLER) has actually made a couple of points that reinforce the point of this amendment. It is absolutely true that school districts have come to us repeatedly and said we do not have enough money to meet the IDEA standards to do the individual development plans and to meet the needs of our special needs students. It is the biggest complaint coming out of every school district in the country.

If the schools actually are paying $6,000 to $7,000 a student, which sometimes, quite frankly, I think is not an accurate claim, then they should be the first ones lining up behind an amendment that says for $1,400 we are going to take $6,000 to $7,000 pressure off your school system. The opposition of those who say that they are against this because there is not enough money, the parent can choose to go to the school. If they cannot get the plan, then they do not get the money.

There are groups in this country, in private schools, who are willing, through churches and others, to put up money to try to address these types of needs. We as a Federal Government are prohibiting them from addressing it and prohibiting those parents from getting the opportunity to meet those needs.

The CHAIRMAN pro tempore (Mr. TERRY). The time of the opposition has expired, and the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. TANCREDO).

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

Currently, 7 percent of all students enrolled in Catholic schools are identified as disabled. Less than 1 percent of them get services. They generate $10 million in revenue for the schools in IDEA. The schools actually get about $78,000 out of that $10 million generated.

So when we talk about equity issues and we come to this floor to talk about the needs of all children, please consider the fact that these are children

also. They happen to be in a different setting. They happen to be in a school that is not a government school. But that should not determine whether or not they are served.

We have time and time again stood on this floor arguing about whether or not we are really talking about children in these bills that we pass for education or whether or not we are just simply trying to support a particular system, a particular way of educating children. Should our concern not simply be about the children? We hear that word bandied about, so often used to describe our motives here, but when it is a child other than the one the government runs, we say they do not deserve it.

This is a great amendment. I hope we support it.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE).

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

Ms. WOOLSEY. 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 Colorado (Mrs. MUSGRAVE) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 108–79.

AMENDMENT NO. 7 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, pursuant to the rule, I offer amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SHADEGG:

In section 204 of the bill, strike ''Section 614'' and insert ''(a) IN GENERAL.—Section 614''.

In section 204 of the bill, add at the end the following:

(b) FINDINGS; SENSE OF CONGRESS.—

(1) FINDINGS.—Congress finds the following:

(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.

(B) Nearly one in eight students is now labeled as disabled.

(C) Over one-half of those students are classified as having learning and behavioral challenges.

(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of ''emotional disturbance'', are vague and ambiguous.

(E) The absence of reliable methods for distinguishing children with a special learning disability from children who have lower than expected achievement leads to over-identification and misidentification of non-disabled students as students with disabilities.

(F) The lack of consistently applied diagnostic criteria for specific learning disabilities makes it possible to diagnose almost any low or underachieving child as a student with a disability.

(G) The President's Commission on Excellence in Special Education (PCESE) found in its July 1, 2002, report, ''A New Era: Revitalizing Special Education for Children and their Families'', that many of the current methods of identifying children with disabilities lack validity and, as a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

(H) The President's Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.

(I) According to testimony from a March 13, 2003, hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.

(J) Students with controllable behavioral problems are often classified as having learning disabilities and therefore are not held responsible for their own behavior.

(K) According to testimony by Secretary of Education Rod Paige on October 4, 2001, before the Committee on Education and the Workforce of the House of Representatives, our educational system fails to teach many children fundamental skills like reading, then inappropriately identifies some of them as having disabilities, thus harming the educational future of those children who are misidentified and reducing the resources available to serve children with disabilities.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) students who have not been diagnosed by a physician or other person certified by a State health board as having a disability (as defined under the Individuals with Disabilities Education Act) should not be classified as children with disabilities for purposes of receiving services under that Act; and

(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should be subject to the regular school disciplinary code.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Arizona (Mr. SHADEGG) and a Member in opposition each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the purpose of this sense of the Congress amendment is simple and straightforward. It is intended to direct IDEA funds to those kids most in need.

We have a problem in this program at the present time of overidentifying. It has been discussed in the literature. It was discussed in the testimony before the committee. Quite frankly, all too often, sadly, some children are identified as being qualified for this program, and resources are devoted to them, when they are not, in fact, truly disabled.

The purpose of this amendment is to express the sense of the Congress that these resources should go to the truly disabled kids. We do not amend the definition of disabled or mentally ill. We do not attack the definition. We accomplish that by simply saying that the determination of who qualifies to be in the program ought to be made by either a psychiatrist or a psychologist or someone licensed by a State medical board.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition, and I reserve the balance of my time.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

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

Mr. MURPHY. Mr. Chairman, I want to compliment the gentleman from Arizona (Mr. SHADEGG) on the attempts he is making in this amendment because I think it is critically important that we are working to define very carefully those who are going to do evaluations on children.

However, what I would like to suggest is that we continue to work on this, perhaps that we move it to conference and try to refine some of the wording. Because I think some of the aspects that deal with physicians or trying to carefully define who may do these evaluations I believe we will get some more mileage on. It has been an important distinction over the years that I myself, as a psychologist, having done hundreds of these evaluations, have struggled with in trying to come up with the exact way to define special education and learning disabilities and the right tests. It is an issue that the Congress has been dealing with for many years as well and one that I think really requires our continued attention.

So again I compliment the Members for working on this. I hope we can continue to work on this and try to refine some of these definitions so that we can get to this end perhaps by another means.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today to oppose this amendment, and let me just basically state the reason why.

We have in this country right now 4,000 young people who kill themselves every year in suicides. It is the third leading cause of death in this age group. We need to consider that two-thirds of young people who suffer from mental illness never even get help. Why? Because there is a stigma. People do not believe that there is any truth to mental illness.

While I am sure the gentleman who authored this amendment did not intend for the amendment to have this impact, what I worry about is that the impact of this amendment will be to further add to the stigma that exists towards people with mental illness by saying, basically all these kids really need is a good swift kick in the butt

and they ought to pull themselves up by their bootstraps.

The fact of the matter is we know that there are some serious emotional disturbances that these young people are facing. To suggest that teachers right now in the classroom, administrators and principals do not already know which children need special ed and which children do not, I think is using the heavy hand of Congress to micromanage what school districts are trying to do to help these children.

So I would just ask the Members of the House to take a good hard look at this amendment and to consider the ramifications of voting for this because I think there is an unintended effect of passing this amendment that will further stigmatize people with mental illness.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume to simply comment there is no intent to change the definition of mental illness nor to stigmatize in any way.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman from Arizona for yielding me this time.

As a Congress, we have a responsibility to not only fund special education but also to make sure the dollars spent on special education are targeted to the children who really need the extra assistance and learning. Each year, thousands of children are wrongly identified as needing special education while many others are not identified early enough or at all.

□ 1415

Mr. Chairman, this misidentification reduces the resources available to serve children who are actually disabled. Furthermore, it gives some children with controllable but negative behavior the ability to misbehave without fear of punishing.

H.R. 1350 takes important strides in addressing the problem of overidentification and the mislabeling of children with disabilities by way of prereferral services and early intervention strategies.

It also takes important strides in reforming current discipline procedures to make our schools safer for all of our children and teachers.

The Shadegg amendment supports the efforts of this legislation before us, and expresses a sense of Congress on reducing misidentification and ensuring that our schools are safe. I encourage Members to vote for this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Rhode Island (Mr. KENNEDY) because I think this amendment causes a great deal of trouble in terms of the questions of the stigma of people.

I have talked to an awful lot of parents who have great qualms about whether their children should be identified in special education programs, whether to try to get the child into the program when they know the child needs help or not because they are concerned about what that means in the future. We have struggled with this in the committee and on both sides of the aisle, this question of underidentification, overidentification, and of the illnesses that we should be treating in this setting.

I do not think that this language, and maybe it can be improved before the end of this process, but I do not think that this language is proper. It suggests that only a select number of people are fit to pass judgment on whether or not these children are eligible or not, and I think it does create a problem in terms of the question of mental disability and of special education. I hope that we would not agree to this amendment. I think it is very damaging on the front that we have tried to make some progress on with the public.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I would say to the gentleman from California (Mr. GEORGE MILLER), we are not too far off on what we want to do here. Perhaps the gentleman does not like the language exactly like it is, but I am also absolutely certain the gentleman does not want children placed on the disability list when they should not be if it takes away from other children. I think the gentleman from Arizona (Mr. SHADEGG) is doing the right thing. I am sorry it is just a sense of Congress. It should be changed language in this legislation.

The system is suffering. We are putting people in disability situations that are not, and that is harmful, I believe, to the system. There are those that are being wrongfully identified, and I do not know who should make that decision. A physician might be a good possibility. If others are, it might be a smart idea to make sure we are right about them and have people who are certified by the State health board.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, right now we have no child psychiatrists in this country because there is no reimbursement because we have a discriminatory health care system that does not acknowledge mental illness as a health matter at all. So how we expect a very, very limited number of people who are experts in this area to somehow begin to determine all of these caseloads, I think, is absolutely impractical, unless the gentleman would commit to me that he would work with us to get mental health parity passed so we can get more clinicians in the area of mental health.

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

Mr. Chairman, let me try to conclude this debate in the positive spirit in which it has gone forward. I would be happy to work with Members on the other side of the aisle. The gentleman from Rhode Island said there are no child psychologists in America. I believe that is a misstatement. There are many I know, and work with some in Arizona. I would yield to the gentleman to correct that statement.

Mr. KENNEDY of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Obviously the gentleman understood what I was saying. There are hardly any. Ask any of your friends, and they will say there is a fraction of a percent in this country.

Mr. SHADEGG. Mr. Chairman, reclaiming my time, I understand the point. There are many.

But the point of the debate is that the goal of this sense of Congress amendment is, in fact, to direct the resources that we have for disabled children to those disabled children, and to make sure that we are putting into the program those kids, those young people, those children in our schools most in need. The reality is this is an incredibly important program that I take great pride that the Republican Congress has funded at an exceedingly higher level than it was in the past, but those resources need to go to the children most in need. I urge Members to support it.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I would like to work with the gentleman to see us be more constructive with our funds. We know there are a lot of ways to identify children that are going to have emotional disturbances and learning disabilities as a result early on before they get put into special education. This Congress and others ought to be focusing more on putting in intervention services for those children. That is where I think our attention should be, not unintentionally making mental illness a stigma.

The CHAIRMAN pro tempore (Mr. TERRY). All time has expired.

The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG).

The amendment was agreed to.

It is now in order to consider amendment No. 8 printed in House Report 108–79.

AMENDMENT NO. 8 OFFERED BY MR. TANCREDO

Mr. TANCREDO. 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. TANCREDO:

Strike subparagraph (A) of section 602(27) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill) and insert the following:

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence and not based on subjective criteria.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

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

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

Much of the debate over this particular amendment, I think, we have actually heard over the previous amendment. It goes to the same issue, although this is not a sense of Congress, this is an amendment to the bill. It is designed specifically for the purpose of trying to identify those children who are truly in need of the services that we appropriate money for here, and distinguish them from those children who are not, but who are placed into these programs in ever-greater numbers, thereby diluting the pool of resources available to serve children who are truly in need.

This is a problem which has been with us since the beginning of this program. It was hoped it would be addressed in the reauthorization. That did not happen. The reauthorization does, in fact, what the gentleman from Rhode Island (Mr. KENNEDY) was asking for a minute ago, and that is emphasize early identification, and I am all for that. I do not believe that will change the problem.

If children are being misidentified today, they will be misidentified earlier. That is the real problem, misidentification, not the time at which it happens. The problem is with it intrinsically.

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

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the Tancredo amendment.

The CHAIRMAN pro tempore. The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

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

Mr. Chairman, this amendment restricts local schools' methods of identifying students as having learning disabilities by redefining the language ''specific learning disability'' as a disorder ''due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence.''

Learning disabilities are not simply a medical condition that can only be determined by a doctor. Current definition includes disorders with psychological processes which have severe impact on learning and behavior. The Tancredo amendment creates a new and very narrow medical condition definition that would actually keep children from getting the special education services that they need, and they need those services so they can learn and be successful in school.

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

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I rise today to talk about a very important issue, and that is overidentification and misidentification of children with suspected learning behavioral disabilities. If schools misdiagnose a child, it not only affects their report card, but it affects their future. We need to make sure that the right children receive special education.

The Tancredo-Graves amendment seeks to address this problem which is driving up the cost of IDEA and putting misdiagnosed kids into special needs programs. The majority of kids with disabilities are medically diagnosed and, therefore, receive special education services. Children with learning and behavioral disorders should be no different.

The bottom line is if a child has a medical disability, whether it be physical, mental, learning or behavioral, it should be diagnosed and have a medical opinion from a medical professional in order to receive the same special education services as those children that are medically diagnosed.

The Tancredo-Graves amendment would protect parents, and most importantly, it would protect children from being labeled with a disability that they may not have.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, this committee has struggled long and hard over many years to try and reduce litigation in this legislation. I think we have a magnet here in terms of litigation. And I also think because the definition of ''medically detectable and diagnosable physiological condition,'' I am not quite sure how we are going to comply with that in the number of conditions that children have. The number of means by which we now diagnose children I am not sure fit within that definition. By the same token, I suggest that does not mean that they are not properly enrolled in these programs and do not have a disability that requires special attention in terms of their ability to get an education. I think this is a really bad amendment, and I would urge Members to oppose it.

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, let me rise to support this amendment. This language really needs to go to conference. It needs to be in the bill. There are too many people placed in special education that should not be in special education, and that harms the system and it also harms those that should be in special education and the dollars that flow to them. All I am saying is let us put the right people in special ed, and those that should not be there not be there.

This amendment was read earlier stating, ''The term 'specific learning disability' means a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence,'' and then the reading stopped. The important part of this language is, and I continue, ''and not based on subjective criteria.'' I do not know that part was not read out, but that is the part that is so important because that is why so many people are in special education that should not be in special education. I urge Members to pass this and we will get into conference and talk further.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

□ 1430

Mr. KENNEDY of Rhode Island. Mr. Chairman, the problem we have in this country right now is not that there are too many people who are overidentifying themselves as having mental illness; it is that it is too few people. And the notion that people are readily just going in there and saying, oh, my child is disabled or I have a mental illness, you have got to be kidding me. Two thirds of those who need the help are not getting it, and if my colleagues think that the people who really are going to be at the lower-end socioeconomic levels are going to be able to go to a doctor, pay for it to try to get identified so they can get this program, who do they think is going to get it under their bill? I will tell them who. People with health insurance and money. They are the only ones who are going to be able to afford to see a doc to get this designation. In addition to that, this mentally detectable and diagnosable, physiological condition, that has got stigma and stereotype written all over it. It is language that is basically for those who are concerned about this issue, code language for discrimination against people with mental illness; and that is a fact. And my colleagues can talk to anyone who leads any mental health organization in this country, NAMI, National Alliance for the Mentally Ill, any of those, and they will say this language here plays upon the age-old stereotype of people with mental illness. And I urge my colleagues to reject this amendment.

Mr. TANCREDO. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. MURPHY).

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

Mr. MURPHY. Mr. Chairman, I believe the Member is headed in an important direction in terms of identifying a better way of evaluating children. And speaking as the only Member of this Chamber who has done hundreds of these tests, I would like to say medical doctors for the most part do not have the training or the tools to do these evaluations. We need to pursue a clearer definition. I am absolutely in agreement on that, but I am not sure this is the correct way to do this. Even the best neurologists, M.D., can say if brain tissue is malformed or damaged; but they cannot say if the brain is functioning properly and therefore give some explanation or diagnosis of such concerns as Asperger's, autism, or dyslexia at this time.

The CHAIRMAN pro tempore (Mr. TERRY). The gentlewoman from California has 1 minute. The gentleman from Colorado has 1½ minutes.

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

I would like to repeat that this amendment creates a very narrow medical condition definition, and it would keep children from getting the special education services they need to learn and to be successful in school.

Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, once again I would just say, as my good friend has just said, the reason that doctors are not trained in identifying mental illness is that we still are living in a country where mental illness is not regarded as part of the body. In other words, brains are not considered an organ of the body currently in this country for purposes of insurance. So why should we be surprised when there are not any doctors out there who can have the training to do this? What the gentleman is doing is not helping us. It is hurting us. So I would just ask my colleagues once again please vote ''no'' on the Tancredo amendment.

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

The dictionary definition of physiological psychology, a branch, by the way, of physiology, is that it is concerned with the relationship between the physical functioning of an organism and behavior. So I am quite sure that this definition will cover the kinds of folks, the kinds of problems that my colleague from the other side of the aisle has brought to our attention. It is certainly not my intention to discriminate against them. It is simply my intention to make sure that only the children who need help, be it physical or mental, get that help, and they are now being refused that help. We cannot get them into the program. We cannot give them the help they need because of the many kids who are there who should not be there. I sat through many processes that were designed. As a teacher, I sat through the process designed to determine which kids should go into special ed and which kids should not, and I will tell my colleagues everything in that process is designed to push the kid in. Everybody around that table is usually there to say yes, including the parent, who does want an excuse. More often than not, they do want an excuse for the problems they are having, and a lot of problems are behavioral. There are all kinds of kids in our classrooms today who are there in IDEA classrooms and handicapped education because their IQ does not fit their achievement level. But that is not necessarily a handicap and should not be a definition of a handicapping condition. We have title I for this kind of thing. That is the problem, too many put there subjectively. It is not an attempt to discriminate between mental or physical handicap one iota. I assure my colleagues I have a personal concern about those issues. I assure them.

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 Colorado (Mr. TANCREDO).

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

Ms. WOOLSEY. 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 Colorado (Mr. TANCREDO) will be postponed.

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. 2 offered by the gentleman from Louisiana (Mr. VITTER), amendment No. 5 offered by the gentleman from South Carolina (Mr. DEMINT), amendment No. 6 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE), and amendment No. 8 offered by the gentleman from Colorado (Mr. TANCREDO).

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

AMENDMENT NO. 2 OFFERED BY MR. VITTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 printed in House Report 108–79 offered by the gentleman from Louisiana (Mr. VITTER) 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 vote was taken by electronic device, and there were—ayes 413, noes 0, not voting 21, as follows:

[Roll No. 150]

AYES—413

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
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
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
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
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
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)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
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)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt

Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
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
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
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)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Becerra
Cannon
Combest
Dooley (CA)
Dreier
Foley
Frost
Gephardt
Honda
Jackson-Lee (TX)
Kingston
Lampson
McCarthy (MO)
Otter
Owens
Renzi
Rogers (AL)
Slaughter
Snyder
Tiahrt
Whitfield

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

□ 1457

Mr. NADLER and Ms. LINDA T. SÁNCHEZ of California changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. LAMPSON. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted ''aye.''

Mr. FOLEY. Mr. Chairman, on rollcall No. 150, I was at the White House for a bill signing. Had I been present, I would have voted ''aye.''

Mr. ROGERS of Alabama. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted ''aye.''

Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall No. 150, the Vitter amendment regarding the GAO study on IDEA paperwork, I was unavoidably detained in a business meeting.

If I had been able to be present, I would have voted ''aye'' on rollcall No. 150.

Mr. OTTER. Mr. Chairman, unfortunately I missed the vote on the Vitter amendment to H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. Had I been present I would have voted for the amendment.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

AMENDMENT NO. 5 OFFERED BY MR. DEMINT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. DEMINT) 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 182, noes 240, not voting 12, as follows:

[Roll No. 151]

AYES—182

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walsh
Wamp
Weldon (FL)
Weller
Wicker
Wolf
Young (AK)

NOES—240

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burr
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Ford
Frank (MA)
Frost
Gerlach
Gonzalez
Gordon
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Houghton
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
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)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
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
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—12

Becerra
Combest
Dreier
Gephardt
Honda
Kingston
McCarthy (MO)
Owens
Slaughter
Snyder
Whitfield
Wilson (SC)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1507

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

Mr. SWEENEY 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. WILSON of South Carolina. Mr. Chairman, on rollcall No. 151, had I been present, I would have voted ''aye.''

AMENDMENT NO. 6 OFFERED BY MRS. MUSGRAVE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 printed in House Report 108–79 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) 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 176, noes 247, not voting 11, as follows:

[Roll No. 152]

AYES—176

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Bono
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kline
Kolbe
LaHood
Latham
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Murphy
Musgrave
Myrick
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Putnam
Radanovich
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—247

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Burr
Capito
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)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Graves
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Houghton
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Knollenberg
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Rodriguez
Rogers (MI)
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shuster
Simmons
Simpson
Skelton
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Becerra
Combest
Dreier
Gephardt
Honda
Kingston
McCarthy (MO)
Owens
Slaughter
Snyder
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1514

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1515

AMENDMENT NO. 8 OFFERED BY MR. TANCREDO

The CHAIRMAN pro tempore (Mr. TERRY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) 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 54, noes 367, not voting 13, as follows:

[Roll No. 153]

AYES—54

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bilirakis
Blunt
Brown (SC)
Buyer
Cannon
Collins
Crenshaw
Cubin
Culberson
Deal (GA)
Doolittle
Duncan
Everett
Flake
Franks (AZ)
Graves
Greenwood
Gutknecht
Hastings (WA)
Hefley
Hensarling
Hostettler
Istook
Jenkins
Jones (NC)
King (IA)
Linder
Manzullo
Moran (KS)
Musgrave
Nethercutt
Norwood
Otter
Paul
Pence
Pitts
Ramstad
Rohrabacher
Royce
Ryun (KS)
Shadegg
Stearns
Tancredo
Taylor (MS)
Taylor (NC)
Tiahrt
Toomey
Wamp
Wicker

NOES—367

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper

Costello	John	Peterson (MN)
Cox	Johnson (CT)	Peterson (PA)
Cramer	Johnson (IL)	Petri
Crane	Johnson, E. B.	Pickering
Crowley	Johnson, Sam	Platts
Cummings	Jones (OH)	Pombo
Cunningham	Kanjorski	Pomeroy
Davis (AL)	Kaptur	Porter
Davis (CA)	Keller	Portman
Davis (FL)	Kelly	Price (NC)
Davis (IL)	Kennedy (MN)	Pryce (OH)
Davis (TN)	Kennedy (RI)	Putnam
Davis, Jo Ann	Kildee	Quinn
Davis, Tom	Kilpatrick	Radanovich
DeFazio	Kind	Rahall
DeGette	King (NY)	Rangel
Delahunt	Kirk	Regula
DeLauro	Kleczka	Rehberg
DeLay	Kline	Renzi
DeMint	Knollenberg	Reyes
Deutsch	Kolbe	Reynolds
Diaz-Balart, L.	Kucinich	Rodriguez
Diaz-Balart, M.	LaHood	Rogers (AL)
Dicks	Lampson	Rogers (KY)
Dingell	Langevin	Rogers (MI)
Doggett	Lantos	Ros-Lehtinen
Dooley (CA)	Larsen (WA)	Ross
Doyle	Larson (CT)	Rothman
Dunn	Latham	Roybal-Allard
Edwards	LaTourette	Ruppersberger
Ehlers	Leach	Ryan (OH)
Emanuel	Lee	Ryan (WI)
Emerson	Levin	Sabo
Engel	Lewis (CA)	Sanchez, Linda T.
English	Lewis (GA)	
Eshoo	Lewis (KY)	Sanchez, Loretta
Etheridge	Lipinski	Sanders
Evans	LoBiondo	Sandlin
Farr	Lofgren	Saxton
Fattah	Lowey	Schakowsky
Feeney	Lucas (KY)	Schiff
Ferguson	Lucas (OK)	Schrock
Filner	Lynch	Scott (GA)
Fletcher	Majette	Scott (VA)
Foley	Maloney	Sensenbrenner
Forbes	Markey	Serrano
Ford	Marshall	Sessions
Fossella	Matheson	Shaw
Frank (MA)	Matsui	Shays
Frelinghuysen	McCarthy (NY)	Sherman
Frost	McCollum	Sherwood
Gallegly	McCotter	Shimkus
Garrett (NJ)	McCrery	Shuster
Gerlach	McDermott	Simmons
Gibbons	McGovern	Simpson
Gilchrest	McHugh	Skelton
Gillmor	McInnis	Smith (MI)
Gingrey	McIntyre	Smith (NJ)
Gonzalez	McKeon	Smith (TX)
Goode	McNulty	Smith (WA)
Goodlatte	Meehan	Solis
Gordon	Meek (FL)	Souder
Goss	Meeks (NY)	Spratt
Granger	Menendez	Stark
Green (TX)	Mica	Stenholm
Green (WI)	Michaud	Strickland
Grijalva	Millender-McDonald	Stupak
Gutierrez		Sullivan
Hall	Miller (FL)	Sweeney
Harman	Miller (MI)	Tanner
Harris	Miller (NC)	Tauscher
Hart	Miller, Gary	Tauzin
Hastings (FL)	Miller, George	Terry
Hayes	Mollohan	Thomas
Hayworth	Moore	Thompson (CA)
Herger	Moran (VA)	Thompson (MS)
Hill	Murphy	Thornberry
Hinchey	Murtha	Tiberi
Hinojosa	Myrick	Tierney
Hobson	Nadler	Towns
Hoeffel	Napolitano	Turner (OH)
Hoekstra	Neal (MA)	Turner (TX)
Holden	Ney	Udall (CO)
Holt	Northup	Udall (NM)
Hooley (OR)	Nunes	Upton
Houghton	Nussle	Van Hollen
Hoyer	Oberstar	Velazquez
Hulshof	Obey	Visclosky
Hunter	Olver	Vitter
Hyde	Ortiz	Walden (OR)
Inslee	Osborne	Walsh
Isakson	Ose	Waters
Israel	Oxley	Watson
Issa	Pallone	Watt
Jackson (IL)	Pascrell	Waxman
Jackson-Lee (TX)	Pastor	Weiner
	Payne	Weldon (FL)
Janklow	Pearce	Weldon (PA)
Jefferson	Pelosi	Wexler
Wilson (NM)	Woolsey	Young (AK)
Wilson (SC)	Wu	Young (FL)
Wolf	Wynn	

NOT VOTING—13

Becerra	Kingston	Snyder
Combest	McCarthy (MO)	Weller
Dreier	Owens	Whitfield
Gephardt	Rush	
Honda	Slaughter	

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1523

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 9 printed in House Report 108–79.

AMENDMENT NO. 9 OFFERED BY MR. KIRK

Mr. KIRK. Mr. Chairman, I offer amendment No. 9.

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

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. KIRK:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF CONGRESS RELATING TO SAFE AND DRUG-FREE SCHOOLS.

(a) FINDINGS.—Congress finds the following:

(1) Providing children with disabilities with a safe, productive, and drug-free learning environment is a laudable goal for our Nation's schools.

(2) Schools are a refuge for students, not a place where drugs and violence are to be tolerated.

(3) Every child with a disability in the Nation deserves access to a quality education, including a safe and drug-free learning environment.

(4) Local educational agencies, school boards, schools, teachers, administrators, and students all have a responsibility to keep school facilities, including lockers, drug-free.

(5) Random searches of student lockers to seize any illegal drugs or drug paraphernalia has been known to work as an effective method to address the problem of such drugs and paraphernalia. The time of day in which lockers are to be searched should be left to the discretion of the local educational agency.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that safe and drug-free schools are essential for the learning and development of children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Illinois (Mr. KIRK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. KIRK).

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

Mr. Chairman, I rise today to commend the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Mr. CASTLE) for their hard work and dedication to improving our Nation's special education system.

I also want to thank Sage Lansing of my staff for her work on this issue.

Mr. Chairman, this issue of our education system is very important. I had raised an issue of Impact Aid for our military men and women in a conflict that is just ending today, and I hope and pray that the committee takes up that issue at another time.

But I am here to talk about protecting the most vulnerable students in our schools. My amendment before the House recognizes that special education students face various challenges throughout their school day, and not the least of which are the dangers posed by drugs on school property.

My amendment recommends, but does not mandate, that random locker searches are an effective way of reducing the severity of the drug problem in a particular school. The decision to employ this technique is left to the discretion of each school administrator.

Two high schools in my district, Libertyville High School and Vernon Hills High School, have conducted locker searches which have been hailed by parents, students, and staff as an effective and necessary method for indicating to students that the use of and sale of drugs on school property is not to be tolerated. These searches are a proactive technique that will hopefully discourage students from using or selling drugs in school.

A U.S. Supreme Court case entitled New Jersey v. T.L.O. in 1985 set the precedent that school searches fall under the fourth amendment's reasonableness standard. The majority Court opinion said: ''Striking the balance between schoolchildren's legitimate expectations of privacy and a school's equally legitimate need to maintain an environment in which learning can take place requires some easing of the restrictions in which searches by public authorities are ordinarily subject. Thus, school officials need not obtain a warrant before searching a student who is their authority.''

The goal of this amendment is not to infringe upon a student's right to privacy; rather, it is intended to protect the entire school community from the dangers and health problems associated with the use and sale of illegal drugs.

I urge my colleagues to express their support for safe and drug-free schools by supporting the amendment.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

There was no objection.

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

Mr. Chairman, I support the amendment.

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

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I would like to thank the gentleman for his amendment.

As chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, few things are as important as trying to maintain order and safety in our schools.

This is a particular opportunity to point out what has been a current interest and the personal interest of the director of SAMSA, Charles Curry, on looking at co-occurring disorders.

Increasingly, we are seeing the narcotics traffickers, particularly in urban centers but also in schools and elsewhere, prey upon the most vulnerable population in this country: those people who have various disabilities. We are seeing in many of the public housing areas now, not only in the United States but around the world, the vulnerability of this population to marketing and aggressive sales.

I think that the point that this amendment makes, that one of the things that keeps our schools safer for these vulnerable students is to make sure that the illegal narcotics stay out of the schools, is very important. We need to have this resolution passed.

I commend the gentleman from Illinois (Mr. KIRK) for calling attention to the specific problem of drugs in schools, but also to the co-occurring disorders that are such a challenge in our society.

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

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), the ace of the House.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of this amendment. I thank the gentleman for the caring amendment.

Both my daughters have gone through public school, and most of the Members here have done the same thing. We know that a war on terrorism is a war on drugs, as well.

If one is a mother with a child with special needs, or a child in a mainstream, drugs are a problem. A hearing-impaired child that sells cocaine in my opinion should be held accountable, because it has nothing to do with the actual disability.

This bill goes beyond that. It protects our schools. It makes sure that our schools and our lockers are free not just from drugs but from weapons.

□ 1530

We have seen Columbine and we have seen other issues that have occurred and this helps solve that problem. We spoke yesterday in a bipartisan way about Peter Yarrow and ''Don't Laugh at Me.'' All of these issues are put in place to protect our students and our children, and I commend the gentleman.

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

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Illinois (Mr. KIRK).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 10 printed in House Report 108–79.

AMENDMENT NO. 10 OFFERED BY MR. MCKEON

Mr. MCKEON. 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. 10 offered by Mr. MCKEON:

In section 611(f) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill), add at the end the following:

''(4) SPECIAL RULE FOR INCREASED FUNDS.—

''(A) IN GENERAL.—If the amount available for allocations to States under subsection (d)(1) for a fiscal year is equal to or greater than the amount allocated to States for fiscal year 2003, then each State may retain not more than the amount of funds it had reserved under subsection (e)(1)(B) for fiscal year 2003.

''(B) EXCEPTION.—In any fiscal year in which the percentage increase of the amount available for allocations to States under subsection (d)(1) is equal to or greater than the rate of inflation, each State may increase its allocation under subsection (e)(1)(B) by the amount allowed under subsection (e)(4)(B), for the sole purpose of making grants under subsection (e)(4)(A).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from California (Mr. MCKEON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON).

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

Mr. Chairman, I rise to offer an amendment to H.R. 1350, the Improving Education for Children with Disabilities Act of 2003 which will make dramatic improvements to the Nation's special education law.

The amendment that I, along with my colleague, the gentlewoman from California (Ms. WOOLSEY) am offering would amend current law to require that any additional increases in Federal spending above fiscal year 2003 levels be passed down directly to the local level.

Over the past 2 years, the State of California has substituted additional Federal education money for State funds, in most cases to mask the budget deficit. In effect, the State has used Federal dollars as the soul source of increase in special education over the last 2 years, allowing the State to spend the expected increase in Federal dollars to the State on other programs.

In 2003, the State of California received an increase of $151.5 million in Federal funding to go towards educating special needs kids, and in 2004, the State is slated to receive an increase of $82.8 million. This level is likely to be significantly higher for my State if Congress provides the significant increases in special education funding called for in the budget resolution.

Unfortunately, California school children have not seen the benefits of increase in the Federal Government. While this practice may not violate any law, I believe it violates the intent of our recent efforts to increase Federal education funding and is harmful to our Nation's school children.

In a Contra Costa Times article that appeared in February 2002, Sandy Harrison, spokesman for the State finance department, said ''the governor substituted the new Federal funds for State funds because it was a tough budget year.''

Even though the redirection of funds in California was only supposed to be for one year, the State has decided once again to use the Federal money to replace State funding for special education. Of additional concern is that this practice is no longer limited to only the State of California. The States of Kansas, Iowa and Oregon are contemplating similar efforts to retain Federal funding at the State level instead of sending it down to the local level where it can make the most difference.

Over the last few months and even during consideration of the bill by the House Committee on Education and the Workforce, we tried many avenues to deal with this concern. Unfortunately, most were unworkable and would have been difficult to administer.

The one alternative that is easy to administer and immediately solves the problem is to mandate that any additional Federal funding above fiscal year 2003 be distributed straight to the local education agencies.

The McKeon/Woolsey amendment has the strong support of teachers and local school officials, those on the front lines in California who want to ensure that children with disabilities receive the quality education they deserve. For example, the L.A. County Office of Education which serves as the Nation's largest regional education agency, assisting 81 school districts, serving 1.6 million students, responsible for serving 10,000 children with physical and mental disabilities said that this amendment will help us meet our responsibility to provide the highest quality education to our children by ensuring that funding reaches the local level where it is most needed.

They go on to say that the amendment enhances our Nation's investment in the future of our children and the attainment of our dreams and aspirations. By passing H.R. 1350, Congress moves closer to following through on a commitment made over 27 years ago to families and their children with special needs. If States are allowed to usurp Federal funds that are intended to supplement, not replace State funding, this commitment will never be realized.

Special needs children in my State cannot afford to be stripped of this desperately needed funding. Therefore, I am offering this amendment so that

the unprecedented level of funding offered by Congress is not diluted because of States unwillingness to make special education funding a priority.

Mr. Chairman, I urge my colleagues to support the amendment.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment, but I do not oppose it.

The CHAIRMAN pro tempore. Without objection, the gentlewoman is recognized for 5 minutes.

There was no objection.

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

Mr. Chairman, there is strong bipartisan support for the McKeon/Woolsey amendment, amendment No. 10, because it guarantees that from now on, all increases in Federal IDEA funds go to local schools where they belong.

My Republican colleague and I came together to offer this amendment because we want to make certain that State do not use Federal increases in IDEA funds to solve their State budget problems. We are aware of at least 4 States, including our own California, that may be considering using IDEA funding increases at the State level for other purposes.

While we all here in this room are sympathetic to State budget problems, we agree that IDEA funding must not be used to solve those problems. The McKeon/Woolsey amendment ensures this will not happen by prohibiting States from keeping increases in IDEA funds for their own use.

Whenever I talk to the educators in my local school districts, the first thing they bring up is IDEA, and the first thing they bring up about IDEA is funding. As we all know, the Federal government has a long way to go to fully fund the Federal share of IDEA. It is our local school districts who fulfill the responsibility of providing every child with a free and appropriate public education. And it is these school districts, not the States, who must benefit from federal IDEA funds.

Local schools desperately need every penny of Federal IDEA funds, and the McKeon/Woolsey amendment makes sure that they get them. I encourage my colleagues to vote aye on the McKeon/Woolsey amendment.

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

Mr. MCKEON. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I have spent 12 years in this body, both in the authorization and the Committee on Appropriations. My sister-in-law is in charge of all special education in San Diego city schools. She works for Alan Bersin. And what he has stated that he has got two basic problems. One is that it is improper to say that the governor is taking Federal education money and cutting IDEA. What he is doing is reducing the State funds for IDEA and the Federal funds are supposed to go above that to enhance the IDEA funding, and the governor is doing that to balance his budget. This amendment prevents that.

There is much more that we could do in this body. I wish that we could reduce the maximum amount of paperwork. In California it is unbelievable. I wish we could cap lawyer fees, and put the money directly towards students. We cannot do all of those things. We do not have the votes on some of these issues. But this one is not only very thoughtful, and I would like to thank the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. MCKEON), it is not only thoughtful, but it is needed to protect the funds that we have appropriated in a bipartisan way for IDEA.

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

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108–79.

AMENDMENT NO. 11 OFFERED BY MR. NETHERCUTT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. NETHERCUTT:

In section 635(a)(16)(B) of the Individuals with Disabilities Education Act (as proposed to be amended by section 301 of the bill), add at the end before the period the following: ''or in a setting that is most appropriate, as determined by the parent and the individualized family service plan team''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. NETHERCUTT).

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

Mr. Chairman, the amendment that I propose today is intended to expand the service opportunities available to young children under IDEA in an appropriate facility or facilities in conjunction with a parent and the best recommendations of the individualized family service plan team. It is an expansion of services available to children, not a contraction under IDEA.

The reason for this amendment is for the following purposes: In my district of Spokane, Washington, eastern Washington, the City of Spokane, we have a great facility called the Spokane Guild School. They have a dedicated board of trustees and dedicated volunteers and operational people from Dick Boyser to Rick Melanson and to Jim O'Connell to many, many others who have looked at the services that are provided by the Spokane Guild School and found them to be so superior to other environments that may be available to young children who are experiencing muscular conditions or neuromuscular conditions that need attention at an early intervention age.

So what they have done over the years is determine that perhaps existing law would exclude them from providing services for these precious children because it is not necessarily in a natural environment. But my amendment intends to make sure that the definition of natural environment includes the kind of facilities like this, the Spokane Guild School and many others in our State of Washington, and perhaps around the country, so that the children are benefitted in conjunction with the requests and expectations of parents and the IFSP team. So this is not a threatening amendment. To the disability community it is an enhancement.

About a year or so ago about the request or suggestion of Mr. Melanson and others, we put $500,000 in to make sure that the government of the United States understands the value of this kind of environment for children suffering these kinds of conditions that need desperate help at an early age. We were able to get that money in to do some studies, to make sure that the model that exists in the State of Washington through the Spokane Guild School may be replicated around the rest of the country because it is enhancing for students and little children, not diminishing.

I have had Undersecretary Bob Pasternak from the Department of Education come to our district, and he did so willingly and with a critical eye, but also a welcoming expectation about the great services that are available even though they may not be precisely in a home environment. I will speak for him and say that we were delighted to have him come, and I believe he was delighted to be able to be there.

In the visit that Undersecretary Pasternak made, he made an impression on us as a caring person in the bureaucracy of the Department of Education and in government, but also a person who wants to, in his best expectations, have children served properly who are subject to the IDEA.

So we have a lot to offer in this environment. We have a State legislature in my State, the Senate passed legislation that said, Congress, please allow this expansion or interpretation of IDEA to cover a place like the Spokane Guild School. It passed the House by 96 to nothing. It passed the Senate in our State 49 to nothing. So it is a bipartisan, comprehensive, high-expectation measure that helps children.

□ 1545

So I would just urge the chairman of the Committee on Education and the Workforce and the minority Member, certainly the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Delaware (Mr. CASTLE) are all dedicated to the best interest of young children, and I would

hope this amendment could be accepted. It is a good amendment. It is going to help children at the best level for the parents and for the children and the team that supports the child. I urge its adoption.

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

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume to have a colloquy with the gentleman from Washington (Mr. NETHERCUTT).

Mr. Chairman, I first want to thank the gentleman for his amendment and for his support of young children and their families. I understand this amendment retains the integrity of the team process. We want to preserve the team approach and the philosophy that the decisions of the IFSP team are to be made in partnership with the family and the providers in determining together what is appropriate for the child.

I also understand that this amendment is not meant to understate the importance of even the youngest children with disabilities being able to be with their peers in their neighborhoods, child care or Head Start, or in other settings that will give them both the special services they need but the opportunities to be part of their communities. Is this correct?

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

Ms. WOOLSEY. I yield to the gentleman from Washington.

Mr. NETHERCUTT. The gentlewoman is correct. Her interpretation of my amendment is exactly correct, and it is appropriate for children and the team approach to making sure that services for children are properly provided.

Ms. WOOLSEY. Reclaiming my time, Mr. Chairman, I thank the gentleman very much.

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

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from Washington (Mr. NETHERCUTT) has 30 seconds remaining.

Mr. NETHERCUTT. Mr. Chairman, I yield myself the balance of my time to urge passage of this amendment.

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

Mr. NETHERCUTT. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, let me suggest to our Members that our friend from the State of Washington makes a valuable contribution to the bill, and I would urge the Members to support his amendment.

Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I thank the chairman and thank the minority Members who support this amendment. It is good for children, it is good for IDEA, and is a proper expansion, or I should say interpretation of existing law.

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

Ms. WOOLSEY. 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 Washington (Mr. NETHERCUTT).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 12 printed in House Report 108–79.

AMENDMENT NO. 12 OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer this amendment on behalf of my colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ).

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

The text of the amendment is as follows:

Amendment No. 12 offered by Mrs. DAVIS of California:

In section 665(b)(2)(I) of the Individuals with Disabilities Education Act (as proposed to be amended by section 401 of the bill), add at the end before the period the following: '', including to train school safety personnel and first responders who work at qualified educational facilities''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentlewoman from California (Mrs. DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Loretta Sanchez amendment would include language in the bill that would authorize the use of funds to develop and improve programs to train school safety personnel and first responders who work at educational facilities in the recognition of autism spectrum disorders.

The goal of the amendment is to train school safety personnel and other first responders to respond appropriately to persons exhibiting behaviors and/or characteristics of developmental disabilities and/or mental illness. We are not asking for additional funds in this amendment, but rather to use those funds that have been designated for this particular purpose.

Mr. Chairman, many years ago, back in the 1960s, I actually worked with autistic children and their families; and I worked with them in an institutionalized arena. I always marvel today that many of those children who I knew in these hospitals in California are now in our public school system. We have many children who years ago could not benefit from the many advantages of our public school system, but they are doing that today.

From time to time, unfortunately, they may display behaviors that people do not understand very well. We have tremendous medicines today, but now and then children either do not get those medications or for one reason or another they are not being as effective as they could be. What we need to be certain of is that people who are in the community can observe these children, can respond to them effectively, can work with bystanders as well who may in fact be troubled by their behaviors.

It is very important that if we have this funding mechanism available, that we utilize it to the best benefit of our children. I am very pleased that the gentlewoman from California (Ms. LORETTA SANCHEZ) has brought this amendment forward. I think it will be of immeasurable benefit. We need to be certain that the kind of aggressive or self-injurious behavior that sometimes is present in these children is dealt with appropriately.

Let us pass this amendment, understand its implications and its benefits, and be certain that children who suffer from autism, and there are many of them today in our country, autism affects nearly 1.5 million people, that these children have people who understand their behaviors, can respond to them, can help them and can help those around them in the school system, associates, friends, neighbors, to better deal with their problem as well.

We have seen that where we have trained our first responders, even in domestic violence, whatever it may be, to deal on the spot with the situation as they see fit, that we have all benefited. I cannot think of any better way to use these funds but in this way, and I am delighted that my colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ), is here to speak further about this amendment.

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

Mr. CASTLE. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. Without objection, the gentleman from Delaware (Mr. CASTLE) is recognized for 5 minutes.

There was no objection.

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

Let me say that we, on this side, are in support of this amendment. I met, I think it was just yesterday actually, or the day before, but with family groups in Delaware, my home State, where we are concerned about autism; and this actually is one of the very areas they discussed.

We realize these children are very gifted, and we realize this can be very difficult. I happen to believe this is an amendment that has merit and adds to the bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.

Autism is one of the most misunderstood maladies that children have and adults have in this country, and it is a growing problem. We have one out of every 200 children in America now becoming autistic. It used to be one in 10,000. It has been multiplied by 50 the number who are affected.

Many of these children do have problems occasionally, where they flap their arms, they will bang their heads against the wall, they will even speak incoherently. It takes somebody who understands to be able to deal with them. It is very difficult on parents, but it is more difficult even for people who are trying to educate these children.

So I think this is a great amendment, and I appreciate the gentleman's comments, and I appreciate the amendment of the gentlewoman from California (Ms. LORETTA SANCHEZ) in introducing this amendment.

The parents of these autistic children for the past 5 or 6 months here in the Congress have been fighting a very difficult battle with pharmaceutical companies, because they think, and I believe, that many of these children were damaged by mercury in some of the vaccines that we had. So they have had a tough fight, and I am glad to see that we are showing a little concern about their problems by having this amendment on the floor; and I assume it will be adopted without any opposition.

So I thank the gentlewoman, and I thank the committee for accepting it.

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

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume just to simply say that I appreciate the opportunity to have addressed this bill.

Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. LORETTA SANCHEZ) and ask unanimous consent that she be allowed to control that time in order to speak further about the need for this important amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. LORETTA SANCHEZ) has 2 minutes remaining.

There was no objection.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, autism is currently the third most common developmental disability. It is more common than Downs syndrome. A majority of the public, including those who work in schools, do not really know, when they see it, what is happening. They are unaware of how autism affects people, and they are not trained well in how to work effectively with individuals who have autism.

Autism interferes with the normal development of the brain in areas of reasoning and social interaction, and so people with autism can, in particular in more extreme cases, exhibit unusual responses that most of us may not understand: aggressiveness, for example; committing self-injury to themselves. It is a behavior that is of special concern because in responding to situations, it is difficult. Especially if you are in the classroom or in a school situation, or even in the learning environment, how you respond to the child is important.

It is absolutely necessary to provide funding to train our special ed teachers regarding autism disorders, and it is also important to provide that training to school safety personnel and to other first responders who deal with the school setting.

What we have had in the past are people, law enforcement sometimes, who do not really understand what type of a child this may be. Therefore, they may handle them in a different way, in an incorrect way, where they might be more injurious towards the student. That is why the Sanchez amendment would include language in this bill that would authorize the use of funds to develop and to improve programs to train school safety personnel and first responders who work with our school facilities to recognize autism spectrum disorders.

The goal of the amendment, Mr. Chairman, is to train school safety personnel and other first responders.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time just to say that we are in support of the amendment. We actually think it is a very good amendment on this side. We congratulate the gentlewoman, and we hope that everybody will support it.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Ms. Davis).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 13 printed in House Report 108–79.

AMENDMENT NO. 13 OFFERED BY MR. WU

Mr. WU. 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. WU:

In section 654(c) of the Individuals with Disabilities Education Act (as proposed to be amended by section 401 of the bill), strike paragraph (2) and insert the following:

''(2) PRIORITY.—The Secretary may give priority to applications—

''(A) on the basis of need; and

''(B) that provide for the establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, 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 to simply say that it is my intention to submit a written statement with respect to this amendment, and I will make that request on behalf of the gentlewoman from Oregon (Ms. HOOLEY) as well.

Today, students with learning disabilities represent half of all students served under IDEA.

During the 1990s, the number of students in this category substantially increased by 34%. The President's Commission on Excellence in Special Education asserts that 80% of these students are identified as learning disabled because they have not learned how to read. The report further asserts that up to 40% of learning disabled students are in special education because they were never taught how to read.

These children do not need special education, they need an education.

The problem is that children are being missidentified and over-identified as learning disabled. Moreover, a recent National Research Council report indicates that minority students are over-represented in some special education categories, most notably mental retardation and emotional disturbance.

The role of teacher referral is critical. Unfortunately, many general education teachers are unprepared to identify students who may actually be at risk for a learning disability.

The underlying bill does provide professional development and research funding to reduce the over-identification of children and disabilities, including minority children. Specifically, this bill provides for a competitive grant program. Funding could be used for teacher training in many areas, including how to properly identify students with disabilities.

We must ensure that all states provide identification training. That is why my amendment gives priority to applications that provide for the establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The President's Commission demonstrated that over-identification is a problem that is rampant in our schools. My amendment would provide the necessary training to ensure that teachers, administrators and personnel are better equipped to determine if a child is learning disabled.

I urge my colleagues to support this important amendment.

Mr. Chairman, I might inquire as to whether the gentlewoman from California (Ms. WOOLSEY), our ranking subcommittee chair, or the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), would care to take a moment to state their position on this amendment. It is my intention to make no further statements at this point in time.

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

Mr. WU. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I appreciate the opportunity to work with my friend from Oregon. We have worked on this amendment during committee, and we have worked on it since. The committee and I are in full support of the gentleman's amendment and appreciate the opportunity to work with him to help fine-tune this and would recommend to our colleagues that we adopt the amendment.

Mr. WU. Mr. Chairman, reclaiming my time, I thank the chairman very much.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would like to say that I support the

gentleman's amendment and congratulate him on introducing it.

Mr. WILSON of South Carolina. Mr. Chairman, I'd like to thank Congressman WU for his amendment that provides greater opportunities to States in reducing over-identification of children with disabilities.

Each school district faces unique challenges in educating its youth. This amendment allows school districts and teachers to improve their ability to appropriately identify special education students. It also provides more support for early intervention so school districts can provide intensive reading and behavioral programs to help reduce the number of children identified as having a learning disability.

Steps like this amendment combined with my bill entitled Teacher Recruitment and Retention Act, which will provide $17,500 in loan forgiveness for Special Education teachers, will demonstrate our resolve to students with disabilities and those who teach them.

Ms. HOOLEY of Oregon. Mr. Chairman, I support his amendment and I support full funding of IDEA.

While I am pleased that this Congress is tackling the issue of special education today, I am disappointed that this bill does not substantively address several important issues including fully funding IDEA and the misidentification of children with disabilities.

Misidentification is a serious problem in our schools. Many general education teachers are not trained to identify learning disabilities and students are placed in special education when all they need is a little extra assistance. Not only is this detrimental to the student, but it diverts precious funding away from students with serious disabilities.

Full funding of IDEA has been one of my top priorities during my time in Congress. When Congress first addressed this issue in 1975, we made a commitment to provide children with disabilities access to a quality public education. But not once in the past 28 years has Congress lived up to its obligation to fund the services it requires states and school districts to provide, despite a commitment that it would do so.

My home state of Oregon, like so many states around the country, is suffering tremendous budget shortfalls. When the federal government doesn't pay its share, the remaining costs don't just disappear. The state and school districts are forced to pick up the additional costs, putting additional strain on our education funding. Living up to our promise and fully funding IDEA would help all States and all students.

It is high time we renew our commitment to all of our nation's children and pay our share of the cost of IDEA.

I urge my colleagues to support the Wu amendment and support full funding of IDEA.

Mr. WU. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY) very much for her support, and I yield back the balance of my time.

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

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108–79.

AMENDMENT NO. 14 OFFERED BY MR. GARRETT OF NEW JERSEY.

Mr. GARRETT of New Jersey. Pursuant to the rule, Mr. Chairman, I offer amendment No. 14.

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

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. GARRETT of New Jersey:

Add at the end of the bill the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. STUDY AND REPORT ON STATE COSTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) STUDY.—The Secretary of Education shall conduct a study on the amount of cost to States to comply with the requirements of the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that contains the results of the study conducted under subsection (a).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today to offer what is probably one of the simpler amendments that we will see today and, hopefully, for that reason, a noncontroversial amendment to H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003.

□ 1600

Mr. Chairman, before I speak on that amendment, let me offer my gratitude for all the work that the chairman and the ranking member of the committee have expended on this effort and the sponsorship of this legislation. Their efforts and work has basically seen to it that we are addressing the educational needs of all children, including those children with disabilities, to make sure that they receive a quality education. I commend them for their efforts.

My amendment will require that the Secretary of Education, within a 2-year period of time from enactment of this Act, to submit back to Congress a study and that study is to take a look at the cost to the States to comply with this Act. I believe this is necessary because any time that the Federal Government decides that it is going to involve itself with the States and ask the States and the local school boards to affect their education locally, it is imperative that the Federal Government looks to the cost side of the equation and looks to how much cost is being imposed on the local school districts and the States respectively.

I believe after this study, Congress will be in a better position to say how can we go forward and make sure that the goal of this bill is complemented and enacted as both sides of the aisle wish it to be done. I suggest that Members on both sides of the aisle look favorably on this amendment.

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

Mr. GARRETT of New Jersey. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I think the gentleman from New Jersey (Mr. GARRETT) offers a very good amendment to the bill. We are, over the next 7 years, doubling the amount of money we will be spending on special ed. I think it is right to take a look at what are the total costs associated with this program, and I think the gentleman makes a good addition to the bill, and urge my colleagues to support it.

Mr. Chairman, I include two letters for the RECORD on H.R. 1350.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 29, 2003.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BOEHNER: In recognition of the desire to expedite floor consideration of H.R. 1350, the Improving Education Results in Children with Disabilities Act of 2003, the Committee on the Judiciary hereby waives consideration of the bill. Section 205(i) makes changes to the attorneys' fees provisions for IDEA cases, and these provisions fall within the Committee on the Judiciary's Rule X jurisdiction. However, given the need to expedite this legislation, I will not seek a sequential referral based on their inclusion.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in the Congressional Record during consideration of H.R. 1350 on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, April 29, 2003.

Hon. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: This letter is to confirm our agreement regarding H.R. 1350, ''Improving Education Results for Children With Disabilities Act of 2003,'' which was considered by the Committee on Education and the Workforce on April 9 and 10, 2003. I thank you for working with me, specifically regarding the amendments the Committee included in H.R. 1350, changing the attorney fees of current law in Section 615 of the Individuals with Disabilities Education Act, as included in Section 205(i) of the Committee reported bill, which is also within the jurisdiction of the Committee on the Judiciary.

While this provision is within the jurisdiction of the Committee on the Judiciary, I appreciate your willingness to work with me in moving H.R. 1350 forward without the need for a sequential referral to your Committee. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on the Judiciary on this provision or any other similar legislation and will not be considered as precedent for consideration of

matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter. I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 1350 on the House floor.

Sincerely,

JOHN A. BOEHNER,
Chairman.

Mr. GARRETT of New Jersey. Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to this amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

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

Mr. GARRETT of New Jersey. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. WOOLSEY. 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 Jersey (Mr. GARRETT).

The amendment was agreed to.

The CHAIRMAN pro tempore. There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BURTON of Indiana) having assumed the chair, Mr. LAHOOD, 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. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, pursuant to House Resolution 206, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

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

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

Ms. WOOLSEY. 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 251, nays 171, not voting 12, as follows:

[Roll No. 154]

YEAS—251

Aderholt	Franks (AZ)	Musgrave
Akin	Frelinghuysen	Myrick
Andrews	Frost	Nethercutt
Bachus	Gallegly	Ney
Baird	Garrett (NJ)	Northup
Baker	Gerlach	Norwood
Ballenger	Gibbons	Nunes
Barrett (SC)	Gilchrest	Nussle
Barton (TX)	Gillmor	Osborne
Bass	Gingrey	Ose
Beauprez	Goode	Otter
Bell	Goodlatte	Oxley
Bereuter	Goss	Pascrell
Berry	Granger	Pearce
Biggert	Graves	Pence
Bilirakis	Green (WI)	Peterson (PA)
Bishop (UT)	Greenwood	Petri
Blackburn	Gutknecht	Pickering
Blunt	Hall	Pitts
Boehlert	Harman	Platts
Boehner	Harris	Pombo
Bonilla	Hart	Pomeroy
Bonner	Hastings (WA)	Porter
Bono	Hayes	Portman
Boozman	Hayworth	Pryce (OH)
Boswell	Hefley	Putnam
Boyd	Hensarling	Quinn
Bradley (NH)	Herger	Radanovich
Brady (TX)	Hill	Regula
Brown (SC)	Hobson	Rehberg
Brown-Waite, Ginny	Hoekstra	Renzi
Burgess	Hostettler	Reynolds
Burns	Houghton	Rogers (AL)
Burr	Hulshof	Rogers (KY)
Burton (IN)	Hunter	Rogers (MI)
Buyer	Hyde	Rohrabacher
Calvert	Isakson	Ros-Lehtinen
Camp	Israel	Royce
Cannon	Issa	Ryan (WI)
Cantor	Istook	Ryun (KS)
Capito	Janklow	Sabo
Cardoza	Jenkins	Saxton
Carter	Johnson (CT)	Schrock
Case	Johnson, Sam	Sensenbrenner
Castle	Jones (NC)	Sessions
Chabot	Keller	Shadegg
Chocola	Kelly	Shaw
Coble	Kennedy (MN)	Shays
Cole	Kind	Sherwood
Collins	King (IA)	Shimkus
Cox	King (NY)	Shuster
Cramer	Kirk	Simmons
Crane	Kline	Simpson
Crenshaw	Knollenberg	Skelton
Cubin	Kolbe	Smith (MI)
Culberson	Larsen (WA)	Smith (NJ)
Cunningham	Latham	Smith (TX)
Davis, Jo Ann	LaTourette	Smith (WA)
Davis, Tom	Leach	Souder
Deal (GA)	Lewis (CA)	Stearns
DeLay	Lewis (KY)	Stenholm
DeMint	Linder	Sullivan
Diaz-Balart, L.	LoBiondo	Sweeney
Diaz-Balart, M.	Lucas (KY)	Tancredo
Dicks	Lucas (OK)	Tauzin
Dooley (CA)	Majette	Taylor (MS)
Doolittle	Manzullo	Taylor (NC)
Duncan	Marshall	Terry
Dunn	McCollum	Thomas
Edwards	McCotter	Thornberry
Ehlers	McCrery	Tiahrt
Emerson	McHugh	Tiberi
English	McInnis	Toomey
Everett	McIntyre	Turner (OH)
Feeney	McKeon	Turner (TX)
Ferguson	Mica	Upton
Fletcher	Miller (FL)	Vitter
Foley	Miller (MI)	Walden (OR)
Forbes	Moore	Walsh
Fossella	Moran (KS)	Wamp
Gephardt	Murphy	Weldon (FL)
Weldon (PA)	Wilson (NM)	Wu
Weller	Wilson (SC)	Young (AK)
Wicker	Wolf	Young (FL)

NAYS—171

Abercrombie	Hinchey	Neal (MA)
Ackerman	Hinojosa	Oberstar
Alexander	Hoeffel	Obey
Allen	Holden	Olver
Baca	Holt	Ortiz
Baldwin	Hooley (OR)	Pallone
Ballance	Hoyer	Pastor
Bartlett (MD)	Inslee	Paul
Berkley	Jackson (IL)	Payne
Berman	Jackson-Lee (TX)	Pelosi
Bishop (GA)	Jefferson	Peterson (MN)
Bishop (NY)	John	Price (NC)
Blumenauer	Johnson (IL)	Rahall
Boucher	Johnson, E. B.	Ramstad
Brady (PA)	Jones (OH)	Rangel
Brown (OH)	Kanjorski	Reyes
Brown, Corrine	Kaptur	Rodriguez
Capps	Kennedy (RI)	Ross
Capuano	Kildee	Rothman
Cardin	Kilpatrick	Roybal-Allard
Carson (IN)	Kleczka	Ruppersberger
Carson (OK)	Kucinich	Rush
Clay	LaHood	Ryan (OH)
Clyburn	Lampson	Sanchez, Linda T.
Conyers	Langevin	Sanchez, Loretta
Cooper	Lantos	Sanders
Costello	Larson (CT)	Sandlin
Crowley	Lee	Schakowsky
Cummings	Levin	Schiff
Davis (AL)	Lewis (GA)	Scott (GA)
Davis (CA)	Lipinski	Scott (VA)
Davis (FL)	Lofgren	Serrano
Davis (IL)	Lowey	Sherman
Davis (TN)	Lynch	Solis
DeFazio	Maloney	Spratt
DeGette	Markey	Stark
Delahunt	Matheson	Strickland
DeLauro	Matsui	Stupak
Deutsch	McCarthy (NY)	Tanner
Dingell	McDermott	Tauscher
Doggett	McGovern	Thompson (CA)
Doyle	McNulty	Thompson (MS)
Emanuel	Meehan	Tierney
Engel	Meek (FL)	Towns
Eshoo	Meeks (NY)	Udall (CO)
Etheridge	Menendez	Udall (NM)
Farr	Michaud	Van Hollen
Fattah	Millender-McDonald	Velazquez
Filner	Miller (NC)	Visclosky
Flake	Miller, Gary	Waters
Ford	Miller, George	Watson
Frank (MA)	Mollohan	Watt
Gonzalez	Moran (VA)	Waxman
Gordon	Murtha	Weiner
Green (TX)	Nadler	Wexler
Grijalva	Napolitano	Woolsey
Gutierrez	Owens	Wynn
Hastings (FL)	Slaughter	

NOT VOTING—12

Becerra	Gephardt	Owens
Combest	Honda	Slaughter
Dreier	Kingston	Snyder
Evans	McCarthy (MO)	Whitfield

□ 1625

Messrs. LEWIS of Georgia, MILLER of North Carolina, and ROSS changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes No. 149, No. 150, No. 151, No. 152, No. 153 and No. 154. If present, I would have voted ''yea'' on roll call No. 150; I would have voted ''nay'' on rollcall votes No. 149, No. 151, No. 152, No. 153 and No. 154.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 149, 150,

151, 152, 153, and 154 due to medical reasons. Had I been present, I would have voted ''aye'' on rollcall vote 150 and ''nay'' on rollcall votes 149, 151, 152, 153, and 154.

PERSONAL EXPLANATION

Mr. HONDA. Mr. Speaker, on rollcall votes Nos. 149, 150, 151, 152, 153, and 154 I was unavoidably detained with important matters in my district. Had I been present, I would have voted ''no'' on rollcall 149 regarding H. Res. 206, ''yes'' on rollcall vote 150, the Vitter amendment, ''no'' on rollcall vote 151, the DeMint amendment, ''no'' on rollcall vote 152, the Musgrave amendment, ''no'' on rollcall vote 153, the Tancredo amendment, and ''no'' on rollcall vote 154 on passage of H.R. 1350.

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 1350, which was just passed.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 1350, IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1350, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAYS THROUGH JUNE 25, 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Speaker may be permitted to entertain motions that the House suspend the rules on Wednesdays through June 25, 2003, as though under clause 1 of rule XV.

The SPEAKER pro tempore. Is there objection to the gentleman from Ohio?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON SMALL BUSINESS

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 209) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 209

Resolved, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON SMALL BUSINESS: Mr. Miller of North Carolina.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
Washington, DC, April 30, 2003.

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

DEAR MR. SPEAKER: Enclosed please find resolutions approved by the Committee on Transportation and Infrastructure on April 9, 2003, in accordance with 40 U.S.C. §3307.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

COMMITTEE RESOLUTIONS—LEASE—DEPARTMENT OF JUSTICE, 1401 H STREET, NW, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 116,064 rentable square feet of space for the Department of Justice currently located in leased space at 1401 H Street, NW, in Washington, DC, at a proposed total annual cost of $5,222,880 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF JUSTICE, 600 E STREET, NW, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 347,020 rentable square feet of space for the Department of Justice currently located in leased space at 600 E Street, NW, in Washington, DC, at a proposed total annual cost of $15,615,900 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 165,824 rentable square feet of space for the Department of Health and Human Services, Administration for Children and Families, currently located in leased space at 370 L'Enfant Promenade, SW, in Washington, DC, at a proposed total annual cost of $7,462,080 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—OFFICE OF GOVERNMENT ETHICS AND CORPORATION FOR NATIONAL SERVICE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 118,754 rentable square feet of space for the Office of Government Ethics and Corporation for National Service currently located in leased space at 1201 and 1225 New York Avenue, in Washington, DC, at a proposed total annual cost of $5,343,930 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF HEALTH AND HUMAN SERVICES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 251,527 rentable square feet of space for the Department of Health and Human Services Substance Abuse and Mental Health Services Administration currently located in leased space at 5515 Security Lane and 5600 Fishers Lane, Rockville, MD at a proposed total annual cost of $8,551,918 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, 5600 COLUMBIA PIKE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 162,696 rentable square

feet of space for the Department of Defense, Defense Information Systems Agency currently located in leased space at 5600 Columbia Pike, in Falls Church, VA at a proposed total annual cost of $5,531,664 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, CRYSTAL PLAZA V, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 153,560 rentable square feet of space for the Department of Defense currently located in leased space at Crystal Plaza V, 2211 South Clark Place, in Arlington, VA, at a proposed total annual cost of $5,221,040 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, HOFFMAN BUILDING 2, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 403,734 rentable square feet of space at Hoffman Building 2, 200 Stoval Street, in Alexandria, VA at a proposed total annual cost of $13,726,956 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, SECRETARY OF THE ARMY, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 524,867 rentable square feet of space for the Department of Defense, Secretary of the Army, Office of the Administrative Assistant currently located in leased space at the Pentagon and various leased locations, in Northern Virginia, at a proposed total annual cost of $17,845,478 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF THE INTERIOR, DEPARTMENT OF COMMERCE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 134,237 rentable square feet of space for the Department of the Interior, and the Department of Commerce currently located in leased space at 381 Elden Street, in Fairfax, VA at a proposed total annual cost of $4,564,058 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, MISSILE DEFENSE AGENCY, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 144,552 rentable square feet of space for the Department of Defense, Missile Defense Agency currently located in leased space at Wing 8 of Federal Office Building #2, Arlington Naval Annex in Arlington, VA at a proposed total annual cost of $4,914,768 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF THE TREASURY, FINANCIAL CRIMES ENFORCEMENT NETWORK, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 149,040 rentable square feet of space for the Department of the Treasury, Financial Crimes Enforcement Network currently located in leased space at Tycon Courthouse, 2070 Chain Bridge Road in Fairfax, VA at a proposed total annual cost of $5,067,360 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF STATE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 281,558 rentable square feet of space for the Department of State currently located in leased space at 1701 N. Fort Myer Drive, in Arlington, VA at a proposed total annual cost of $9,572,972 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—MULTIPLE AGENCIES, 999 18TH STREET, DENVER, CO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 231,981 rentable square feet of space for the Environmental Protection Agency Region VIII, GSA Federal Telecommunications Service, and the Department of Health and Human Services, Centers for Disease Control and Prevention, currently located in leased space at 999 18th Street, in Denver, CO, at a proposed total annual cost of $7,191,411 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—AMENDMENT—BYRON G. ROGERS FEDERAL BUILDING, UNITED STATES COURTHOUSE, DENVER, COLORADO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized for the alteration of the Byron G. Rogers Federal Building and United States Courthouse, located in Denver, Colorado, at an additional construction cost for demolition and asbestos abatement of $9,000,000, a modified prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolution dated July 18, 2001, which authorized appropriations in the amount of $3,688,000 for advanced design.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.

COMMITTEE RESOLUTION—AMENDMENT—UNITED STATES COURTHOUSE, LAS CRUCES, NEW MEXICO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized for the site acquisition for a 206,881 gross square foot United States courthouse, including 81 inside parking spaces, located in Las Cruces, New Mexico, at a cost of $600,000, a modified prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolution dated July 26, 2000, which authorized appropriations in the amount of $3,040,000 for design; and Committee resolution dated July 18, 2001, which authorized appropriations in the amount of $1,070,000 for additional design.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF TREASURY, INTERNAL REVENUE SERVICE, KANSAS CITY, MISSOURI

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 1,140,000 rentable square feet of space for the Department of Treasury, Internal Revenue Service, Service Center currently located at 2306 Bannister Road, 1500 East Bannister Road, and five leased locations in the Kansas City metropolitan area, at a proposed total annual cost of $34,200,000 for a lease term of fifteen years, a prospectus for which is attached to and included in this resolution.

The General Services Administration is further authorized to negotiate renewal options, provided, that no option shall be exercised by the General Services Administration without obtaining further authorization from the Committee.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

There was no objection.

□ 1630

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

UNIVERSITY OF MINNESOTA MEN'S HOCKEY TEAM REPEATS AS NATIONAL CHAMPIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, the University of Minnesota men's hockey team did it again. During our spring recess, Minnesota defeated New Hampshire 5 to 1 to win its second consecutive NCAA championship, the first time a team has repeated as NCAA hockey champion in 31 years.

Mr. Speaker, the key to these back-to-back titles has been hard work by talented athletes, superior coaching by Coach Don Lucia and his great staff, and the greatest fans in hockey anywhere.

In the title game, Minnesota and New Hampshire were tied 1 to 1 until the final period, but a three-goal outburst over 5 minutes and 20 seconds of the third period iced the team's second consecutive national championship.

Minnesota has a long and proud hockey tradition as the hockey capital of the world, and all Minnesotans are extremely proud of our national champion, Golden Gophers.

Unlike most repeat champions, Mr. Speaker, this one came as somewhat of a surprise. The Gophers started the season slowly, but that is to be expected of a team that lost so many players after beating Maine in overtime in last year's title game.

But thanks to Coach Lucia's inspiring leadership, great motivational skills and good chemistry, this year's team started gathering steam as players returned to the lineup from injuries. Each player, coach, trainer and manager played a pivotal role during the season, picking each other up at critical times.

Our University of Minnesota's men's hockey team also won the WCHA, the Western Collegiate Hockey Association, tournament on the road to its second consecutive national title.

Mr. Speaker, all Minnesotans and Gopher hockey fans everywhere are very proud of this great team. The 2002–2003 Gopher men's hockey team, our back-to-back national champions, are now part of college hockey history. We congratulate our national champions, for they are true champions, both on and off the ice.

Mr. OBERSTAR. Mr. Speaker will the gentleman yield?

Mr. RAMSTAD. I am glad to yield to the gentleman from hockey-rich Duluth, Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for taking this special order, and I join him in paying tribute to the University of Minnesota Gopher men's hockey team back-to-back championships. The gentleman made a splendid case. We are proud of the men's hockey team.

But I also want to point out that the University of Minnesota-Duluth women's hockey team for the third consecutive year has won the NCAA hockey championship, trumping the men. It is a great tribute to our State that in the final frozen four in both the women's and men's hockey, our University of Minnesota teams have prevailed. That is a tribute to the great tradition of hockey in the northern part of our State, as well as in the gentleman's part of the State, an area that he now represents in Anoka County, that has a splendid four or more hockey rinks training the future champions.

Mr. RAMSTAD. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, for his great support of University of Minnesota athletics, both in Minneapolis and Duluth, and I was just as proud to support the Gopher women's team, the University of Minnesota-Duluth, as I am here today. Both are great teams, and that is why Minnesota, as the gentleman knows, is the hockey capital of the world.

HONORING AVIATION'S PIONEER WOMEN OF COLOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, on Saturday, May 3, 2003, the Chicago ''DODO'' Chapter of Tuskegee Airmen, Incorporated, in concert with Black Pilots of America will honor three of Aviation's Pioneer African American Women of Color, Bessie Coleman, Willa Beatrice Brown and Janet Harmon, at a ceremony to be held on Saturday, May 3, at the Lincoln Cemetery, 123rd and Kedzie Avenue in Chicago.

I shall be pleased to join Mr. Rufus Hunt, aviation historian, and this group of aviation enthusiasts, flyers, former flyers, mechanics and others who love to fly and have dedicated themselves to keeping the legacy of these three women alive.

Bessie Coleman was the first African American female pilot. She grew up in poverty and discrimination, came to Chicago from Texas, decided that she wanted to fly, and, with encouragement from Robert Abbott, who was the owner of the Chicago Daily Defender newspaper, she was able to put together resources, go to Paris, go to France and learn to fly, which she did.

She returned to America as a heroine, flew many exhibitions, and ultimately though was unfortunately killed in an accident when a wrench got caught in the gears of her plane and she did not have her seat belt on and she was thrown out of the plane, and, unfortunately, died.

There is a Bessie Coleman Drive at O'Hare Airport in Chicago that has been dedicated in her memory, and, of course, she has been placed on a stamp by the United States Post Office.

Janet Harmon Bragg was born in Griffin, Georgia, grew up with her siblings, decided that she wanted to fly and ultimately was the first African American woman to get a commercial pilot's license.

Willa Brown, an African American woman, ended up purchasing her own airplane, as well as organizing groups and clubs and organizations promoting flying.

Mr. Speaker, all three of these women made tremendous contributions to the field of aviation, and every year people from the Tuskegee Airmen and other pilots groups fly over Bessie Coleman's grave. They have done this since 1931, and it is a way of paying tribute to women of color and the contributions that they have made to aviation. I commend them for this effort, for keeping these legacies alive.

Mr. Speaker, on Saturday, May 3, 2003, the Chicago ''DODO'' Chapter of Tuskegee Airman Incorporated, in concert with Black Pilots of America will honor three of Aviation's Pioneer Women of Color, Bessie Coleman, Willa Beatrice Brown and Janet Harmon at a ceremony to be held on Saturday May 3, at the Lincoln Cemetry, 123rd and Kedzie Avenue in Chicago, Illinois. I shall be pleased to join Mr. Rufus Hunt, Aviation Historian and this group of aviation enthusiasts, flyers, former flyers, mechanics and others who love to fly and have dedicated themselves to keeping the legacy of these three great women alive.

Bessie Coleman (1892–1926). Bessie Coleman, the first African American female pilot, grew up in poverty and discrimination. The year after her birth in Atlanta, Texas, an African American man was tortured and burned to

death in nearby Paris for allegedly raping a five year old girl. The incident was not unusual: lynchings were common throughout the South. African Americans were essentially barred from voting by literacy tests. They could not ride in railway cars with white people, or use a wide range of public facilities set aside for whites. When young Bessie first went to school at the age of six, it was to a one-room wooden shack, a four-mile walk from her home. Often there was not paper to write on or pencils to write with.

When Coleman turned 23 she moved to Chicago to live with two of her older brothers. When she decided that she wanted to learn to fly, the double stigma of race and gender meant that she would have to go to France in order to realize her dreams. It was soldiers returning from World War I with wild tales of flying exploits which first interested Coleman in aviation. It was also her brothers who taunted her with claims that French women were superior to African American women because they could fly. In fact, very few American women of any race had a pilots license in 1918. Those who did were predominantly white and wealthy. Every flying school that Coleman approached refused to admit her because she was both black and a woman. On the advice of Robert Abbott, the owner of the Chicago Defender Newspaper, one of the first African American millionaires, Coleman decided to learn to fly in France. She learned French at the Berlitz School in the Chicago Loop, withdrew the savings she had accumulated from her work as a manicurist and manger of a chili parlor, and with financial support from Robert Abbott and another African American business person she set off from New York for Paris on November 20, 1920. The only non-Caucasian in her class, it took her seven months to learn to fly. When she returned to the United States in 1921, she was greeted by great crowds and for more than five years performed at countless air shows. However, she refused to perform anyplace where Blacks were not permitted. In 1926, on her last flight in Jacksonville, Florida, an unsecured wrench got caught in the gas controls. The plane with a young mechanic, William Willis in the pilots seat, went out of control, and Bessie who was not wearing a seatbelt was thrown to her death. Ten thousand people turned out for her funeral. She has not been forgotten, beginning in 1931, a group of Black pilots instituted a annual fly over her grave, a postage stamp exists in her honor, Bessie Coleman Drive exists at Chicago's O'Hare airport and she continues to help others to know that they too can fly.

Willa B. Brown (1906–1992). The first African American woman to get a commercial pilots license. Willa B. Brown was born January 21, 1906 in Glasgow, Kentucky U.S.A. She received her bachelor's degree in 1927 at Indiana State Teacher's College. For a while, she taught school in Gary, Indiana and then, in 1932, after having divorced her husband, she moved to Chicago, Illinois. Influenced by Bessie Coleman, Willa started taking flying lessons in 1934. Soon she became a member of the flying club, the Challenger Air Pilot's Association, and the Chicago Girls Flight Club. She also purchased her own airplane. In 1937, she received her pilot's license and that same year, she received a master's degree from Northwestern University. Also in 1937, she cofounded the National Airmen's Association of America with her flight instructor, Cornelius R. Coffey. The association's goal was to promote African American aviation. In 1938, they started the Coffey School of Aeronautics, where approximately 200 pilots were trained in the next seven years. Some of those pilots later became part of the 99th Pursuit Squadron at Tuskegee Institute, also know as the Tuskegee Airmen.

Brown lobbied Washington for inclusion of African Americans in the Civilian Pilot Training Program and in the Army Air Corps, and in 1941, she became a training coordinator for the Civil Aeronautics Administration and a teacher in the Civilian Pilot Training Program. The following year, she became the first African American member of the Civil-Air-Patrol. She also promoted aviation on the radio and taught it in high schools. In 1972, Brown became a member of the Women's Advisory Committee on Aviation in the Federal Aviation Agency. Willa B. Brown died July 18, 1992.

Janet Harmon Bragg. Janet Harmon Bragg was born in Griffin, Georgia in 1912. She grew up with her mother, father and siblings, the youngest of seven children. After graduation from high school in Fort Valley, Georgia, she enrolled in the all girls, all Black Spelman College in Atlanta, Georgia. She earned her degree in nursing from Mac Bicar Hospital which was on Spelman's campus. She moved to Rockford, Illinois and later on to Chicago where she began a career in nursing. Although Mrs. Bragg started out in the field of nursing and made her living from it, her interest in flying started when she was a little girl. She put it this way, ''As a child I always wanted to fly. . . . I used to watch the birds . . . . how they would take off and land. . . . It was interesting to see how they would drop this tail down when they would run and take off.'' One day in 1933, in Chicago as she was coming out of a house, she saw on a billboard across the street a drawing of a bird building a nest with chicks in the nest. A caption read, ''Birds learn to fly. Why can't you? She said to herself, They do have to learn to fly.'' That incident cinched it, according to Mrs. Bragg. The owners of a Black Insurance Company in Chicago where she worked encouraged her to pursue her educational and other goals. She enrolled in the Aeronautical School of Engineering to begin here groundwork. Black and white students were segregated. She was the first Black female student to enter the class. Here she learned to fly and to take care of planes. She was able to tale a few lessons at a private airport but the rate of $15 per hour in 1933 proved too costly. Therefore, she took $600 and bought her own plane. With the purchase of the plane, Mrs. Bragg and a few other Black pioneer aviators started their own airport in Robbins, Illinois, about 20 miles Southwest of Chicago. This group also formed the Challenger Aero Club. This group went on to establish the Coffy School of Aviation in 1939. This school and five other Black colleges participated in the civilian pilot training program and later fed students into the Army Air Corps training program at Tuskegee, Alabama. In short, Mrs. Bragg was at the heart of Black aviation in Chicago from its inception.

Mrs. Bragg, retired from flying in 1965 and from nursing in 1972. Since moving to Tucson, Arizona, she has been active with the Urban League and Habitat for Humanity. She has participated in the Adopt a Scholar Program at Pima College, as a member of the Tuskegee Airmen, lectures locally and nationally on such topics as aviation and women in science and aerospace. She was proclaimed outstanding citizen of Tucson in 1982.

Mr. Speaker, all three of these women have made outstanding contributions to the field of aviation and Chicago is indeed proud that we can lay claim to some part of their legacies.

PROVIDING REMEDIES FOR AUTISTIC CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today we passed the IDEA bill, which was designed to help children who have learning disabilities to get the kind of attention they need in the educational systems across this country. The bill was not a bad bill. It did not go far enough. We only provide about 21 percent of the funds that are necessary. It should be 40 percent. That is what we promised the States. We are not there yet, but hopefully we will get there before too long.

The reason I am here on the floor tonight is because I have received thousands of letters from parents of children who are autistic, and, as autistic children, they do have these learning disabilities.

These parents believe, and I believe, after having hearings for the past 4 years that their children, many, many of their children, have been damaged by the mercury that was in children's vaccines. We have been putting mercury from a product called thimerosal in children's vaccines since the 1930s, and now that we are giving children 25 to 30 vaccinations before they start into kindergarten, you have a tremendous amount of mercury being built up in their systems.

Mercury has a cumulative effect in the brain. So when you were giving a child one shot, it might not have been so bad. Obviously, you do not want mercury in their system, but the mercury was getting into the brain, and in many cases it was not causing damage. But when you give a child 30 shots before they start into kindergarten, many, many, many of those children are going to have brain damage and neurological damage such as autism.

I have received, as I said, thousands of letters from parents of autistic children from around the country, and I have been coming down here showing

pictures of these children and reading these letters, because the pharmaceutical companies and the Congress of the United States have a responsibility to those families who are suffering financially and mentally from the terrible trauma of autism their children are going through.

It used to be one in 10,000 children were autistic. Now it is 1 in 200. We have had a 50-fold increase in autism in the last 10 to 15 years. It is an absolute epidemic, and something has to be done about it. We have been debating how to handle it in the Congress of the United States.

Every child who is damaged by vaccine should have access to the Vaccine Injury Compensation Fund, but many of these children and their families who are autistic have not had access to that fund, and that is why this debate rages on.

In the other body we have had some real problems, and that is why we are trying to bring to the attention of the other body, the leader of the other body, as well as Members of Congress, how deep this problem is and how important it is to the people of this country that we get it solved.

I do not have time to read a lot of letters tonight, but I want to read part of one letter I received. It is many, many pages from a man named James W. Coll. James is from Hanover, Pennsylvania. He has a son, Jacob, who became autistic. He says in his letter, ''Jacob is 5. There is no doubt in my mind that my son Jacob has thimerosal-induced autism.''

Why does he say that? He says it for the same reason that I say that about my grandson. My grandson was a very normal child, as Jacob probably was, and he was speaking and he was laughing and he was a lot of fun to be around. He actually got nine shots in one day, seven which had mercury in them, and, 2 days later, he was running around banging his head against the wall, flapping his arms, had chronic diarrhea and constipation at the same time, and we lost him. He looked at you blankly. He would not talk any more. He became incommunicado, if you will.

That has happened to thousands and thousands of families across this country. We cannot leave them high and dry. It is costing them hundreds of thousands of dollars. They are mortgaging their homes, they selling everything they have to take care of their children. They did not realize they had access to the Vaccine Injury Compensation Fund until the 3-year statute of limitations ran out.

We need to reopen that fund so that every person who has an autistic child has a day in court, if you will, to make their case before the fund to get money to help their child and help their family.

There is $1.8 billion in that fund. We protected the pharmaceutical companies by allowing them to put so much money in the fund so that they would not be sued when people are damaged by vaccines. So the people who have been damaged by the vaccines ought to have access to that fund. It should be non-adversarial. It is adversarial right now. They have been keeping people out, they have been keeping children out, and damaged children have been suffering, their families have been suffering, and they have nowhere to turn.

So that is why every night I come down here and show pictures. These are called ''The Faces of Autism.'' We have thousands of these children. I have probably 50 or 60 here. Here is a new one we have. It says on this, ''Vaccines Stole My Health, Childhood and Future. Don't Steal My Rights.'' I think that is very important. We should not steal this child's rights, or any child's rights. They should have access to the Vaccine Injury Compensation Fund, they should have access to education.

If we do not deal with these children now, they are going to grow up, they have an average life expectancy, and if they cannot cope with society and we do not deal with them now, we are going to pay 10, 20, 30 times more to take care of them when they are adults and they cannot make a living and cannot function in our society. So it is absolutely imperative.

I say this to my colleagues in the other body and here, we need to pass legislation this year that will give these people access to the Vaccine Injury Compensation Fund so that they will have somewhere to turn and they won't be left high and dry.

I will be back here tomorrow night or several nights in the future to bring up other cases, and I hope that we will be able to make this case time and again to the American people until we get the job done.

Mr. Speaker, I include for the RECORD the letter from James W. Coll.

Dear Sir: I would like to begin this letter by telling you a little about myself and my wife Christine. We are both 31 yrs old and have two children. We live in Hanover, Pennsylvania. She is a stay-at-home mom and I am a paramedic for a private company in Washington, DC. My older son James is eight yrs old and my younger son Jacob is 5. There is no doubt in my mind that my son Jacob has thimeroSal-induced autism. I am going to tell you my family's story the best way I can. Before I get started I just want to tell you that my heart goes out to you, your daughter and grandchild. I know for me it is the most challenging thing I ever faced. I feel like I can related more to parents of autistic children than my own distant family.

My son Jacob was born on July 21, 1997 in Pittsburgh, PA. He was born by cesarean section because he weighed ten pounds and was too big for a vaginal delivery. His Apgars were normal at birth and there were no complications after delivery. He received his first vaccination, which was the hepatitis one, at the hospital, just like all children in America. During the first few weeks he was home, we noticed he vomited his formula a lot. Some took him to his pediatrician. He was then put on Soy formula and it was thought he might be lactose intolerant. This did not help much. He would still gag and vomit. It wasn't all the time. He was still able to hold enough down to thrive and grow. The pediatrician told us that this was a problem for some children and that it would subside in time. During the first year of his life he learned to crawl. This milestone appeared normal. There were some things that confused us. He did not like to be sat down in the grass outside, he would cry inconsolably and wanted to be picked up. His eye contact with us was not very good. You could not capture his interest with toys. He liked to be held close to us a lot and would put his face next to ours. He was quiet unless he was hungry or something disturbed him. Sometimes we would push him in the stroller and he would cry when we tried to push him back home. He was very hard to console at these times. We just thought he was different and this was his personality. My mother told me I was a fussy baby. At this point we never suspected autism. We didn't even know anything about autism, outside of the movie Rainman. At a year old he received more immunizations. They were given at one of his pediatrician's offices, Dr. Tuchin. After that we noticed that his glands in his neck, under his armpits and on the back of his head, swelled up. They appeared like little peas under his skin.

His pediatrician told us he had a virus and that this was normal because his body was fighting off infection. She did not feel any testing was necessary. Myself and my wife thought it was and a blood test was ordered at Children's Hospital of Pittsburgh. The results were unclear. The CMV virus was suspected or a virus that closely mimicked CMV. There wasn't real concern by the physicians in charge of Jacob's care. In fact, we seemed to bother his pediatrician because she was not very nice to us about this problem and wrote little sarcastic notes in his chart about the testing. Otherwise he continued to grow and thrive, despite his food sensitivity and everything else (as in his vital signs and physical appearance appeared normal). His lymph nodes stayed enlarged for about six months from when he was a year old. We were just told it takes a while for them to go back down and it was a good sign because his body was fighting off the virus. From 1½ years old to 2½ years old his food sensitivity continued to be a problem and a lot of solid food made him throw up. We were referred to Children's Hospital of Pittsburgh Occupational Food Sensitivity Clinic. They observed Jacob eat french fries. They wanted to feed him pudding, which to this day he dislikes. They told us that he had some food sensitivities of an unknown cause and that he needed therapy. The team of therapists who observed him wanted to send a therapist to our house a couple of times a week and teach him to eat different foods. This idea, to us, seemed unnatural. We did not think this would help him. We decided to just keep on feeding him what he liked and he would out grow this. The only things he would eat were chicken and fries, grilled cheese, cookies—basically, anything dry and tasty. He does not eat any vegetables to this day, or wet foods. He always coughed a lot too when he drank liquids. Our doctor told us not to worry, as long as he did not get pneumonia. His speech was very limited at 2 yrs old. Sometimes he could say Mom or Dad, but it wasn't all the time. He would jump up and down a lot and flap his hands in front of the TV. We thought he was just happy and playing. He did not have interests or imaginary play with his toys. He liked only push button toys. In the back of my mind and my wife's we knew he was a little different, but we thought if we just gave him some time he would start talking more and eat more foods, and not be so hyperactive. In February, 2000 we moved to the Washington, DC area because I got a job offer paying more money. We moved to a small 2 bedroom apartment in

Woodbridge, VA. The people downstairs complained a lot because my son jumped up and down and they could hear it. We lived there six months and the management would not renew our lease because of the noise of the jumping and Jacob's tantrums. During this time my wife took Jacob to his new pediatrician, Dr. John Farber. When he was approximately 3 years. old, Dr. Farber diagnosed Jacob with Pervasive Developmental Disorder. He told us this term coincided with autism and that Jacob would improve in time or that we should go to Child Find Services in the county in Virginia in which we lived. My wife took Jacob there. It was a hot day and his evaluation took place in a trailer which was not air-conditioned. My son tantrumed and did not like it there. They could not even test him. They agreed with the diagnosis. We later learned that this term is routinely used with children when the child is young and that a physician is not ready to totally label the child autistic. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinical therapy place called the Kennedy Krieger Institute. There at approximately 3½ years. old he was examined by a Dr. Andrew Zimmerman who diagnosed him with Autistic Spectrum Disorder. He also had some bloodwork done which ruled out Fragile X Syndrome. He told us to find a good speech therapist. At that time we had moved to Fredericksburg, Virginia where rent was cheaper and we could afford to live in a nice rental town-home community. We found a speech therapist, but we didn't think this was very effective. She was trying to teach Jacob to talk more with picture cards. We didn't feel this was intense enough. We then learned of a therapy called Applied Behavioral Analyses. We tried to get the Spotsylvania County School District to pay for a 40 hour week program which was recommended by all the six physicians that examined Jacob. We also had his diagnoses confirmed by other physicians. We have diagnoses letters from all of them. We were hoping for a better second opinion. We were hoping Dr. Farber was wrong. The county school services would only pay for 20 hours a week of in-home services. ABA is a therapy that consists of teaching your child tasks, by breaking them down into smaller steps and doing them over and over again, until the child understands. Every verbal sentence is given concrete meaning the child can associate with. This therapy was developed by Dr. Lovas of UCLA. I'm sure you probably heard of it. In September, 2001, we moved back to Pittsburgh, PA and rented a small house. We did this because we found out that Pittsburgh had the Allegheny intermediate unit which payed for these services. This was funded by the State of Pennsylvania. They had a Lovas replication site which taught ABA therapy.

We had Jacob evaluated and we are setting up an in-home therapy workshop for Jacob. After a couple of workshops, though we decided that we did not like the way he was treated they wanted to isolate Jacob when he had a tantrum and ignore him. This seemed very unnatural to us. A lot of people view this therapy as programming a child like a robot. Myself and my wife agree. At least in my son's case, we don't feel it's the answer. After that we decided there was no point in staying in Pittsburgh. Approximately one year ago we purchased a new home in Hanover, PA. My job was still in Washington, DC. When we lived in Pittsburgh, I drove 250 miles to work, stayed the weekend and drove home on Mondays. We chose Hanover because it's the closest you can be to the DC area, and still be in PA. If we ever decide in the future that PA is the way we want to go, we will still live in PA, which will pay for it. After we moved to Hanover in March 2002 we learned there were doctors who specialized in biologically treating children with autism. They follow a protocol that the Autism Research Institute in San Diego California developed. It's called the Don Protocol. The Autism Research Institute sent us a list of doctors nationwide who were trained by the Autism Research Institute and attend the lectures. Most of these doctors are into homeopathic medicine and don't take health insurance. I make about $70,000 a year. I definitely didn't have the money left over to privately pay for a physician. We were fortunate and found a doctor in Baltimore, MD which is about 35 miles south of Hanover. His name is Arnold Brenner. He has been treating children with autism and other disabilities for 20 yrs. When we first took Jacob he ordered blood work and a hair analysis. The purpose behind this was to look for a cause of Jacob's autism. Then you can give supplements or change the diet so the child's nervous system is not irritated, thus improving the symptoms. We found out that Jacob was allergic to gluten and casein, and that he had an abnormal reading of mercury in his hair. We were shocked! My son's mercury reading was in the low medium range. Most people don't have any in their body. This also proves that Jacob's body could not detoxify the thimerosal from the immunizations. I feel like my child has been assaulted by the pharmaceutical industry. Mercury is toxic to humans. Science has known this for a long time. Why then has the Ely Lilly Company produced it (thimerosal) for the pharmaceutical manufacturers? They have knowingly poisoned our children. The only thing that keeps me from going crazy is the fact that I love my son and my family. Jacob is being treated with a medication called Chemet. It was previously used to treat lead poisoning. The goal of the therapy is to remove the mercury from the body. His urine is tested every four weeks and sure enough, there are traces of mercury in it. Our doctor told us the only other way he could have gotten mercury in his body was from eating fish, and we don't eat any fish. He also takes daily vitamins that come from a place called Kirkmans Labs, which are specially formulated for artistic individuals. In addition to this, he takes about ten other supplements which support his liver and supplement any other abnormalities in his blood work. We also learned that mercury poisoning can cause allergies to casein and gluten. My son now is on a case/gluten-free-diet, which is also recommended during the chelation process. We don't know if the chelation is really working yet. The Doctor tells us that the 20 other children that he is chelating are all making improvements. I don't know if this will work in my son's case. I am hoping and praying. Chelation is a relatively new therapy. It has only been in use for about two years. Jacob's doctor feels Jacob was not born this way and that the immunizations may have caused it. He told me that he has found that when you remove the mercury, the symptoms improve. The Chemet costs about $500 for a one-month supply. Fortunately my insurance covers it, the blood work, and some of the urine testing. The vitamins are not covered. So far I've spent approximately $700, in all. My son is going to be six years old in July—July 21st. He is not potty-trained and doesn't understand to go to the bathroom when he has the urge. We are trying to work at this. His speech consists of loudly saying what he wants. Examples are: Cookies! Drink! Chocolate! We can understand it, but it's not real pronounced. He says ''stair,'' to get help over the gate, which is in the doorway of his room. He eats with his fingers and throws the food he doesn't want on the floor. He rocks on a kitchen chair when he sits in it, on his knees. He'll rock the chair as he kneels on it, while holding onto the backrest with his hands. You have to tell him all day long to turn around and sit down. He'll listen, but thirty seconds later he'll get right back up and rock again. He also likes to jump on the couch and stand on the armrest. Again you have to tell him to get down all day long. He will get right back up and keep doing it. He doesn't understand about danger. Examples are: a hot stove, hot water, falling from heights, such as the couch. He needs to be watched and constantly supervised all day long. He doesn't understand the reasoning behind everything. Examples of this are: ''Jacob don't rip the pages out of your book,'' ''Jacob, don't run out in the street.'' He cannot bathe himself. He cannot write his name or draw simple pictures. We buy him toys that are at a 2-yr-old level. He cannot brush his teeth by himself. He will put it in his mouth, but usually just sucks the tooth paste off it. Sometimes he screams at the top of his lungs for no apparent reason. We know it's a nervous impulse he cannot control. If I tell him to shut the refrigerator door, he might go and do it, but it's after I say it 5 times. He can understand simple instructions, such as ''stand up,'' ''sit down,'' ''Jacob, come here'' (sometimes). He walks on his tiptoes, frontwards and backwards all day long. When he's home, he takes all his clothes off. He won't sit at our dinner table through the whole meal. He'll get up and run around with food in his mouth. Sometimes he's aggressive and he'll bite or pinch you if he's upset about something. Myself and my wife understand because we love him and we know he has a disorder. Our day consists of getting up, bathing him, getting him to take all his vitamins and Chemet. We use a syringe because he can't tolerate a spoon in his mouth. All his food has to be made and purchased at Health Food Stores. On top of this, you have to watch him while you do all this to make sure he doesn't fall and break his leg or something worse. He likes to take a ride in the car and he'll let you know he wants to, by carrying an article of clothing he wears, over to you, because he usually just walks around at home in his diaper. He knows he has to put clothes on to go outside—although the article of clothing he brings you may not always be his own. He cannot dress himself. You have to help him with zippers and buttons. He may, in the summer, be able to put a pair of stretch elastic shorts on, but he may put them on backwards. You cannot explain to him that the tag on the shorts goes in the back. His joints in his wrists are weak and he has poor muscle tone in his arms. Sometimes his wrists crack. He is very affectionate and will hug me and his mom. His brother, too. He likes to be around us and likes when I wrestle with him. He will say ''mom,'' but sometimes has difficulty saying ''dad.'' I took him in my backyard a couple of days ago and he will toss a big ball with me, if we stand about 3 feet apart. He looked in the sky, saw some birds and said ''birds.'' This gives me hope that the Chemet is working. I hope this gives you a picture of what my son is like. This disorder has also affected my older boy greatly. I can't spend time with James because I have to help my wife watch Jacob. My wife watches Jacob by herself for 72 hours, Friday, Saturday, and Sunday every week. During that time I'm working a 72 hour shift in Washington, DC. I'm a paramedic and work for a private ambulance company. The company is not that busy at night so I am able to get sleep. I'm off Monday through Thursday every week, which is

spent watching Jacob and changing his diapers. This works out well because it gives my wife a break and a chance to go out with my son James. Jacob takes melatonin at night, which helps him sleep. Ninety-five percent of the time now he sleeps a full night. Before he would stay up till 3 a.m. and wake up at 7 a.m. This was exhausting for me and my wife. He goes to bed at midnight now and wakes up at 10 a.m. To change jobs now would be very hard for me. I would like to, but my family needs this break every week. This disorder has limited my career, but I greatly appreciate the flexibility of my employer. When I found out a bill was sneaked into the Homeland Security Act, I was outraged that someone would try to cover this up. I am glad it was removed. As for a 3 year statute of limitations, this should not apply in thimerosal-induced autism. Nobody knowingly decided to inject a harmful substance into their child. We immunized our children because it was recommended to us by the health care industry. I am not proud to be an American. Our standard of living is good and this is also not just a U.S. problem, but a world-wide problem. Our country should have made sure that these immunizations were not given to children. Mercury is toxic! That's why it's not in thermometers. That's why they don't let kids play with it in science class anymore. As soon as they made this discovery about mercury, it should have been removed from the immunizations. I have heard they found out mercury was toxic to humans 20 years ago. But our country still let the Ely Lilly Co. manufacture it to be used in multidose vials of immunizations. Why is it recently that all the manufacturers removed thimerosal from the immunizations? Simply because they know it causes autism. I will only believe in this country again if every family in my situation is compensated, and I don't mean thousands, I mean millions of dollars for each family. And if chelotion does work, it needs to be paid for by our government, NO QUESTIONS ASKED. Whoever put thimerosal in immunizations and knew it could cause autism, needs to be punished to the fullest extent of the law! A life sentence for these people would be getting off easy. Congressman BURTON, if you need any copies of my son's testing or medical records, please let me know. I hope the good people on your side of the government are able to overcome the people who knew about this and didn't care about hurting innocent children like my son Jacob.

Yours truly,

JAMES W. COLL.

SELLING MASSIVE TAX CUTS THAT THE AMERICAN PEOPLE DO NOT WANT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, for the last 2 weeks, President Bush and his advisers have traveled the country, including a visit to my home State, trying to sell their massive tax cut to the American people.

□ 1645

They are wrapping it in fancy paper and calling it a ''stimulus package'' or an ''economic plan.'' But the American people are not buying it. In fact, many members of the President's own party disagree with this reckless proposal. They can dress this tax cut up any way they want and it is still just that: a tax cut for the wealthiest 1 percent of Americans that does nothing to create jobs and will only sink our Nation further into debt. A tax cut of this size directed to the privileged few will not help our struggling economy no matter what it is called.

I represent the 11th congressional district of Ohio. Since 2001, Ohio alone has lost 167,800 jobs, which is more than 3 percent of its total workforce. In the city of Cleveland, 53,900 jobs have been lost since the President was sworn into office, which is 4.7 percent of its workforce.

Over the last few weeks, I have spoken with many members of the Cleveland business community and most agree on one thing: this tax cut is useless as a tool to help their struggling businesses. For example, local businesses tell me that they are much more likely to invest in new jobs and new technology if they are allowed to write off more of those investments on their taxes, and workers in the health care field feel they are best helped by increased provider reimbursements, not a dividend tax reduction.

What is more, the Republican budget will mean cuts in local services of all kinds. It means fewer qualified teachers in our public schools. It means fewer police to keep our neighborhoods safe. It means fewer firefighters and EMTs to respond to our emergencies, and it means fewer hospitals dedicated to caring for the veterans who have put their lives on the line to protect ours.

We can and we must do better than that.

Democrats are all for cutting taxes. The difference is that we believe in cutting taxes responsibly so that those cuts can serve as fuel to get our economic engines turning again. We believe responsible tax cuts take into account the future as well as the present and do not increase deficits, raise interest rates, or risk jobs.

That is why Democrats have proposed cutting taxes by $85 billion, and our tax cuts would go to those who really deserve it: hard-working Americans who are most likely to put the extra money back into our economy, and small businesses which need incentives to invest. Our tax cut is a part of a real stimulus package, a $135 billion plan to put Americans back to work by investing in the things that are most important to them: homeland security, education, health care, and transportation. The difference between these two plans is clear. It is simply a question of priorities.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

FCC TOO QUICK TO REVISE MEDIA OWNERSHIP RULES

The SPEAKER pro tempore (Mr. BURNS). Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, I would like to take this opportunity to bring to the attention of the House the fact that I am now introducing a resolution to express the sense of the House of Representatives that the Federal Communications Commission should not revise its media ownership rules without more extensive review and comment by the public.

I am doing this because the chairman of the Federal Communications Commission, Mr. Powell, made an announcement in March that he was going to further revise the rules of the Federal Communications Commission which would make it possible for fewer owners to control the information distribution system in America. In doing so, he is continuing a process which effectively began in the early 1980s when such things as the right of people in communities to express themselves over the airwaves when editorial positions were taken by radio stations with which they did not agree was abolished. This was a provision that existed in the rules of the Federal Communications Commission, and effectively in the laws of our country since the period of the Second World War.

As a result of that change and others, what we have seen is, for example, in the radio area, 80 percent of the radio audience being in effect controlled by three major corporations. In other words, three major corporations broadcast to 80 percent of the radio audience. We have lost diversity in our radio programming. We have lost the very important aspect of local control. We have lost the sense of community in radio and television broadcasting as a result of the changes that were begun during the Reagan administration in the 1980s and, now, are being attempted to continue under the jurisdiction of Mr. Powell, the present chairman of the Federal Communications Commission.

What Mr. Powell under the direction of the present administration is doing, is this: he is now going to go beyond the fact that fewer people can control the electronic media, radio and television; he is also going to issue an order, he says, which will allow those same people that control the electronic media to now control increasingly the print media as well. So if one owns a radio station and a television station in a particular service area, one will be able to own the newspapers in that area as well, thanks to the ruling that Mr. Powell is putting forward as chairman of the Federal Communications Commission.

Mr. Speaker, I think that this is a very dangerous thing. I think it is important for us to do everything that we

can to allow local aspects of communication to take place and local control of media, and diversity in the media and quality in the media. Much of this has been lost as a result of the present consolidation that has occurred over the course of now more than 20 years. Mr. Powell is now going to increase that and make it worse so that there will be less diversity of opinion, less local control, and more consolidation of views in our country. And he has done this, interestingly enough, without proper notice to the public and without adequate public hearings.

Now, one would think that a Federal agency embarking upon such a project would give adequate time for review by the Congress and, more importantly, by the general public. No, Mr. Powell has not conducted his activities in that way. One public hearing outside of Washington, DC was held. That was held conveniently in Richmond, Virginia. It is a very lovely city, but it is just down the road. There were no hearings held in Boston or San Diego or Chicago or Des Moines or Albuquerque or Dallas. No hearings held in other places across the country so that people could have an opportunity to understand what was happening to them, what was happening to the communication media in their country so that they could have an opportunity to react to it appropriately.

So this resolution, Mr. Speaker, which I am offering to the House of Representatives and I am asking my colleagues for their kind support, would call upon the chairman of the Federal Communications Commission to halt what he is doing, to provide for additional public hearings, to give the public ample time to understand what is happening with the communication media in our Nation. Because most of these activities have been below the radar. They have been carried out surreptitiously. They have been carried out in ways so as not to attract attention, and that has been done, I believe, consciously because the perpetrators of this activity have understood that if it attracted public attention, it would also attract public dissent and public opposition.

So we need to be more careful about the way in which the Federal Communications Commission acts. The Federal Communications Commission was set up by legislation passed by this Congress, but this Congress has not exercised its proper jurisdiction over the way the FCC operates. And, as a result, we are seeing this very invidious consolidation of communication which is acting contrary to the best interests of the American people.

PRACTICES OF FEDERAL PRISON INDUSTRIES COSTING AMERICAN JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, tonight I rise to set in context a bill that I introduced with my colleagues, the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Georgia (Mr. COLLINS), the gentleman from Wisconsin (Mr. SENSENBRENNER), and the gentleman from Michigan (Mr. CONYERS), along with 98 other cosponsors just before the Easter recess. The bill is H.R. 1829. It deals with an issue of reforming Federal Prison Industries.

Some of our colleagues may ask, what is the importance of this bill? Or, what are you trying to get accomplished? Let me put that in a framework. What is Federal Prison Industries? Federal Prison Industries is a corporation, and many of the documents and many of the talking points that I will be using tonight come out of the annual report, which was just released by Federal Prison Industries within the last couple of weeks. But Federal Prison Industries was established on May 27, 1930 when Congress enacted H.R. 7412. One of the key provisions was to ''reduce to a minimum competition with private industry or free labor.'' On June 23, 1934, this bill was signed into law, authorizing the establishment of Federal Prison Industries.

The key phrase is ''reduce to a minimum competition with private industry or free labor.'' I am going to spend much of the evening talking about what Federal Prison Industries is doing to American workers and American companies. In effect, what Federal Prison Industries is doing is it is costing American workers and American taxpayers all across this country to lose their jobs, even though the underlying statute clearly states, ''reduce to a minimum competition with private industry or free labor.'' Federal Prison Industries and this Justice Department has lost sight of the goal of this legislation and what the role of Federal Prison Industries was intended to be.

Now, some within the Justice Department today may say, this is our contribution to creating high-quality and high-paying jobs in America, and we will get into that in detail also as we go through this process. But the key point here is that when Federal Prison Industries was established, the mandate was you will reduce to a minimum the impact on American workers and free labor and American business.

The message from the current board of directors is very encouraging. It says on page 5 of their annual report, ''Our mission is to do so without jeopardizing the job security of the American taxpayer.'' In 1930, the underlying statute says ''reduce to a minimum.'' In 2003, reporting on their annual report for 2002 it says, ''mission is to do so without jeopardizing the job security of the American taxpayer.''

□ 1700

If we go a little further, we will start to see where I think we get into some problems.

Mr. Speaker, what we have talked about, laying the context, is in the 1930s up to 2003, the underlying legislation, the board says they should reduce to a minimum the impact on American workers, American taxpayers, their jobs, and free labor.

It is interesting, as we go to the ombudsman message in the annual report. The ombudsman says something different: ''so that a balance can be achieved between protecting jobs for Americans while teaching inmates meaningful job skills.'' A balance.

It is a subtle shift, but it is a shift that FPI has been undergoing for the last 10 years. They have shifted from having a minimum impact on the American workforce to, in a number of different industries, having a devastating impact on American workers.

In Maine at Hathaway Shirts, that closed last year because of contracts, because of Federal Prison Industries going out and claiming contracts that otherwise would have gone to the private sector. Ask the workers at Hathaway Shirts as to whether Federal Prison Industries is having a minimal impact. I think they would tell us very clearly that when someone loses his job and the factory locks its doors, that is not a minimal impact; that is a devastating impact. Their jobs are gone. We have put more inmates to work.

It is outrageous that Federal Prison Industries and this Justice Department is talking about a balance as they are putting American workers out of business. What kind of balance is that? American taxpayers are out of a job and someone is asking for balance. It does not look like there is a whole lot of balancing going on. This Justice Department has no idea as to what a balancing act is when they weigh putting a prisoner to work at the expense of an American taxpayer.

By the way, when Members say, well, it is good to keep prisoners working, there is no debate with that. But what we do not want to do is we do not want to put them to work at the expense of American taxpayers.

On page 24, an interesting fact. They will say they make money for America. Here is what it says in their annual report about taxes: ''As a wholly owned corporation of the Federal Government, FPI is exempt from Federal and State income taxes.'' That is not a bad deal. I wonder what kind of Federal and State income taxes Hathaway Shirts was paying. Of course, they are now out of business.

FPI is exempt from gross receipts taxes, and they are exempt from property taxes. That is an interesting thing. They pay no taxes, and they put Americans out of work. The Justice Department and FPI is looking for a balance. As far as I can see, it is an outrageous balance every time we put an American worker out of a job.

What do they make? Clothing and textiles; law enforcement, medical, military and institutional apparel; mattresses; bedding; linens; towels; embroidered screen printing on textiles; custom-made textiles and curtains; fleet management; vehicular components; rebuild and refurbish vehicle components; new vehicle retrofit services; fleet management customized services; dorm and quarters furnishings; package room solutions; industrial racking; catwalks; mezzanines; warehouse office shelving; custom fabricated industrial products; lockers; storage cabinets. It looks like a lot of stuff they make in my district.

They have an office furniture business group: office furnishings and accessories, seating products, case goods, training table products, office systems products, filing and storage products, package office solutions, turnkey solutions, distribution and mailing services, assembly and packing services, document conversion, call center, order for film and services, laundry services, recycling of electronic components, reuse and recovery of usable components for resale, recycling activities, custom engraving, printing and awards, promotional gifts, license plates, interior and exterior architectural signs, safety and recreational signs, printing and design services, remanufacturing of toner cartridges, exterior and interior task lighting systems, wire harness assemblies, circuit boards, electrical components and connectors, electrical cables, braided and cord assemblies. Wow. They make a lot of stuff that is made in my district.

The interesting advantage that Federal Prison Industries has, we think, well, hey, if they can go out and compete for this business and they can provide a better quality product at a better price and at a better service delivery than the private sector, so be it.

If that were only the case. Federal Prison Industries has this wonderful thing called mandatory sourcing. The balance that the ombudsman calls for, here is the balance that Federal Prison Industries has: if the Federal Government wants to buy something and Federal Prison Industries makes it, we have to buy from Federal Prison Industries. The private sector may make the product, they may make it in a better quality at a lower price and a better delivery schedule; but sorry, they do not qualify. We know they paid their taxes, but they cannot even compete for the Federal Government business.

Here is what they make. The law says they should have minimal impact on jobs and free labor, and they have an element called mandatory sourcing. They are quality jobs. This is great.

Here is what we do with our prisoners. We criticize China for their prison labor. Federal Prison Industries, and our Justice Department. Inmate pay rates: 23 cents to $1.15 per hour. Wow. It sounds more like China than it does America. The good thing is, of course, these people are covered by OSHA. Wrong. If we are paying them 23 cents to $1.15 an hour, we cannot cover them with OSHA laws.

These are the people that are putting American workers out of business around the country today. My district is heavily impacted by the recession, making a lot of office furniture products, and the industry is down by 40 percent.

I have been joined by one of my colleagues. I will give him a chance to have a little dialogue here. Before I do that, let me highlight one small fact. I am not sure my colleague has seen these numbers. I am sure the American people have not seen them.

As the American economy is struggling, here is a growth company. We can invest in the U.S. Government, and we may get one of the best growth companies in America today, Federal Prison Industries.

Federal Prison Industries, in the business segment clothing and textiles did not have a good year. They were only up 1 percent; electronics, not a bad year, 14 percent; fleet management, vehicular components, wow, this is a growth industry. This is a business segment that grew 216 percent. Graphics, they had a rough year. They were down 10 percent. Industrial products, they were down 54; office furniture, up 24 percent.

Not that great of a growth rate, office furniture up only 24 percent. The statistic they are now telling us is that the office furniture industry in the private sector was probably down 15 percent to 18 percent, so they grow by 24. The real manufacturer decreases by 18 percent, and Federal Prison Industries increases their market share. Overall, last year Federal Prison Industries grew by 16 percent.

It is the ugly little secret that this Justice Department, this Federal Prison Industries, whether it is in clothing or textiles, whether it is in office furniture, whether it is in automotive or whatever, as these industries are laying people off, Federal Prison Industries through mandatory sourcing and offering poor quality, higher-priced goods with longer delivery schedules is adding more and more jobs.

The Justice Department's answer or contribution to creating high-quality, high-paying jobs in America is to put more prisoners to work in prison, lay off taxpayers, and pay the new jobs at 23 cents to $1.15 an hour. That is Justice's idea of justice in America today. It is absolutely outrageous that the Federal Government is allowing this to go on. I encourage my colleagues to support H.R. 1829.

Mr. Speaker, the gentleman from Indiana (Mr. SOUDER) and I, it was not all that long ago that we visited a plant in his district, a company that made innovative products and wanted to sell to the military, and had sold to the military. What they found out, maybe my colleague is going to share the story with us, but again they were dramatically impacted by Federal Prison Industries to such an extent that they were jeopardizing jobs in their plants so that Federal Prison Industries could expand the sale of their goods and services.

Mr. Speaker, I yield to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I thank my colleague, the gentleman from Michigan, for yielding to me.

I would like to kind of restate in similar words the concerns that he has shared here so far this evening and thank him for taking leadership in this issue; because I believe if most Members actually looked at this bill, there is just no defensible rationale to be against it. It is something that is often under the radar.

One of the good things about the district of my colleague, the gentleman from Michigan, is that it is good to have an industrial sector where there is a large concentration; but one of the bad things is that where you have a concentration, you do not have as many Members affected by it. Therefore, they may not feel as much pressure to do what is just and right.

The Grand Rapids Holland area has long been the center of office furniture and supply-type furniture in the United States. I grew up in a furniture retailing factory, a family business started in 1907. Since the 1920s, we were retail furniture merchants. In the old days the whole furniture industry was centered in Grand Rapids. That used to be where the markets were before they moved to Chicago and then North Carolina.

What we saw was first southern competition, where they did not have the unions, kind of weakened some of the northern furniture companies. Then we saw cheaper wood because the wood grew faster in some of those areas. It was not as good wood in the South as the northern hardwoods, but we saw that. Then we saw most of the furniture industry in big percentages go offshore and then overseas.

But in office furniture, we had a success story. The companies, including the former employer of my colleague, the gentleman from Michigan, stayed, by innovation, at the front end of what we needed in the office furniture market, in the supply market in this country. It was a good-news story of how to fight off foreign competition. So what do we do? We develop internal domestic competition to the industry.

I have a company that was alluded to by my colleague, Wieland Furniture in my hometown of Grayville, Indiana, a town that is now up to almost 1,000 people. In their plant, and in full disclosure, it has now been purchased by Sauder Furniture out of Archbold, Ohio. It is spelled S-A-U, and I am spelled S-O. They are distant cousins. They now own this as a division.

They have 40 employees, and 20 percent of their business involves sales to the Federal Government that could be lost if FPI decides to revoke waivers on the military bases, and they have lost

untold other jobs that they could have had.

As the gentleman from Michigan (Mr. HOEKSTRA) said when he visited this plant, they told him what is really completely irritating about this is that they sell it cheaper. We save dollars for the taxpayers.

Mr. HOEKSTRA. Mr. Speaker, excuse me. If the gentleman will clarify, who sells it cheaper?

Mr. SOUDER. The company, Wieland, the private sector company. Even though they have to follow all the laws that my colleagues alluded to, they sell it cheaper.

□ 1715

And because they can sell it cheaper, that would save taxpayers money in the Defense Department, at universities, in government offices, in anyplace else that Federal Prison Industries is doing it, we would save taxpayer dollars if you bought from the private sector. Not only that, it is built better. They are selling it cheaper. It last longer. So you save money because you do not have to repurchase the goods. The sofas hold together. The tables hold together.

You have now the combination of not only the immediate prices being cheaper, but the long-term cost of the value, even to the government and any agency buying it, increased exponentially, because you do not have to replace it. The wear and tear is not there. You do not have to repurchase.

Mr. HOEKSTRA. You say, well, why do the Federal procurement officers not support your bill? You know what? They do. Because as this Congress asks different agencies to do more with less, the Federal procurement officers come back and say, hey, we can buy better goods and services from the private sector for a lower price, but you make us go to Federal Prison Industries. If we are going to have to use Federal Prison Industries, then do not make us do more with less because we cannot buy the best products and we cannot buy the services. You are asking us to get more efficient and more effective in using vendors who do not meet the standards that we need to compete.

Mr. SOUDER. The extraordinary thing here is that if they can meet these standards, that the Federal procurement officers would like to do this. And they are doing this, as he has so eloquently pointed out, that they do not have OSHA, the Occupational Safety and Health Administration laws that say you got to have this over here and this over here. Nobody walks into their plant, and I have had OSHA come into little plants in my district much smaller than the House floor saying, you do not have your exits marked. You do not have this kind of thing over here and threaten to shut them down or fine them. They do not have any of that kind of pressure. They do not have minimum wage standards. They do not have civil rights standards to see which percentage of the population is at which direction. Often these institutions are violators of even laws on water and air pollution. They do not have the same pressures that you put on the private sector. And still the private sector makes it for less price with better quality.

The owners of the Wheeling Furniture ask me, could our employees get these contracts and get the points if they get busted for dealing drugs? Could our employees get these jobs if they go rob a bank? Could our employees, if they get arrested for other crimes, then become eligible to make this furniture?

This is absolutely crazy. I believe that the stumbling block here is that there are many Members here like me who want to work. I am a strong supporter of Prison Fellowship and Justice Fellowship and organizations as is my colleague, that say people need to develop a skill while they are in prison. They need to develop a skill that does not take jobs from American workers.

We are losing jobs all over the place. Figure out, jobs that are taken by overseas workers and give them to the prison industry people. It is not that we do not want to rehabilitate prisoners. It is not that we do not want them to learn a skill. It is not that we do not want them to have some income when they are done, and they are taking advantage of many Members here who think that, oh, well, this is the only way we can help them. If this was another industry that was represented in big numbers in their district like it was in my colleagues, if it was the building industry, they would be outraged if we said we would take prisoners to knock out your contractors. They would be outraged if we said we were going to knock out the restaurant business. They would be outraged if we said we were going to knock out telecommunications. But because this industry is concentrated in one area, and because of the general good will, there is this misunderstanding that the Justice Department continues to take advantage of, and it must be changed.

It should not be in America that if you rob somebody and deal drugs, you can make the furniture, but if you are honest, you cannot. There is something fundamentally wrong with that, even if it did not cost less and be better quality. And it is particularly stupid when it costs less, better quality, and you are taking jobs away from law abiding citizens and giving it to people who violate the laws. It makes no sense whatsoever.

Mr. HOEKSTRA. The interesting thing here is this is just not an office furniture industry issue. If you go through the numbers, they are selling $159 million worth of clothing and textiles. That is why if you go to the gentleman from Pennsylvania's (Mr. TOOMEY) district, our colleague, I visited up there. There are lots of cut and sew operations that are operating at 25, 30 percent capacities. These are great plants. The workers have been sent home. Federal Prison Industries has grown. It is what happened with Hathaway Shirts in Maine. The contracts went to Federal Prison Industries, and the last shirt manufacturer in the United States closed down. But they are still making shirts over at Federal Prison Industries. They are doing the electronics. They are doing fleet management. It is a fast growing area. I think somehow they got the Midwest on their target zone. I think they forgot that Michigan is part of the union. Stay away from office furniture. Stay away from automotive parts, but they have made that a key part of their business.

They are now also moving into the services industry so there is a lot of folks in here. It also talks about the coalition that we have been able to put together. The day I dropped the bill we had 104 co-sponsors. It was awesome. A bipartisan bill. The gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), two leading Democrats, the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary, a Democrat, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, me, the gentleman from Georgia (Mr. COLLINS), yourself, about 104 Members are joining us in this effort.

The sad thing is the way that we get co-sponsors.

Mr. SOUDER. Let me take a guess. Let me take a wild guess.

When a company closes and jobs are laid off in an individual's district and they say, why are they laid off? And they say it is competition from Prison Industries?

Mr. HOEKSTRA. That is right. Exactly.

The gentleman from Georgia (Mr. COLLINS), he has been just a yeoman on this for the last 5 years. But what really got him interested was a small company in his district which made a very specialize product, missile containers. Well, Federal Prison Industries thought that would be a nice business to get in.

How do they justify getting into the missile container business? They said, well, we are going to go into the container business. So we are going to take a very small piece of the container business so obviously it is a minimal impact on jobs in that industry.

Mr. SOUDER. You are far more informed on this because I clearly got involved because I had a company that got immediately impacted and was outraged by the injustice. Do they have any criteria and does the Justice Department have any response when you say why do you not pick a category that does not have U.S. competition?

Mr. HOEKSTRA. No. Actually what Federal Prison Industries does and what they did with office furniture was they took a growth industry in America and decided to piggyback on it. And

now that that industry is facing some difficult times, the industry is down, there is more foreign competition coming in, and then they are looking over here and they are competing with their own government.

I just get absolutely enraged when I am back home in my district because these are my neighbors. It was just a week ago and I am speaking to a local group and a friend of mine that I would like to think of as still a young man, but somebody I worked with, somebody that I graduated with. He said, maybe you did not hear, but I got laid off last week. He had been with the company for 28 years. This is as the industry is going down 18 percent. Federal Prison Industries is growing by 24 percent. What does that mean? It means they grew from $174 million in the office furniture industry to a $217 million company in one year, as the industry in the private sector was going down and they deliver poorer quality products as at a higher price.

These people come up to me and say, how come I am out of a job? I pay taxes. The company paid taxes. We have got shuttered plants. Hathaway is now a shuttered plant. I am sure the folks up in Maine, they are not getting any State income taxes. You cannot explain to them and say, well, we have got to put these prisoners to work.

In our bill we do not just put these people in cells. We give them vocational training. We are increasing the investment in vocational training. We are allowing them and encouraging them to make stuff for not-for-profit organizations, to work with Habitat for Humanity. So they are going to be doing things and staying busy, but the thing that they are not going to be doing is they are not going to be putting American workers out of business and out of their jobs. And the other thing that my bill does is it says we are not going to shut you down. We are saying all you have to do is be able to compete.

All I want is the workers in west Michigan, the workers in Indiana, the workers in Maine and down south to be able to compete for the business that if he can, they can get a better product. If they can deliver a better product at a better price right, that they can get that business. Right now they cannot compete for the business.

Mr. SOUDER. I know the gentleman is a little more liberal than I am in some of this. I do not believe they should be competing at all.

It is particularly absurd to say that they are going to get a price advantage, and they get the regulations relaxed and they get the price advantage and the quality advantage. I would make it so they cannot flat out compete, but we have to work some kind of a compromise, because clearly, this has been very difficult for many years.

We have laws that say that companies cannot illegally dump from overseas. You cannot come in where the government is subsidizing. Why do these laws not apply here and how would the Justice Department defend themselves when this cannot be done in any other category except by prisons?

Mr. HOEKSTRA. Number one, I agree with you. I would like to go to the same place and say you are just not going to make stuff that competes with the private sector. The law called for minimal impact. But we have got to get the 218 votes. We need to pass this through the House. We need to get it through the Senate. And we need to get this done so at least these workers will have the opportunity to compete and fight for their jobs. They are, in many ways, fighting an uphill battle. They are fighting 23 cents an hour labor. They are fighting factories that have no OSHA regulations. They are fighting a bureaucracy that the capital is funded by us so there is no cost or a minimal cost of capital. But the surprising thing is they have shown that they can do it.

So I am willing to accept that as somewhat of a compromise, and the compromise that we have developed, not only do we have great bipartisan support here, but we have got support from the Federal Contracting Officers. Where else can you go and get a letter of endorsement from the AFL–CIO, the U.S. Chamber of Commerce, the Teamsters and the NFIB? I mean, this is where organized labor and the business groups all come together because we are all interested in one thing.

We are interested in creating, and maybe in this case, preserving high-quality, high-paying jobs in America where this Justice Department, this FPI, this Federal Prison Industries and some would say this administration, is bent on eliminating high-quality, high-paying jobs. It is outrageous.

Mr. SOUDER. I think many Americans who are watching this and our colleagues and staffers around the Hill are going, this absolutely does not make sense. If they have not listened to this debate before, it is like, how could this be happening? About the only people who could possibly defend this would be somebody in prison; but we are not saying they are not going to have a job or income, because you and I have both advocated for many years that, and have been personally interested in how you deal and rehabilitate people in prisons and give them job skills. That is not what this is about.

So who could possibly be blocking this? What is the problem? It makes no sense. It is one of these things that you hear the Federal Government does and you think, well, how does this keep happening? Is it the dollars that are generated by some benefit to employees in Federal Prison Industries who are contracted to supervise the prisoners? Is it the amount of money that has been given to different agencies? Is it inertia, that government will not do it? It is not a defensible policy. No one likes to stand up and defend this. And when they do, quite frankly, the few times we have ever had any kind of debate, the debate has not been anchored to reality. As I recall, some of our colleagues, they talk about the importance of employing prisoners, but they cannot deal with the fact that people in your district or my district have been following the law have been laid off to employ somebody who violated the law. They cannot defend that position and usually they do not try.

So who exactly has held this up, and what is the problem here and why do they not pay attention?

Mr. HOEKSTRA. The problem that we have, I believe, is within the bureaucracy of Federal Prison Industries. I think you used the word ''inertia.'' They have got this momentum going. They are building new plants. They are employing all of these workers. They cannot think outside of the box. They are wedded to the box that says we are going to make products that everybody can identify with.

Going out and starting a new relationship with Habit for Humanity and a new category of products that does not compete with the private sector, that is too hard to do. This is pretty easy. And I think that is what it is.

The scary thing here, this is where we are today. Over the next 5 years, the plan of this Justice Department, in their annual report, Attorney General John Ashcroft not only endorses these results of increasing sales by 16 percent and saying that is a wonderful thing, without thinking about what it has done in your district and my district and other districts around the country, they are requesting, and I think other documents would show that what they want is 30 percent growth over the next 5 years.

□ 1730

So I mean there are those within this group of people who see this as a wonderful opportunity, for whatever reason, a wonderful opportunity to put more Americans out of work. So my legislation is going to pass; I just do not know whether it will pass this year or whether it will pass in 3 to 5 years. Because each and every year when we go through this process, and the gentleman and I have worked on this for about 5 years together, but it becomes much clearer to Members.

We have been kind of tilling the soil, and the seed does not sprout and grow until it happens in their district. Then they come back and say, hey, PETE, MARK, I finally get it. I had a company that was selling this stuff to the Federal Government and they were doing a great job, and last week Federal Prison Industries came in and said, oh, by the way, that is now our business, we are going to make it. And they say, PETE, my folks make that. They had a better quality product, it is cheaper, and they cannot even bid for the business. Is that right? And I have to say, yes, that is exactly how it works. Glad to have you on board and glad to have you now being a supporter.

What we need is we need to get to the 218 Members this year so that we can

get those folks in our districts and other districts back to work as soon as possible by at least providing them the opportunity to compete for this business.

Mr. SOUDER. If the gentleman will yield, one of my concerns is that this inertia starts to develop a bigger and bigger base; and I hope our colleagues understand that if they do not move soon, the bigger this machine gets, the more people that get involved in contracting and building the prison industry infrastructure itself, all of a sudden we will have a monster that starts to consume society.

The other day when I was driving to the airport, or being driven to the airport, I saw a crew out cleaning the roads who were on a work-release-type program. Imagine if our county and State governments picked this up and instead of doing a work-release program, they decided they will run the local gas station, which would be the equivalent here. So when you come up to an interstate exit or a highway exit you would now have gas stations operated by people who are in prison, restaurants operated by people in prison. There would be an outrage. But manufacturing is not as visible to the consumer eye as retailing. They are taking jobs away in the industrial sector and transferring them. And by the way, those industrial sector jobs have the biggest multiplier effect on our economy.

You know, I am a little older, too; and when I was getting my MBA back in 1974 from Notre Dame, one manufacturing job was the equivalent of seven. Now it is closer to 15 in its impact that brings dollars into the community. So when you rip those manufacturing jobs away, maybe they are in a building you cannot see. But if you start to visualize that you are taking as many jobs in my little hometown, say 40, as would be employed in the grocery store, plus the dairy sweet, plus the gas station, plus a couple of other small retailers in this town, and say all this retail infrastructure is going to be operated by prison industries, you would have more outrage in the community. Yet those retailing jobs do not extend dollars to the community like the manufacturing jobs.

We have to wake up. And lest I step on another sore point here in Congress, we years ago decided for good or ill that Indian gaming could be allowed. But Members started to realize that that same clause could be used for supergas stations or retailing operations that could be based and moved around similarly by exits. The best thing you can say about the comparison with the Native Americans and how they were using it was, hey, it was originally their land, we probably took the land unjustly, they are following the law. This group, which is doing in effect the same type of expansion of their categories of industry, putting law-abiding Americans out of work, do not have an injustice; they are there because they committed an injustice and we are trying to rehabilitate them. They do not have any prior claims, yet you see them stealthily moving through sectors of the economy threatening American jobs.

The fundamental question is: Why is this not like other types of illegal dumping from other countries, where they are subsidized? Why is this not like other countries, where we lose competition because they do not have to have the same American laws? And why is it not focused on trying to gain jobs that have gone outside of America in Federal Prison Industries rather than take law-abiding jobs?

How do you answer those questions? How does any Member of Congress answer the question, when some factory in America loses a job, and that person says, if I robbed a bank, if I abused cocaine, would I be able to keep my job? It is backwards, and it makes absolutely no sense.

I am worried that if we do not move here with a Justice Department that you would expect to be favorable and a Congress that should be paying attention that this momentum and this inertia is just going to overwhelm us. My esteemed colleague has been gaining sponsors, but not fast enough. And we really need to get a sense of urgency in this House and in this administration.

You know, you cannot talk about losing jobs in America, you cannot walk out there with a straight face and say we are trying to help the economy, and by the way we are taking away from law-abiding citizens. It does not fly.

Mr. HOEKSTRA. Well, if the gentleman will yield, under this Justice Department, what has happened? The gentleman talked about this, and the statistics are ugly. We have seen the growth numbers: 16 percent overall, 24 percent in office furniture, 216 percent in vehicular elements and those types of things. So under this Justice Department we are seeing growing sales.

The gentleman brought up a couple of great points that I want to respond to. The gentleman talked about dumping. Under this Justice Department, sanctioned by this administration, Federal Prison Industries has gone and signed contracts with Canadian companies, in the office furniture industry again. It is a Canadian company that could not necessarily penetrate or compete for government contracts here in the U.S., so what they did is they signed a contract with Federal Prison Industries. Basically, Federal Prison Industries either just passes the product through, or maybe does just a little bit of assembly, so we now in government offices around the country, government procurement officers, we are requiring those folks, through Federal Prison Industries, to buy Canadian-manufactured products.

And, by the way, Canada, thanks for helping us with Iraq. The country just north of us stiffed us on the war. The country just north of us stiffed us on the war, but Federal Prison Industries is embracing them and saying, hey, make a deal with us and you can sell your products. You do not have to compete for the business; we will make the Federal Government buy your stuff.

Mr. SOUDER. If the gentleman from Michigan will yield, let me see if I understand this. The company in my district or your district, where the employees that have been following the law are making something that is cheaper and better made, they go in to bid.

Mr. HOEKSTRA. They may never bid.

Mr. SOUDER. Or they would like to bid for, say, military training base equipment at a housing unit, tables, sofas, other things, file cabinets, whatever it is; and they go in, and because of the points that are in effect given to prison industries, that even though they are lower priced and better quality, they might not even be competing with Federal Prison Industries; they might be competing with a Canadian or foreign-owned company? So that not only are products made unfairly in prison, but the wholesaling and marketing profits are going to a company from overseas, knocking American law-abiding workers out. So we have a double whammy that would certainly not be allowed in any kind of international trade agreement.

Mr. HOEKSTRA. I want to make it very, very clear. Our companies are not even allowed to compete for the business. Federal Prison Industries gets right of first refusal.

Mr. SOUDER. So it is not points.

Mr. HOEKSTRA. It is not points. If Federal Prison Industries makes it, they can demand that that housing project that the gentleman just talked about buy from them, no matter what else they get. No matter what other kind of bid, they have to buy from Federal Prison Industries. The companies in our districts cannot even go compete for that business.

Mr. SOUDER. If the gentleman will yield, this is not like a veterans-owned company or a female-owned business or a minority-owned business where you say, okay, they get a 10 percent advantage; this is flat-out they cannot even bid, even if it was half price?

Mr. HOEKSTRA. No. There is a reason it is called mandatory sourcing. It is not preferential sourcing, where there is a scoring system and if you are within 5 or 10 percent of the private sector price you have to buy it from us. It is not preferential competition. It is mandatory sourcing. You must buy from Federal Prison Industries. If you want a waiver or seek a waiver, Federal Prison Industries determines whether you will get it.

It is absolutely outrageous. And I just want to mention one other thing the gentleman talked about. The inertia, the momentum where we build up this prison industrial complex; 111 different factories: Alderson, West Virginia; Atlanta, Georgia; Beaumont, Texas; Butler, North Carolina; Dublin,

California; Edgefield, South Carolina; Fort Dix, New Jersey; Greenville, Illinois; Jessup, Georgia; Leavenworth, Kansas; Lee, Virginia; Manchester, Kentucky; Oakdale, Louisiana; Pollock, Louisiana; Ray Brook, New York; Safford, Arizona; Sandstone, Minnesota; Seagoville, Texas; Terre Haute, Indiana; Tucson, Arizona; Minnesota; Mississippi; Texas; Connecticut; New Jersey; Kentucky; California; Pennsylvania; Illinois; Tennessee; New York. 111 different factories. Absolutely they are building it up.

So we have this momentum put in place that just wants to gobble up more and more business. They want to grow and grow, grow by 30 percent after they have grown by 16 percent. They have come up with these creative marketing schemes, and what they are selling is they are selling their mandatory sourcing. They are going to these Canadian companies and saying if you sign these contracts with us, we may or may not do anything with the product except pass it through. It may not even stop at a prison, but if you sell through us we can make people buy your stuff that otherwise probably would go to an American company.

Thank you, Federal Prison Industries. Number one, you take our jobs. This is a new scheme that has come up within the last 12 to 18 months. So this is the direction this Justice Department is going. I guess they do not realize that there has been a little bit of an economic downturn in America. They think we have full employment. This Justice Department is now saying, before we put people in Michigan or Indiana back to work, we have to get those people in Ontario back to work. And when we get those people in Ontario back to work, we will take a look at Michigan and Indiana. But we have to first take care of those people in Ontario.

It is really too bad that the Attorney General and Federal Prison Industries are getting away with this. Probably Federal Prison Industries is getting away with this because the Attorney General is not paying any attention to it, although we have met with the White House. We have tried to get the attention of the Justice Department.

The President came to Michigan a couple of months ago, and he asked about this issue. I think he shares our passion. He thinks it is wrong. He made a comment along the lines of, hey, Pete, I think we have that issue done. But, Mr. President, no, we have not. Matter of fact, it has gone from bad to worse. This Federal Prison Industries is a fast-growing growth industry. That is what we want to have in the economy, but that is not what we want to have at Federal Prison Industries. But under your Justice Department, that is exactly what is happening.

Mr. SOUDER. If the gentleman will yield, my understanding is a lot of this is defense contracting.

Mr. HOEKSTRA. Well, a good part is defense. But a lot of these products are used throughout the Federal Government. A good portion is defense, yes.

Mr. SOUDER. We are about to mark up in the Committee on Government Reform a new defense procurement act, as is Armed Services; and I am trying to understand, again, as the Department of Defense came and talked with those of us on the committee last night, their argument was they are trying to reduce costs and get more flexibility in the Federal Government. Why would they then do something that costs more with less quality in another area? And how are they going to justify coming to Congress and asking us to vote for that acquisition act if they do not fix this?

Mr. HOEKSTRA. It will be very difficult. Again, the folks in the Defense Department are very much in support of this type of reform because they want to go to the private sector, or at least they want to have the opportunity to go to the private sector. Typically, the private sector is going to be more flexible. From experience, we know they can provide a more cost-effective product and a better quality product. So, again, that is why Federal procurement officers are with us.

The folks that are not with us are the bureaucracy within the Department of Justice; and I am hoping that somebody just rings the bell over there and says, wait a minute, guys, this is wrong. We need to stop this, and we cannot believe that on our watch this is what is happening.

□ 1745

We are growing the inmate workforce at the same time that unemployment rates in many parts of the country are going up. Again, Federal Prison Industries and Office Furniture grew by 25 percent as the industry went down by 18 to 20 percent, a 45 percent differential. It is terrible to say, but I would probably have been overjoyed if Federal Prison Industries would have stayed level, but they did not even have the courtesy in this competitive, tough economy to not be greedy. They got greedy.

Mr. SOUDER. Mr. Speaker, this President has had few things as defining in his career as the principle of contracting out and not having things be done by the Federal Government that can be done by entrepreneurial, private sector people. He did that his first term as governor of Texas, second term as the governor of Texas, and campaigned on that. Sometimes he goes too far in contracting out.

My question is how can we have such a disconnect in the Department of Justice with the goals of the President of the United States that are explicit through every agency right now ordering contracting out, and this is not contracting out, it is contracting back. It is sucking jobs out of the private sector, bringing them, kind of a reverse contracting out, and then in the proposals, proposing to increase that. At the rate of growth that this category is going, what is the point of us in Congress trying to look at contracting out if they are going to be contracting in in this area.

Mr. HOEKSTRA. This is why Federal employees support us as well. What may happen is the Federal Government may decide to outsource and contract out certain things, and the winning contractor may be Federal Prison Industries.

Mr. SOUDER. Mr. Speaker, if the gentleman would yield, like when one goes to a national park and the individual greeting you is somebody who works for Federal Prison Industries.

Mr. HOEKSTRA. I would not go that far.

Mr. SOUDER. We do not know the way this is going. People in my hometown who have worked all their career building furniture, all of a sudden are put out from somebody from Federal Prison Industries. It shows graphically, if one visualizes it, what if your local park ranger works for Federal Prison Industries? Or what about if somebody doing the typing in for accountants would be?

Mr. HOEKSTRA. They are getting into services, into the telemarketing, into the processing and all of these kinds of things. Digitizing of photos and photo libraries. They are getting into an unbelievable number of things. Some are highly sensitive.

What the gentleman has laid out I would like to think is nowhere in the realm of possibility, but I should know better. I would never have thought that they could have grown by 25 percent in office furniture or 16 percent overall this past year. I would never have thought in their annual report that they would have publicized and highlighted the fact that they are paying all of 23 cents an hour up to $1.50. They are proud of it and proud of their results. This Department of Justice has demonstrated through their annual report, even though the original criteria said minimal impact on workers and American taxpayers, they are not abiding by that standard anymore.

They are ruthlessly and aggressively going out to try to transfer jobs from the private sector and move them into Federal Prison Industries. It is one thing for you and I to be talking here in a theoretical sense, and it is a very different thing, and I have seen it in the gentleman's district and in my district, where I run into folks who say I have been laid off. Are you making any progress on the Federal Prison Industries, knowing that this is not going to fix all of the problems, but it sure could help.

If we could just get some of those people back to work, it would get us moving in the right direction. We need that base volume because the next thing that is on the horizon after Federal Prison Industries is foreign competition. Our industries should not have to worry about competition from their own government at the same time they are worrying about competition from China, but that is exactly

what they are doing. Our government has duplicated the China model: Invest in capital, they get their capital free, and then pay the workers very, very little. The American government, I guess they are teaching our companies how to compete against the Chinese by duplicating the Chinese model through Federal Prison Industries, and it is an outrage.

Mr. Speaker, I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Speaker, I congratulate the gentleman for his work on this and in trying to get the Department of Justice aware that they are in direct contradiction of the goals of this President and this Congress which has said we are looking at how to maximize the private sector and put Americans who are law-abiding citizens back to work.

I do not want to face people in my district who might have to wear a button that says ''I follow the law, I am employed.'' We need to look for options for people to be trained. This is not about not giving people in prison an opportunity, but there is no reason that going to prison should give people an unfair advantage, particularly going through foreign countries, against people who in America have followed the law who are working hard who have actually outcompeted foreign companies to hold their sector until the U.S. Government behind them, waiving regulations and waiving capital costs, then giving them a mandatory advantage to go for higher prices with less quality and say you still must buy it, and then have the gall to come to Congress and say we are trying to contract out. We are trying to save money for the Federal Government when, in fact, they are putting people in our districts out of work.

It does not make sense and it does not fly, and I hope more Members and staff will pay attention to this debate. It is pretty much of a no-brainer. I hope that the Department of Justice will turn around on this. They are projecting this as a growth industry. It is incredible to me that they would not be humiliated by this, and instead look at it as a growth industry.

Mr. HOEKSTRA. That is what is coming down the road. It has been a growth industry. It is going to continue to be a growth industry. I am optimistic with the kind of support that we have for the bill on a bipartisan basis, we have had a coalition of the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Michigan (Mr. CONYERS) and myself, together for a number of years, and I am looking forward to this to move through the Committee on the Judiciary quickly, and am hopeful that we can get this bill to the floor and have a good debate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1298, THE UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

Mr. LINCOLN DIAZ-BALART (during Special Order of Mr. HOEKSTRA) from the Committee on Rules submitted a privileged report (Rept. No. 108–80) on the resolution (H. Res. 210) providing for consideration of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE PRINCIPLES OF RESPONSIBILITY, INTEGRITY AND COMMON SENSE APPLIED TO FEDERAL BUDGET AND TAX POLICY

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. BAIRD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BAIRD. Mr. Speaker, we are here today to talk about fundamental principles, principles of responsibility, integrity and common sense as they apply to the Federal budget and to tax policy. Over the past 2 weeks, we had the opportunity to go home and hear from our constituents, and we hosted an event with the Concord Coalition. We had people in several of my communities get together to try to balance the Federal budget, and we learned some very interesting things from that process.

We learned, among other things, that in spite of the majority's recent claims that deficits do not matter, the American people say that common sense says deficits do matter. We cannot, year after year, run enormous deficits, pass those on to our kids and not expect somebody to have to pay the piper. With several of my colleagues tonight, we are going to talk about how we got into that deficit, how we ought to get out of it, and how the policies put forward by the majority and this administration will actually make the situation far worse rather than better.

The first speaker this evening is the gentleman from Texas (Mr. EDWARDS). He said to me tonight he has to speak first because he has to go home and tuck the kids in. It occurred to me that is really why most of us serve here, we want to create a better America for our kids. And part of that way we create a better world is facing up to fiscal responsibility and not passing on an enormous burden of debt to those children in order to gain easy election or political advantage in the short term.

Mr. Speaker, I yield to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I thank the gentleman for yielding to me, and for his outspoken and consistent leadership in fighting for fiscal responsibility, not just for this generation of Americans, but for our children and their children, future generations of Americans.

Mr. Speaker, more and more Americans, and certainly central Texans when I go home, are asking a very important question: Why has the Republican leadership in Washington, D.C. abandoned the values of fiscal responsibility and balanced budgets? That is a good question. Frankly, the party that used to pride itself and the party that fought for balanced budgets, led a fight for a balanced budget constitutional amendment has now become the party that is proposing the largest deficits in American history. Let me discuss some facts.

Fact number one, it is true that the administration in Congress this year are proposing the largest deficit in American history. Let me repeat that one more time because a lot of people do not believe it, but it is true. The White House, President Bush and Republican leaders have endorsed the largest deficit in our Nation's 200-year-plus history. $292 billion used to be the record for deficit spending. This year it could be well over $307 billion. That is more of a deficit than we had during World War I, World War II, the Vietnam War or the Korean War.

Fact number two, this proposed Republican historically high deficit does not include one dime for the cost of the Iraqi war or building a national health care system for Iraq which they propose, or helping build new schools for Iraqi families.

Fact three, if we do not count the billions of dollars being taken out of the Medicare and Social Security trust funds to fund this huge deficit, the real deficit to the American people is actually this year going to be over $400 billion if Washington Republicans get their way.

Fact number four, the House-passed Republican budget supports deficits not just this year, but for as far as the eye can see. In fact, over 214 Members of this House, Republicans, voted to increase the national debt by $6 trillion by the year 2013.

Mr. Speaker, let me put this in perspective. It took two centuries, in fact, over 200 years for America to build up a $1 trillion national debt. Yet in 10 years, Republicans will have been successful in increasing that national debt 6 times more than the amount that it took two centuries to create. $6 trillion in additional national debt in the next 10 years under their economic plans and schemes, versus $1 trillion developed over the first 200 years of American history. That is the kind of history we do not hear Republicans in this Chamber and across Washington talking about very much.

Mr. Speaker, I think it is fair to ask the question who in America should worry about these Republican deficits? Do they really matter? Do they affect the average American citizen? I think

the answer is we should all care and be concerned about the historically high deficits for several reasons.

First, let us look at taxpayers. Taxpayers, according to Republican estimates, will have to pay $1 trillion in extra taxes over the next decade just to pay the extra interest on the national debt. That is money that could have been saved for our children and grandchildren's homes and cars, for building their futures, educating their children. That is money that could have been used to provide college student loans and grants through Federal programs.

Family businesses and farms ought to be concerned about the deficit because as thousands of economists and well-respected business leaders have said, once the economy gets back on its feet, having 3 and $400 billion deficits will increase the cost of doing business for family businesses and farms. When a farmer goes to borrow money to plant his crop or buy seed or fertilizer, that farmer is going to have to pay more in loans for interest back to the bank for loans. Small businesses wanting to create new jobs are going to have to pay more interest on the money that they have to borrow to expand their businesses. Deficits are bad for American taxpayers and American farmers, and they are bad for American family businesses.

How about American family workers, should they care about these deficits? Well, most workers are struggling to support their families, provide a decent home and quality education for their children. So now when American workers, under the new Republican Babe Ruths of deficits, go to borrow money to buy homes, they will pay thousands of dollars more for the cost of that home because of higher interest rates.

□ 1800

They will pay more when they have to borrow money to buy a car; and they ought to be concerned because according to many economists, including Alan Greenspan, if we were to have hundreds of billions of dollars of additionally proposed tax cuts despite our historically high deficits this year, then we are going to potentially hurt economic growth. That means fewer jobs for American workers. American seniors ought to be worried about deficit spending because that deficit is being underwritten by being borrowing money from the Social Security and Medicare trust funds. Baby boomers, our future seniors in the next few years, ought to be gravely concerned about undermining the fiscal integrity of the Social Security and Medicare trust funds just as they begin to retire in the next 7 or 8 years.

How about parents? Parents certainly should be concerned about deficit spending because they do not want, I do not want, we should not want to drown our children in a sea of national debt. It is morally wrong to do so. And as we Americans stand so proudly behind our soldiers and servicemen and women who fought in Iraq so courageously, as we honor our veterans with resolutions of words here on this floor in order to pay for some of this dividend tax cut and other proposed tax cuts, Republicans from the White House to Congress have proposed the following just this year, in the last few weeks, in fact: $28 billion in veterans cuts over the next 10 years, $1.5 billion in cuts this year for military construction programs that help train our servicemen and women and provide better quality of life, day care, housing for those servicemen and women; $175 million Republicans have proposed cutting in Impact Aid education that provides a better education for military children while Mom and Dad are fighting for our country in Iraq; and $172 billion Republicans have voted for in this House to cut Medicare and Medicaid. That means fewer seniors getting nursing home care, fewer seniors getting medical care that they need.

Mr. Speaker, 2 years ago, not that long ago, Republicans in Congress passed, over my objection, a $1.3 trillion tax cut; and when they did it, every Member, every Republican who spoke in the well of this House said we can have it both ways, we can have our cake and eat it too. We like the free-lunch philosophy. We can cut taxes by a massive amount and still balance the budget. These same economic gurus are now proposing $1 trillion more in tax cuts.

And let me clarify this point. The public debate is between $350 billion and $500 billion in tax cuts, but somebody needs to recognize that there are about six or seven or eight or nine other tax cuts that the administration and congressional Republican leaders have proposed. We add them all up and we are talking about more than $1 trillion of extra tax cuts despite the fact that we have got the largest deficit by far in American history.

I think before we buy into the next round of proposed trillion dollar free-lunch tax cuts, it is fair to ask how accurate were our Republican colleagues and leaders in predicting just 2 years ago we could cut taxes by over $1 trillion and balance the budget. Fact: Republican leaders were off by $12 trillion. Not million, not billion. $12 trillion, because just 2 years ago they were predicting we would have no national debt by the year 2013. The budget that they just voted on in the House, that they have passed in the House, suggests we will have $12 trillion in national debt.

Mr. Speaker, I would suggest that if a business had an economist that was $12 trillion off, not to mention the 2.5 million jobs we have lost in the last couple of years, $12 trillion off, 2 million jobs off in the economic growth projections, most companies would fire those economists summarily. They certainly would not be rehired to make more proposals and more economic suggestions.

Finally, I hope we could examine two assertions we are hearing from our Republican colleagues. The first is this massive new tax cut is really a growth plan. That is not what the Congressional Budget Office said recently after an extensive report; and by the way, the CBO, Congressional Budget Office, is headed by a former top economist in this Bush administration's White House. What that report said was basically that whatever short-term stimulative effect any tax cut might have would probably be offset by the massive deficits that would result from that.

In fact, the report says: ''The overall macroeconomic effect of the proposals in the President's budget is not obvious.'' Is not obvious. That is bad news for the free-lunch crowd that believes we can promise everything to the American people and they will be gullible enough to believe it. We could have massive tax cuts, fight a war in Iraq, rebuild Iraq, increase our defense spending significantly, provide prescription drugs for seniors, and, by the way, we will balance the budget for our children. Just trust us. The last time the American people trusted them with their predictions of that free-lunch philosophy, they were off $12 trillion. Our children and grandchildren cannot afford another $12 trillion mistake.

Mr. Speaker, I would point out that in today's Washington Post, Alan Greenspan was basically quoted as saying that unless we offset these newest Republican tax cuts with spending cuts, it could well harm economic growth. The article in The Post said: ''Greenspan endorsed the view of a recent study by Federal economists that rising budget deficits put upward pressure on long-term interest rates, which act as a drag on economic growth by raising the cost of borrowing for businesses and consumers.''

The fact is that in yesterday's Washington Post there was a fascinating article. The article was entitled, ''Bush Offers New Argument for His Tax-Cut Proposal.'' It talks about the immediate short-term growth this might create. But it is interesting that the article goes on and says this: ''Beyond 2007, the tax package would actually do more harm than good, warned Joel Prakken of Macroeconomic Advisers, LLC, which developed the computer model the White House used.'' So the very economists that the White House depended upon to develop computer models to try to sell their tax cut admits that the administration's growth plan could actually be an antigrowth plan, a job depressant in the years ahead because of the massive deficit spending.

Finally, the Republicans say that we will pay for those tax cuts with tough new spending cuts. We have heard some proposals cutting Medicare and Medicaid by $172 billion, veterans by $28 billion, Impact Aid for military kids by $175 million; but once pressured by the public, it took about 2 weeks for Republicans to back off from some of those cuts.

But let me just state for the record, and I will finish with this: when Republicans talk about courageous spending cuts, look at what they do, not what they say, because if we look at the five programs that represent about three-fourths of all Federal spending, Social Security, Medicare, Medicaid, defense, and interest on the national debt, the administration and the Republicans in Congress are wanting to increase, increase, spending on three of those five programs. Massive increase, $1 trillion more over the next decade on interest in the national debt; massive increase in defense spending, which I support, but I am willing to pay for; and they are proposing a $400 billion Medicare plan for prescription drugs, which I am afraid seniors will probably never see.

Mr. Speaker, through fiscal responsibility and balanced budgets, we can create the economic foundation for America to have tremendous growth. That is what we did in the 1990s. The proof is in the pudding. That plan led to 22 million new jobs in America. The latest growth plan resulted in 2.5 million lost jobs. Let us look at the track record of these economic gurus before we sell our children and grandchildren into a lifetime of paying taxes just to pay interest on the national debt.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BAIRD. Mr. Speaker, I commend my colleague from Texas (Mr. EDWARDS) for such an articulate presentation and a clear-cut explanation of what is wrong with the tax proposals and the budget plans of the majority party and the administration. The gentleman was, I think, astute in observing that when the Democrats controlled the White House and the House of Representatives, it was literally about 10 years ago, almost 10 years ago today, they had the courage to step forward and confront budget deficits, not to pooh-pooh them, not to say this does not matter, but to confront budget deficits and say we must enact fiscally responsible policies.

The other party, the majority party, claimed that if we did that, we would lose jobs, we would see interest rates skyrocket, we would see inflation go through the roof. What in fact happened? The longest economic expansion in the history of this country. More jobs were created. Unemployment went down. Healthcare was improved. Our education system was improved.

If my colleagues want to make a judgment by history, look at the recent history. When the Democrats set the fiscal policy of this country, we saw sustained economic growth. In the Republican administration, we have seen sustained unemployment and economic decline.

The gentleman from Virginia (Mr. SCOTT) is a member of the Committee on the Budget and will address precisely those issues now. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding so we can continue to discuss the budget situation we are in.

I like to use charts because one uses a lot of adjectives and uses a lot of spin. One cannot spin charts because they just show us what the numbers are. This chart, for example, shows the deficit year by year over the years. Johnson, Nixon, Ford, Carter. We all remember that deficits ran up under Reagan and Bush; and we also remember that when President Clinton came in with a Democratic majority, we cast the tough votes to create a surplus for the first time in decades. We also know that during this administration, the Republican Congress, after they took over Congress, passed huge tax cuts that were vetoed time and time again. The Republicans passed the tax cuts; President Clinton vetoed them. They threatened to close down the government. He vetoed it anyway. They shut down the government. He vetoed it anyway, and we were able to have a straight line right up to surplus. Unfortunately, President Bush did not veto those irresponsible tax cuts, and we see what happened all of a sudden.

If anybody asks what is the Democratic plan now, we just point to the green. When the Democrats had control of the budget with Clinton and enough Democrats in Congress to sustain his vetoes, this was the Democratic plan. This is the Republican plan. Once we run up all those deficits, we have to pay interest on the national debt. This chart shows what the interest on the national debt would have been had we not messed up the budget. That is the green line showing what the interest on the national debt would have been. The red line is what the interest on the national debt will be as a result of messing up the budget. To put this in perspective, the blue line is the defense budget. By 2013 we will be paying almost as much interest on the national debt as we pay for defending the United States of America.

We also can make this personal. This is what we call the debt tax. A family of four, take all the interest on the national debt, divide it by population, multiply it by four. Right now a family of four's proportional share of the interest on the national debt, about $4,400, $4,500. It was going to zero. But by 2013, $8,500 and rising. And how did we get in this mess? The tax cuts. And who got the tax cuts? We can say who got it, but let us look at the chart. The bottom 20 percent, the blue is the 2001 tax cut, the green is the proposed 2003 tax cut, and we see who got a little of the tax cut. There is a line right here that is hard to see, but it shows that one half of the tax cut went to the top 1 percent of the population.

As a result of these tax cuts, we also have to consider the effect that they had on Social Security. This is a chart of the Social Security trust fund.

□ 1815

We are bringing in more money in Social Security than we are paying out right now because the baby-boomers are retiring shortly, and we need to save the money for Social Security. We cannot balance the budget with a $150 billion surplus in Medicare and Social Security. In 2017 it is going to change. Look at what we are going to have to come up with as we go along.

Now, the interesting thing is it is challenging, and this is the $900 billion, over $1 trillion a year we are going to have to come up with in cash to pay this.

The embarrassing thing about this is if you go back to the tax cut, one-half of the tax cut of 2001, one-half, that is what the upper 1 percent got, had we, instead of giving a tax cut, allocated that amount of money to Social Security, we could have paid Social Security without reducing any benefits for 75 years. But, instead, we did the tax cut.

So we have jeopardized Social Security, we have ruined the budget in terms of deficits, we have run up the debt tax. And, why? To create jobs? Let us see how we did.

This is a job growth in the last 50-some years, going back to the Truman administration, Eisenhower-Nixon, Kennedy-Johnson, Johnson, Nixon, all the way through the worst job creation in over 50 years.

Now, we say, well, what do you expect? 9/11. That is why we could not create any jobs. But as you think of it, we were fighting the Korean War, we created jobs. We fought the Vietnam War, we created jobs. We had our hostages taken in Iran, we created jobs. We fought the Cold War all the way through. We fought in Grenada and in Panama. The Persian Gulf, we created jobs. Somalia, Kosovo, we created jobs. 9/11, why can we not create jobs?

We passed their plan. The worst investment growth since World War II. We had investment growth every year through the Korean War, Vietnam War, Cold War, all the way through, but not in this administration after we have wrecked the budget.

When we talk about sending people's money back on tax cuts, we are not sending their money back. As we pointed out, we are spending all of their money. What we are sending them back is their children's money that they will have to pay off.

My question is, how bad does this situation have to get? How much debt do you have to run up before you acknowledge that the plan did not work? How many jobs do you have to lose? We have lost almost 2.6 million jobs since this administration came. Unemployment is up. Long-term unemployment has tripled. How bad does it have to get before you acknowledge that it did not work?

We need fiscal responsibility. We need the Democratic plan and need to reject the plan offered by the Republicans that we are passing now.

I thank the gentleman for yielding so we could offer these graphs which show in numbers exactly how bad it is.

Mr. BAIRD. Mr. Speaker, I thank my colleague. What a clear-cut explanation of the situation we are in.

When I had those forums and town hall meetings back home, people asked me precisely the kind of questions the gentleman was addressing. What does this tax cut do for jobs? What does it do to provide prescription benefits for our senior citizens?

When I asked people, which would you rather do, a tax cut for the wealthiest people in this country, or invest in our transportation infrastructure and put people back to work? They said put people back to work.

When I asked which would you rather do, a tax cut for the wealthiest people in this country or invest in a prescription drug program so our seniors can stay healthy and actually lower the cost of health care in the long run, they said take care of our seniors.

One of the Members of this body who has done as much as anyone to keep the cost of prescription drugs down is my good friend and colleague the gentleman from Maine (Mr. ALLEN). I yield to the gentleman, who will not only talk about job growth and the tax cuts, but also about the fundamental principles of values and how those are manifested through the decisions we are making, and, unfortunately, through the decisions this body is not making.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding, and I want to commend him and all of my colleagues for being here tonight to try to present some factual evidence about what the Republican tax cuts are really all about.

One can see what is going on in part just by looking at the state of the economy under the Bush administration. This chart shows that with net growth of 1.5 percent, the Bush administration has now the worst real GDP growth since World War II. Every other administration has done better at creating jobs and growing the economy than the Bush administration has.

For example, the gentleman from Virginia (Mr. SCOTT) was just showing this other chart, which shows that it is the worst private sector job growth since World War II.

In fact, if you look at this chart again, what you see is that since President Bush took office, we have lost almost 2.6 million private sector jobs in this country. No wonder the administration is concerned. In every other administration, except only the second term of the Eisenhower administration, there has been job growth in this country. This has been a country where the economy has been strong, where it has been growing, even when we have had difficulty. But not in this administration.

Mr. BAIRD. If the gentleman will yield, when I look at that chart, you look at the graph where the numbers are going up, that is putting people back to work. That is helping people take care of their families, buy homes, invest in this economy.

When you see that chart going down, which has happened in this administration, that is people losing their jobs, losing hope, losing health care, losing the ability to take care of their families.

These are not just numbers. As the gentleman knows, these are real life stories of people whose lives are being ruined by the economy.

Mr. ALLEN. That is exactly right. Like the gentleman, I have been in my home State of Maine doing community meetings and talking to people throughout my district, and these are not very good times for many, many people. We are suffering losses in agriculture, we are suffering losses in manufacturing, and, for more and more people, it is difficult.

I sat with a group of people at one company which is doing okay right now, but she was talking about the cost of her health care, trying to raise her daughter, she is a single mom, trying to take care of a daughter, and she said what a lot of people are echoing: ''I never thought it would be this hard.''

This is a difficult economy. Young people coming out of college today, coming out of graduate school, are having a very tough time finding jobs, and many people are being laid off and losing their health care along with their employment.

Mr. BAIRD. When I talk to those folks, they do not tell me, ''What I would like the President and Congress to do is give me a tax cut.'' What they say is, ''We want jobs and we want health care.''

Mr. ALLEN. Well, that is a different priority than the Republicans in Congress have. This is what the majority leader, the gentleman from Texas (Mr. DELAY), said just a few weeks ago: ''Nothing is more important in the face of war than cutting taxes.'' ''Nothing is more important in the face of war than cutting taxes.''

What he meant by that is we are not going to ask anyone to sacrifice. We are certainly not going to ask anyone to sacrifice to improve the lives of their children and grandchildren.

So it is worth looking at what taxes he is actually talking about and who benefits.

This chart says how much of the 2003 proposed tax cuts do you get? Well, look at the chart. Let us leave off all of those earning less than $46,000 a year. Let us just talk about the group earning between $46,000 and $77,000 a year. That group, under the President's proposal, would get $657 on average per year. It is something, but the price to be paid for that is less money for schools, less money for health care, no prescription drugs for seniors and so on.

For those earning between $77,000 and $154,000 the average tax break is $1,800.

If you are much wealthier than that, if you are in the upper 5 percent in this country and you are earning between the 95th and 99th percentile, $154,000 to $374,000, you get $3,500 a year. I can tell you, that is not going to change the lives of many people in that income category.

But it is only when you get to the upper 1 percent that you strike megabucks. Only then do you strike the jackpot, because if you are earning over $374,000 a year on average, you get $30,000 a year in tax reductions. That is who is benefiting from these tax cuts that the President is talking about.

He is saying this is a plan for economic growth. You have to ask, is this about growth, or is it just about greed? Is it about those people who benefited most in the 1990s, who saw their incomes soar, who are now getting the benefit of more economic growth, more money just funneled to them by the Republicans in Congress, the people who are the richest people in this country getting the benefits of this tax package if it goes through?

Mr. PRICE of North Carolina. Mr. Speaker, if I can interrupt for one second, I wonder if the gentleman could talk about the effect of these tax cuts on the economy.

It is often said this is the way to stimulate the economy and that particularly the President's new round of tax cuts is going to be the key to turning the economy around. I just saw some figures released today by the Center on Budget and Policy Priorities, and they talk about how different measures would stimulate the economy.

If you extended emergency Federal unemployment benefits, for example, for every dollar that you use for that purpose you get $1.73 of economic stimulus, because these folks are going to use that extra money for the necessities of life and they are going to pour it right back into the economy.

If you help State governments, for example, with their Medicaid expenses, for every dollar you put into that you get $1.24 worth of stimulus.

But what about dividend tax reduction? For every dollar of revenue you lose to dividend tax reduction, the stimulative effect on the economy is all of 9 cents. Nine cents.

So would the gentleman say these upper bracket tax cuts do very much to improve our economic situation?

Mr. ALLEN. I thank the gentleman for his comments, and clearly not. Clearly, when you look at the economists, the bulk of the economists who have commented on these proposals, this is not about economic growth at all. The President can travel across the country and say over and over again that we are trying to grow the economy, and the truth is it is not true. It is just not true. It is about something else.

I want to just conclude by saying a few things about what I believe that something else is.

The President's proposal, the proposal of the Republicans in Congress, is essentially saying to the American people, think of yourself first. These are ''me first'' policies.

When the President said that after taking office, that it is not the government's money, it is your money, he was encouraging every person in this country to think of themselves first; not to think about the children in this country who are going to public schools and need some funds in order to have the quality of schools that they should have. Not to think about those people who have lost their jobs and need some job training assistance to get back to work. Not to think about those seniors who have to choose between prescription drugs and their food or their rent or their heating fuel. What he was saying to America was think of yourselves first.

When Republicans stand up and say we want people to keep more of their money, they are making the same pitch. Do not think about those things we have in common. Do not think about what it takes to build a strong country. Do not think about the resources that we need to put into transportation, into health care, into education, into those things that will lift the country and make it strong. They want people to think of themselves first.

That is not what this country is about. This country is better than that. We have invested in ourselves before, since the Second World War. We need to keep investing in the American people, and, if we do that, we will be a stronger and better country in the future than we are in the past.

I have great hope that we will get there, but these Republican tax cut plans for the richest people in the country are leading us down the wrong path. We need to get back to a policy of investing in people and making sure that the government plays its role in strengthening this economy.

Mr. Speaker, I thank the gentleman for his time.

Mr. BAIRD. I thank the gentleman. The gentleman has summarized it so well. The irony is, and let me just ask the gentleman to respond to this for second. You had that chart up there that showed that the vast bulk of the tax breaks go to the very wealthiest. The majority party, the Republicans, say we are engaging in class warfare. Not at all. I admire and respect people who have made wealth in this country.

But it is interesting, when I talk to those folks, they often say to me, ''You know what? We are not asking for the tax cut.'' This assumption that everyone is venal and self-serving and does not put the country before their own immediate needs, I am not sure I buy it for most Americans.

□ 1830

I do not think so. I think most Americans say, we have to invest. I do not know about my colleagues, but I hear small business people saying, give me a little break so I can make ends meet, take care of my family and provide health care. I hear Mom saying, make sure that I have a job that pays a decent wage. I hear Dad saying, make sure that I can provide for my family and give my kids an education. I do not hear most Americans saying, let us make sure the people who have the most in this country get the most in the tax cuts. Is the gentleman hearing that from his constituents?

Mr. ALLEN. Mr. Speaker, I am really not. I do know some people in this upper 1 percent and none of them so far have said to me that we really need to have a tax cut of this magnitude. They are better than that.

So one has to wonder, what really is the underlying motivation. It seems to me that it is clearly not economic growth, because this is a plan that will not grow the economy. What is it? Mr. Speaker, that old hostility that so many Republicans have for Medicare and Social Security, we have to wonder whether or not something is going on here. If they succeed in stripping out revenues, billions, even trillions, of dollars from the Federal Government in the next few years, then there will not be money to take care of the baby boom generation when we enter Medicare and Social Security. We cannot let that happen. It is the wrong thing.

But I absolutely agree with the gentleman from Washington. Nobody, not one person in the 2 weeks I was back in Maine, not one person said to me, what we really need in this country is a tax cut weighted primarily to people earning $1 million a year. Nobody is for it.

Mr. BAIRD. Mr. Speaker, I agree. When the President asked rhetorically in his speeches, if a little bit of a tax cut is a good thing, what about a big tax cut, well, the answer is we have already had a pretty big darn tax cut; and the second answer is, most people are not going to get that tax cut. And the third answer is, that big tax cut comes with an awfully big debt, and there is something desperately wrong with an awfully big debt.

I would like to yield to the gentlewoman from Wisconsin (Ms. BALDWIN), a member of the Committee on the Budget, and an individual who has led efforts in this body on education, on health care, on social justice, making sure that all Americans share in the American dream and have an opportunity to benefit from the economic policies of this Congress.

Ms. BALDWIN. Mr. Speaker, in the spring of 2001, the President and some Members of Congress told the American people that we could afford a $1.6 trillion tax cut that was custom designed by, and primarily for, our wealthiest citizens, and still we would have money left over to shore up Social Security and Medicare, make investments in our education system, so that no child would be left behind. And still, we would have enough money left over beyond that to pay down our national debt.

Well, today we know that that was not true. Except for the passage of the tax cut, none of the rest of those things happened. And to make matters worse, the tax cut left no room for unexpected events like the terrorist attacks on September 11 or the economic downturn that our country is still experiencing. Projected surpluses have been replaced by deficits as far as the eye can see.

Fast forward 2 years to today and this Congress is debating yet another tax cut. President Bush has made ending double taxation of corporate dividends the centerpiece of his $1.4 trillion package, because he says that this tax is contraindicated by certain economic models.

Well, since January of 2001, our country has lost more than 2.3 million jobs, an average of 73,000 jobs per month. And the long-term unemployment level is the same as it was during the recession under the first Bush administration.

Now is not the time to have philosophical debates about economic models. Now is the time for this President and Congress to be acting on measures that would truly put America back to work.

The President said in an April 15 speech that Congress needed to take quick action on his plan to get the economy back on track. Well, I agree with the President that we must act quickly on a plan; but not the President's plan, because it is not a stimulus plan. His package provides no immediate stimulus and fails to create jobs. Studies predict that in the year 2003, the President's plan would only restore a small number of the jobs recently lost in our economy. Moreover, only about 5.5 percent of the President's plan would go into effect in calendar year 2003, while nearly 80 percent of the plan would be phased in in the future during the years 2005 through 2013. Well, people need jobs now. They cannot wait 2 weeks, let alone 2 years.

There is good reason why Americans are not sold on the President's tax cut. They realize that it is cast in the same mold as the first one, which was too much for too few. The President is proposing to accelerate the reduction of the 4 top income tax rates that was part of his original tax package.

Well, if you are a policeman, a forest ranger, an average service or retail sector employee, or one of our Nation's 400,000 enlisted servicemen or women, you would receive no tax relief from any sort of acceleration of these marginal tax rates. But consider yourself blessed if you are a professional athlete, for example, playing football, basketball, or hockey. Combined, these particular 4,000 professional athletes would get approximately $240 million in tax relief if this plan were signed into law.

The democratic economic stimulus plan is fast-acting, it is fair, and it is fiscally responsible. The entire $136 billion stimulus package would be injected into the economy right away, this year. It would also extend benefits for unemployed Americans whose emergency benefits right now are going

to expire on May 31. Most importantly, it would provide tax relief to all Americans. It was designed for average working families, not just the wealthiest investors.

Congress just had a 2-week break where most of us could spend extended time meeting with our constituents. I like to ask my colleagues after a recess if their constituents are concerned about the same issues that mine care about in Wisconsin. Most of the time, our constituents' concerns are very similar. That is why it is hard for me to believe now that Congress can fathom this fiscally irresponsible and misguided tax cut.

When I have talked to unemployed workers in my district, they certainly have not come up to me pleading for accelerated tax cuts. They have asked how Congress plans to help put them and the rest of America back to work. They have asked for help in getting temporary health care coverage for their kids and their families in case they get sick. My constituents wonder if Medicare is going to be able to provide their parents health care or when their kids grow up, if they will be able to find a job that pays a livable wage. They are worried, and they should be. They should worry, because this budget places tax cuts for the wealthy ahead of job creation for families. They should worry, because this budget adds over $5 trillion to the national debt over the next 10 years.

This budget takes our country down the wrong path. While some Members of Congress complain about how long our budget and fiscal process is every year, I believe it is a good thing. It means we still have time to craft a better plan, one that does not put the fiscal health of our economy and the livelihood of our communities and our families and the ability of our children to have a better life in jeopardy. We must tackle that task.

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for her comments.

One of the issues this budget does not address that I know is important to the people of Wisconsin, as it is to my own State of Washington and, in fact, to the Committee on the Budget chairman's State of Iowa, is Medicare fairness. Many of our States are desperately underfunded in terms of Medicare compensation rates. This budget does nothing to fix that. My own State of Washington faces a terrible injustice, that we cannot deduct our sales taxes like other States can deduct their income tax. This budget does nothing to fix that. There are a host of problems with this budget. It was passed at 2 a.m. in the morning. The majority of the Members of this body who voted for it had never read it. They had seen summaries perhaps, but I guarantee they had not read it because there was not time. When you pass a budget that spends $2.2 trillion, that takes 24 hours to debate it and you have not read it, we have a problem on our hands and, unfortunately, our country has a much bigger problem.

We have heard from people from Maine tonight, from Texas, from my own State of Washington, Wisconsin, and Virginia. The distinguished ranking member of the Committee on the Budget hails from South Carolina. I think it is arguable that very few people, if anyone, in this Congress have more knowledge about the intricacies and the importance of the budget process than my dear friend and colleague, the distinguished ranking member of the Committee on the Budget, the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, as my colleagues can surmise, we are here tonight because my Republican colleagues have put another round of tax cuts on a fast track. In fact, by next week, early next week there may be what we call a markup of a bill we have yet to see in the Committee on Ways and Means. Within 24 hours after that markup, that bill may be on the House floor for fast track consideration, probably not amendable. And, in the blink of an eye, we could very well adopt another round of tax reduction equal to $500 billion to $600 billion even more, a reduction in the budget rammed through this House.

We have already seen taxes cut by $1.35 trillion. That happened in June of 2001. That was a historic tax cut, given its size. Let us just ask, what are the results of that tax cut?

Well, let us look at the economy today, barely eking out positive growth at 1 percent to 1.3 percent annual growth, barely growing, 2.5 million jobs in the private sector lost since January of 2001, 4 million Americans have literally quit looking for jobs, the unemployment rate is between 5.8 and 6 percent; but that is only because 4 million people since 2001 have dropped out of the job pool, quit looking for a job. All of this, and we had a tax cut which the administration said we needed to boost the economy. Where is the boost? Where is the economy? What were the effects?

The main effect was on the bottom line of the budget. We had the budget, when President Bush came to office, in the best shape in a generation. In 2000, the year 2000, the budget ran a surplus of $236 billion. It is hard to imagine today, 3 short years later, 2003, because today, all we have are debts as far as the eye can see. In 2001, when President Bush came to office, his Office of Management and Budget, his budget shop said we foresee surpluses equaling $5.6 trillion over the next 10 years. And on the basis of that estimate, despite our warnings that it was an inflated estimate, that there were storm clouds gathering over the economy that made us a blue sky estimate at best, he went ahead with a tax cut of $1.35 trillion; and today, the surplus is gone.

Do not take my word for it. When the President sent his budget up this year, this year, OMB, the Office of Management and Budget said, the surplus over the same period that we projected 2 years ago, 2002 to 2011, the cumulative surplus over that period is no longer $5.6 trillion as we thought back in 2001. Today, it is $2.4 trillion. Now, that is still a big number, $2.4 trillion; but here is the bad news. OMB went on to say, and of that $2.4 trillion, Congress and the President have already committed $2.5 trillion. So we start the year in the hole, despite the fact that we had a budget surplus in 2000, the year 2000 for the first time in 30 years, we are now back in the soup, back in the red, deep in deficit; and the deficits are getting worse.

So what does the administration order up for these dire circumstances? In the face of rising deficits, we no longer have a surplus. There is nothing that will mitigate tax cuts that may be offered now. In the face of these circumstances, the President is proposing more of the same: additional tax cuts, tax cuts in his proposal with his budget this year of $1.45 trillion and a budget, as I said, that is in deficit.

□ 1845

There is no surplus anymore out of which to offset or mitigate those tax cuts.

Mr. PRICE of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from North Carolina.

Mr. PRICE of North Carolina. The situation the gentleman is describing reminds one of the old saying: if you find yourself in a hole, the first thing to do is to stop digging.

Mr. SPRATT. Well, this administration is digging deeper and deeper and deeper. As I said, do not take my word for it. We have our own budget shop. As someone earlier said, it is now run by a very able economist who came from the Bush administration.

According to their projection of the President's budget, every year, if the President's budget is implemented, every year from 2003 through 2013 there will be a deficit. If we do not include the surplus in Social Security, there will be a deficit of over $400 billion.

The cumulative deficit over that 10-year period of time, 2003 to 2013, if Social Security is not included, is $4.398 trillion. That is the Congressional Budget Office speaking, a neutral, nonpartisan agency.

Mr. PRICE of North Carolina. Mr. Speaker, if the gentleman will again yield, that is simply an unprecedented situation. If we look back at previous Republican administrations, what is striking is that when they found themselves at a certain point in a deep enough hole, they did stop digging.

In the Reagan administration in 1982 under Senator Robert Dole's leadership, some of the tax cuts of earlier times were reversed and some spending was cut, and the fiscal erosion was halted.

Then in 1990, under the first President Bush, despite his ''read my lips''

pledge of no new taxes, when the fiscal hole got deep enough and the economy was in a severe downturn, the President, in a considerable act of statesmanship, worked with congressional Democrats and came up with a 5-year budget plan that set us on the path to more sensible fiscal policy.

So in those past Republican administrations, when the hole got deep enough, some leadership was exerted and they stopped digging. In this administration, it seems there is no limit to the fiscal folly.

Mr. SPRATT. The gentleman will search the budget the President sent us in vain for any such direction or inclination. There is no plan and no process for ridding ourselves of these perpetual deficits. Back out Social Security, as I think we must, and we will find, according to the Congressional Budget Office, that every year from 2003 through 2013 there is a deficit over $400 billion a year.

When the Republicans brought their budget resolution to the House floor the night before we adjourned for the Easter break, 2 o'clock in the morning, we scrambled to go through it and understand it as much as we could.

I never will forget finally coming upon page 93, page 93. It was a table summing up in their own figures the impact of the budget they were about to ram through the House in the early hours of that morning. It showed that the gross Federal debt this year will be $6.4 trillion. That is what it is today, because it is limited by statute at that level.

By voting for that particular budget resolution, they voted automatically to raise the debt ceiling by $893 billion, and they voted to put in train a budget with tax cuts that will lead to a debt accumulation of $6 trillion over the next 10 years.

The national debt, the gross national debt, subject to statutory limit, will grow from $6.4 trillion this year to $12.40 trillion in the year 2013. That is absolutely astounding, absolutely frightening, in my opinion, because I do not think the economy can possibly sustain that kind of increase in debt.

Not only do we see additional tax cuts proposed in the face of rising deficits, deficits, once again, as far as the eye can see. But if the White House would simply call next door to the Treasury, they would find that we are right now at this moment experiencing a tax cut, a revenue reduction. Let me give the numbers, because last year we had one of the biggest fall-offs in revenues we have seen in recent history. This year we are seeing that trend repeated.

Our budget office, the Congressional Budget Office, which is neutral and nonpartisan, projected the budget over the next year, next 10 years. They said this year in fiscal year 2003 they expected income taxes to be about $38 billion over last year, 2002. If we look at where we are thus far since April 15, or if we look at just until March 1, excuse me, we do not know April yet, we will find that the total tax take thus far this year is running $54 billion below last year, which means it is $92 billion below what CBO, the Congressional Budget Office, is projecting.

Even though we are having this follow-up of another year on the heels of last year where we have a natural reduction due to the economy and the Tax Code, a realignment of revenues, the administration is still ignoring that and pushing ahead with a mammoth tax cut which can do only one thing: it will make the budget deficits that we see here projected on paper virtually engraved in stone. They will become so difficult to unwind, resolve, work out, that they will become all but intractable. I have seen that happen.

I came here in 1983 when we were deep in deficits. The deficits were getting worse and worse and worse. But there is one factor now that is dramatically different from the 1980s. That is something called the baby boomers' retirement. Seventy-seven million baby boomers are marching to their retirement as we speak tonight. The first of them retires in 2008. By the time the peak retirement period is reached, the number of baby boomers on Social Security and Medicare will swell to 80 million, twice today's level of beneficiaries. It will change the budget demographically in ways we have only begun to imagine.

What we should be doing now is saving, not dissaving. That is what deficits are, it is dissaving, reaching into the private capital pool and spending that money that should be saved in preparation for facts, demographic facts that are going to occur when the baby boomers retire.

We have a package which we have presented since January and will present again next week which would stimulate the economy. If there is any case to be made now for cutting taxes, it would be to try to give this economy, this sluggish, slumping economy, some kind of a kick, some kind of a boost so we can put people back to work. Once they go back to work, it will make it easier for us to deal with some of these budget problems.

We have put forth a proposal which does that. But we do not need long-term, permanent tax cuts that have out-year consequences that mortgage the future. We can simply have a tax cut that is focused on 2003, the here and now, when we have the problem.

We have proposed such a tax cut: rebates to individual taxpayers, an immediate write-off of plant and equipment for businesses large and small, going after all sectors of the economy, trying to give the economy a boost. For one-seventh the cost we get, according to well-established economic models, twice the effect in resulting jobs in the first year from our economic proposal, and we do not have any out-year consequences. We simply do something on a one-time basis. We give the economy a boost, get it going again; and we do not have any out-year consequences. As a result, we accumulate about $1 trillion, 400 billion less in debt in the budget we propose than the Republicans propose.

What they are proposing is not necessary, by any means. It worsens our problem. That is why we are here tonight, to talk about a problem that very much needs to be understood by the American public.

Mr. BAIRD. Mr. Speaker, this has been an exciting discussion. We have talked about responsibility, common sense, about jobs, about health care, and about getting this budget back on balance.

FOCUSING ON THE ECONOMY

The SPEAKER pro tempore (Mr. GINGREY). Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Mr. Speaker, I want to thank my colleague, the gentleman from California (Mr. ROHRABACHER), for the accommodation. Perhaps after he hears the remarks, he may regret that; but as a consolation I will say to him that I share his passion for surfing and would be happy to show him a few waves in Hawaii, if that is agreeable.

We need to focus, as we have for some time, on what is clearly our number one national challenge, revitalizing our economy and balancing our Federal budget. I want to make two points and emphasize them up front.

First, I am happy that we all seem now finally to agree that it is all about the economy. There was some doubt in my mind, given the few months that I have been in Congress, but now there is no question about it.

There is also no question that the tragedy of September 11 and Operation Iraqi Freedom necessitated our full focus, our full energy on national security. But before, during, and after those events, it was and is and will be about a stagnating economy and a deteriorating budget.

Now, this is an issue not only, as we all know, of jobs, of being able to care for our children, for our parents, for our communities, and of adequate resources for our government to do what it must do for all of us. It is also, and this link is true, it is also about our basic ability to afford our national defense. Because as we focus on national security, as we ask ourselves, what do we need to assure our national security, we have to recall the painful lesson that the USSR learned, which is that defense spending resting on an insufficient economic foundation will get us every time in the end. It is all the same ball of wax.

Second, the point I want to make is it is not just the economy, it is the economy/the Federal budget. They are two halves of the same apple. To say otherwise, to pretend that somehow we can talk about the economy and about our remedies for the economy without asking ourselves, what is the impact on

our Federal budget, just as it is ridiculous to talk about the Federal budget without asking ourselves, what is the impact back on the economy, is like saying in our family budget, I can take one of the three legs to any family's budget, how much money is coming in, how much money is going out, and how much debt am I carrying, take it and toss it out the window. We cannot do it; we are talking about the same thing.

Up to this point perhaps most of us are starting to agree, but after that I do not know. I am getting conflicting reports by this administration about the state of the economy.

Sometimes my President seems to be saying, everything is fine. Don't worry, it will take care of it itself. Nothing bad has happened on my watch. If that is the case, why are we granting a massive, massive second tax cut in 2 years?

Because, frankly, if our economy is doing just fine, I think we should use those revenues for other purposes. I think we should use those revenues to retire rapidly increasing national debt. Perhaps we should use those revenues to talk about many of the aspects that many of our communities are having problems with, whether they be national security, homeland security, prescription drug benefits. We do not need a tax cut if the economy is doing just fine.

Other times, the President seems to say, yes, the economy is in trouble and we need this massive tax cut to fix a failing economy. I can accept that, because at least at that point we are focusing on the issue. Not whether our economy needs help, but how to do it.

The point here is, we all need to get on the same page so we can debate how to fix the economy. I think that is it. My page is, and I think most of our country believes that the page is, that we do have a problem.

Do not take my word for it. Just take a look at the stats: almost 3 million jobs lost in the last couple of years, and Federal revenues falling well short of projections. That is a problem. A deficit closing in on $400 billion annually, that is a problem. Critical State and local government revenue shortfalls because of poor State and local economies, that is a problem. A single-year increase in our national debt ceiling of about $1 billion, or $1 trillion, excuse me. When I came up here from Hawaii, I had to add a few zeroes, and it still messes me up. One trillion dollars, that is a lot of zeroes. That is a big problem, too.

So let us stop talking about whether our economy and our Federal budget need help. We all know they do. In this building, sometimes I am not sure. But I think when we go out into our communities, we all know that is what is on people's minds. If we do not know it, the people we represent do know it.

The sooner we get to that problem, the sooner we say, it is our economy, it is our budget, and how exactly do we fix it, the better. Maybe we are closing in on that, but I am not so sure. I can tell the Members one thing, if we are going to talk about a huge tax cut, we have to get there pretty fast.

We have to ask ourselves whether economic revitalization will result from a general, massive tax cut focused on the very upper-income levels or targeted to business. We have to ask ourselves whether that much deficit, that much debt, is good and whether it will hurt us over the long run. That is the debate. Let us get to it real fast, and let us focus like a laser beam on the issue: fixing our economy and balancing our Federal budget.

□ 1900

REMOVE CUBA FROM U.N. HUMAN RIGHTS COMMISSION

The SPEAKER pro tempore (Mr. BURNS). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from California (Mr. ROHRABACHER) for allowing me to take this 5 minutes before the 1 hour that he has scheduled this evening.

Mr. Speaker, I rise today to discuss a disturbing development in Cuba's gross violation of human rights and recent crack down on its dissident community.

Yesterday Cuba was re-elected to its seat on the United Nations' Human Rights Commission. This comes only weeks after the Castro regime sentenced 78 independent journalists, librarians, and opposition leaders to lengthy prison terms and executed 3 alleged hijackers who tried to escape to the United States.

During this recent meeting of the Human Rights Commission, a resolution was passed that calls on Cuba to accept a visit by a human rights monitor. However, Cuba's reelection to the Commission still went uncontested. Mr. Speaker, it goes without saying that it is outrageous that Cuba has been reelected as a member of the Commission only weeks after systematically trampling on the tenants the Commission was designed to uphold. I find it hard to believe that the Commission could question the human rights practices of a nation and then, in the same breath, appoint that same nation as a member of the Commission. Cuba should not be a member of the Human Rights Commission. Cuba should be investigated and condemned by the Human Rights Commission and not sit as a voting member.

Mr. Speaker, this recent crackdown is considered by many to be Cuba's worst crackdown on its dissident community in the last decade. Unfortunately, these latest developments are nothing new and are simply the next step in the systematic denial of even the most basic human rights for the citizens of Cuba. I and many of my colleagues have spoken on this floor time and again of human rights violations in Cuba. We have called on the U.N. to condemn Cuba's continued violations of human rights standards, and their only reaction is to appoint the wolf in charge of the hen house.

On Monday before the United Nations' vote, Secretary of State Colin Powell publicly denounced Cuba's actions and criticized the Castro regime as an aberration in the Western Hemisphere. Powell also mentioned that the administration is reviewing their policies towards Cuba in light of Powell cited as the deteriorating human rights situation.

I would like to take this opportunity to applaud Secretary Powell for his strong statement on Cuba, and I urge the administration to take concrete actions against Castro's crackdown on its own people.

In closing, Mr. Speaker, the Human Rights Commission cannot continue to turn a blind eye to what has become a campaign by the Castro regime to silence all voices of peaceful opposition on the island. Allowing Cuba to remain a member only weakens the Commission's mandate. The United Nations must follow the leads of the United States and other nations that have condemned Cuba's action and remove Cuba as a member of the U.N. Human Rights Commission.

AMERICAN FOREIGN POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, I would like to identify myself with the gentleman's remarks and I am very happy I was able to yield those 5 minutes because I could not agree more with the gentleman.

Tonight I would like to discuss a matter very similar to what we were just hearing. I would like to talk about American foreign policy.

First and foremost, when we talk about America and talk about some of our basic policies, let us note that America is not like every other country. America is a unique country in the world, and I have always believed that God has a special place for the United States of America. Why is this? Because America, unlike other countries, represents every ethnic group, every religion, every race and every kind of human being that you can imagine. We represent the world here. We have people from all over the world who have come here to live in freedom and enjoy opportunity, to better the lives of their family, and they have come here from every place in the world to try to live in harmony with one another, but also to enjoy our freedom and opportunity. We have this place here between two oceans, this incredible land that was given to us that has vast natural resources.

Our Founding Fathers understood this. They thought that there was divine province in the establishment of America and that gives us a very special responsibility to the world. And also a responsibility to those Founding Fathers was not to waste this gift that they have given us.

Our Founding Fathers were extraordinary people. And they had a profound understanding of human nature and of special organization. The Declaration of Independence, to this day, is the most revolutionary of all national charters. It talks about God-given rights, about the consent of the governed, as these two things being the basis of freedom, of liberty. Later, our Constitution would detail a system of checks and balances and of limited and layered government that would protect the freedom of the people while ensuring our society stability and our society the type of government it would need to progress.

We were, back as long as our history started, back in 1776, through our history and on and all the way till today, the hope of the world. We were the hope to those people of the world who longed for liberty and justice, the people who hoped in the world that there was a better way, and we were there to show them a better way, and they could identify with us because we were the world. We are the people who represent every race and every religion. And we do not define ourselves by just a geographic area but instead by beliefs in liberty and justice for all. Beliefs that are at the heart of our system, instead of a religion or a race or even a locale.

This is not to say that the United States of America has been a perfect country. And I disagree with many of my conservative friends who try to idealize the past of our country and try to say that we were a bunch of puritan moralists or something like that and very religious. I am a religious person myself, but it is very easy to see that many Americans were very rambunctious people over the years ago. There were hell raisers. There were frontiersmen, and there were saloons and brothels in our history and gangsters. That does not mean those things should overshadow the fact that there were also churches and educators and philanthropists and people that helped each other and cared about each other.

Let us not say it was perfect here. Let us also remember that the taint of slavery was around from the very beginning, and how we treated our black population and the minority populations in the past should be an area of concern for us. We should not ignore it. We should try to make sure that we commit ourselves for making up for that in building a better America for everybody in the future. But there was racism in the past and there is some racism that exists even today that we should be working on because we want America to live up to its promise.

We have seen in the past scandals and manipulation of government that match some of the very best in various parts of the world. But the fact is we also know that at the basis of America is a system of government that gives us the opportunity to correct the mistakes and to make things better and a system of ideals that call out for all Americans to respect each other and to work together to build a better country and to build a better world.

Constant vigilance on the part of our citizens and the part of every American is required to make sure that our country continues to be free and that we continue to solve problems as they emerge, and that is something that sometimes is a little hard to do. I mean, when you talk about constant vigilance, sometimes it becomes nothing more than a slogan or some sort of a phase that may or may not have any meaning. But what we have to do, I mean by constant vigilance is we have to make sure our people focus on these ideals of our country and focus on our government enough to make sure we are doing what is right.

And it is so easy for our citizens in a free country just to focus their own lives because they are free to do so, and they are free to try to improve the lives of their children. Thus, they are out with their children at ball games and they are helping their communities and, thus, sometimes these good and decent people who make up America just rely on our government, and especially on our government and the people who work for our government to do what is right, to do what is right domestically, but also to do what is right in those areas that our people really cannot focus on and know all the details on American foreign policy.

I would say that America has, at times, let the American people down, but the American people have not let us down. American people have remained the most charitable people in the world, bar none, and I know that. I am, by the way, just not talking about our government and the government's services. I do not consider that a reflection of benevolence. I consider that to be a bureaucratic solution. And quite often some government programs are just established so we do not have to think about a problem, and it is a way of soothing many people. The liberals soothe their consciences by setting up a program that may not work but at least they can say they are trying to work on a program rather than trying to do something in and of themselves. But our people are willing to commit themselves. And they have committed themselves and provide more charity and more help to each other and more help to people in need around the world than any other people.

Of course, liberals do not like to admit this because they claim we do not give enough; and, of course, most of the time they are just basing it on the level of foreign aid or the level of donations we make to the United Nations. But that is not the way to judge the benevolence of the people. No, that is not the way to judge at all.

How much are we giving as individuals to help people in need? Many of our groups, many ethnic groups, as I say, from various countries that return to their homeland where they came from or from where their ancestors came from and give all sorts of assistance, thousands and thousands of dollars and any help, not only just in times of crisis but in other times. This is part of the benevolence of our country that these people return to their homeland and give vast sums of money to help the people who were left behind.

Also, we have given in emergency situations. There are people that can always come to the United States and we are always there to help. But also in a crisis, but also what we have not been given credit for is our people are willing to go out and put their lives on the line to preserve the peace of the world. That we never get credit for. In fact, even in the United Nations, when we sent peacekeepers out, our peacekeepers and the amount of money that they cost, we pick up their paycheck and we are not even accredited for that in the United Nations as a contribution to the United Nations.

And then my liberal colleagues who criticize us for not giving what we should to the U.N. If you count in all the money for the peacekeeping operations and all what we have done to keep peace in the world, we probably give more money than the rest of them combined. But we need to make sure that when the United States takes a stand in the world, that we are doing it in a way that is consistent with the ideals of our Founding Fathers.

I am here tonight to discuss a morally-based American foreign policy. It is more than simply giving money in foreign aid or even benevolently giving money voluntarily as citizens to help people in other countries, and even more than participating in U.N. peacekeeping operations. It is what we stand for and what our government pushes for overseas and what we fight for at times.

In the last 100 years, we have saved the democratic world. We have saved western civilization in World War I in World War II. In the Cold War it was the American people that stepped forward to save civilization at a time of great peril. The threats that led to World War II and the threat during that Second World War and during the Cold War, of course, were much easier to understand than many of the challenges that we face today.

Today many of those challenges are less definable and they are less understandable. So today our role is much more complicated. But we must be willing to act just as our Americans moved in the last generation and the generations before were willing to act. In order to be a force in this world for the ideals that were laid forth back in 1776 by our country's founders and to make this world a more peaceful place and a place, because if this world is not

peaceful, America will pay a price. Because technology has shrunk this planet so that each of us are affected when a terrorist or a dictator has his way in different parts of this planet.

So we must be willing to pay the price, and that price is involvement and that price is engagement and that price is, yes, there is an economic price in having the technology and the weapons and the military that is capable of defending the United States and having the foreign policy establishment educated and committed to the ideals of the United States engaged in pushing the world in the right direction.

September 11, I believe, was a result of bad policy. What we faced, the disaster there, and it was not a disaster that was a natural disaster. It was a man-made disaster. And it was something that could have been averted had we had different policies. Yet, we had policies that led to 9–11. And in 9–11 we lost more people, there were more casualties in New York on September 11 than there were casualties by the Japanese attack on Pearl Harbor.

□ 1915

And the Japanese attack on Pearl Harbor, the main target there, of course, were our soldiers and sailors, members of our military. So this heinous attack on 9–11 was much more brutal and much more aimed at our society and much more of an egregious assault on us than was the attack on Pearl Harbor.

I would submit that, as I say, 9–11 need not have happened. It started with our policy in Afghanistan. And just a short brief on that. People understand I have had a long history in Afghanistan, from the time I worked in the Reagan White House. I was in the Reagan White House for 7 years. During that time, as part of Ronald Reagan's strategy to defeat the Soviet Empire and bring it down and prevent it from being a threat to the United States and the free people of the world, we supported people in Afghanistan and elsewhere who were fighting Soviet expansionism.

We helped the Afghans fight against the Soviet Army that occupied their country. We provided them with weapons and equipment, and they fought bravely and courageously. It was their blood and their courage that helped end the Cold War because they drove the Soviets out of their country and broke the will of the communist bosses in Moscow. That is one of the major battles that helped us bring down the Berlin Wall and end the Cold War so that we were able then to enjoy a decade of relative peace and prosperity.

Yet the Afghans were left alone to fight each other in the rubble, with no assistance or help from the United States. We abandoned our Afghan friends after the Soviets left. We abandoned them because we made an agreement. I have not seen the agreement, but I am sure it was made. All the evidence is there. We made an agreement with the Pakistanis and the Saudis that they would be the ones to oversee Afghanistan. That in and of itself was not the right thing to do. It is the people of Afghanistan that we owed a debt to. It is the people of Afghanistan who fought bravely against the Soviets. Any agreement that was made about what would be happening in Afghanistan should have been focused on the consent of the governed, meaning the people of Afghanistan, and not a political power play among Pakistan, Saudi Arabia, and the United States.

So what ended up happening was that we simply left. We went and enjoyed our freedom and our prosperity at the expense of these people. What happened? Well, what emerged in Afghanistan was truly evil. It was a regime based on an extreme faction of Islam, based on the Wahhabi part of Islam, which is a very small faction of the Islamic religious faith. It was superimposed on them by Pakistan and Saudi Arabia.

Having been in Afghanistan during the war against the Soviets, and I was there working with the Afghans, fighting with the Afghans against Soviet troops back in 1988, I can tell you that those people are devout in their faith, but they are not fanatics like those that we picture when we think of the fanaticism of the Taliban. They were devout Muslims. They really hold God in their heart. They call God Allah, but it is the same that we say when we say God. They were not people who were insisting that everyone else pray the same way they did.

But the Taliban, as I say, is a derivative of the Wahhabis from Saudi Arabia who were superimposed on Afghanistan; and they had no help from us. The people of Afghanistan had no help from us, and the Taliban took over Afghanistan and turned it into a horror story for the people of Afghanistan and a horrible threat for the people of the Western world. But the Taliban, did, as I say, did not just emerge in power. It was there because the United States policy permitted it to be or even acquiesced to it or even supported the creation of the Taliban in agreement with Pakistan and Saudi Arabia.

I worked for years, after the fall of the Soviet Union, and after the Soviets left Afghanistan, to try to offer Afghanistan some help. I went to every country around Afghanistan to get support for a return to Afghanistan of the old king, Zahir Shah, who had been overthrown by the Soviet puppets back in 1973. Zahir Shah had been king of that country for 40 years, and they had peace and they had prosperity. He was a very moderate force in that society. His wife actually took the burqa off and threw it into the street one day. So he was trying to bring more democratic government. He was trying to bring more liberalization of their society.

But the communists manipulated the forces in that society, overthrew Zahir Shah with those forces, and then murdered the people who overthrew Zahir Shah and came to power themselves. And that is when the Soviets invaded Afghanistan.

Zahir Shah is a fine man. The people of Afghanistan loved him. We could have brought him back. Had we supported him, had the United States supported bringing him back, he would have ushered in democracy into that country. That is what he was pledged to do. Yet our government wrote him off.

And when I personally went to the countries around Afghanistan to try to get support for him rather than the Taliban, I was followed by a representative of the State Department at each of my meetings. At each of the meetings that I had with different political leaders in these countries, a representative of our embassy, meaning the United States State Department, was there saying Dana Rohrabacher is speaking for himself. He is not speaking for the United States of America. In other words, do not listen to Dana Rohrabacher.

For anybody who wants to know who is to blame for 9–11, you can thank those State Department elitists who decided that the Taliban was better than King Zahir Shah and undercut every effort to bring a moderate government to Afghanistan. They are the ones, whether they were in Pakistan or whether they were in Turkmenistan or whether they were in various countries of the world where meetings were taking place, who undercut those efforts of the Taliban's enemies, or let us say those people who would just offer an alternative to the Taliban. Every time the State Department interceded.

At one point, once the Taliban were in power, they became very vulnerable, because they had overstepped their bounds and their military had been defeated in the north and a swift reaction on the part of the anti-Taliban forces could have made the difference, could have eliminated them from power. President Clinton sent Bill Richardson, then our United Nations ambassador, and Under Secretary of State Inderforth to northern Afghanistan and convinced the anti-Taliban forces not to go into action but to seek a cease-fire, and to seek a cease-fire with an embargo of weapons, which would mean that they could talk out their differences.

Well, of course, with an emissary from the President and people at that high level to go up to talk to these so-called warlords in the northern part of Afghanistan, naturally they acquiesced. And, of course, immediately the resupply of weapons began to the Taliban and the cease-fire was immediately violated as soon as the Taliban were replenished with their weapons supply by Saudi Arabia and Pakistan. We could have eliminated the Taliban then, or we could have prevented the Taliban from coming to power had we supported an alternative, like Zahir Shah.

I was always so frustrated about this, because I knew that the United States Government had a policy of supporting or at least acquiescing to this monstrous regime. For years, I was asking for our Secretary of State Albright to provide the papers to me as a senior member of the Committee on International Relations to see about America's support for the Taliban. And, no, I could not get hold of them. I will have to say that some people on the other side of the aisle were very condescending towards me when I suggested we needed to see that because there might be support for the Taliban.

Well, what happened recently? About 2 months ago the foreign minister of Pakistan came to visit in California and got up and publicly acknowledged that it was not just Pakistan and Saudi Arabia that created the Taliban, but it was the United States, your representatives were in the room, and so quit blaming Pakistan and Saudi Arabia.

Well, thank you, President Clinton. If there was a representative of the United States Government in the room, it was a representative of President Bill Clinton. It was a representative of our State Department. Want to ask who is responsible for 9–11? There you go. We now are dealing with national security threats that were passed on to us during the Clinton administration.

The world lost respect for us, and they certainly did not fear us at all after 8 years of Bill Clinton. Human rights under that administration was turned into America's lowest priority. It became a joke in the sense that we would have the President of the United States going to China, talking about human rights, and then having business as usual, even though those same human rights violations were going on. Dealing with gangsters and dictators and the likes of the Taliban became the order of the day for 8 years under President Clinton.

The number three man in bin Laden's terrorist operation, this operation that conducted the 9–11 attack on the United States, has told investigators that it was America's weak response to the embassy bombings, our embassies that were bombed in Africa, killing hundreds of people and many Americans, it was our tepid response to that, where we shot a few cruise missiles out into the desert, because we did not respond any more than that, it convinced these terrorists to move forward with their plan to attack the World Trade Center and kill thousands of Americans. That is the number three man in bin Laden's operation who has confirmed that that is what was on their mind.

Well, thank God we now have a President who acts forcefully and thus will prevent gangsters and terrorists and people like the Taliban from thinking they can attack Americans and kill us by the thousands and get away with it. No, our President is sending another message. It is a message of strength; it is of resolve, moral courage, and principle.

I am sure our President must know what Teddy Roosevelt said. One of Teddy Roosevelt's most favorite quotes of mine was, ''The greatest sin of all is to hit someone softly.'' You do not launch a couple of cruise missiles and hit the bare desert. After the attack on our embassies, they bombed a pharmaceutical factory that had nothing to do with the attack on our embassies. No, you do not do it that way. If someone attacks you and kills thousands of your people, you have got to act boldly, you have to act with courage, and you have to make them pay a price, or Americans will pay even higher prices in the years ahead. Again, thank God we now have a President that understands that principle.

In the months after 9–11, the President rose to the occasion. But let me add that in the months after just being elected President, in his first few months, I had three separate discussions in the White House about a policy that might eliminate the Taliban. So I was involved in discussions with the White House, this White House, the Bush White House, prior to 9–11, trying to make sure that we would move forward. I was having a very receptive audience on how we could rid the world of the Taliban regime. The President was, as I say, and his staff, were very, very receptive. And then 9–11 happened.

In fact, let me note that on 9–11 I called the National Security Adviser to the President. I actually called on 9–10, the day before the attack. Because of my contacts in Afghanistan and my analysis of what was going on, I realized our country was about to be attacked. I did not know exactly what form it would take, but I called the White House to warn the National Security Adviser. I called and I said this is an emergency, it is a national security emergency, I need to talk to Condoleezza Rice and the White House operative got back to me and said, Congressman, she is so busy today, but she will see you. He said she will see you tomorrow at 2 p.m. so on 9–11 I had an appointment at 2 p.m. in the afternoon to see Condoleezza Rice to warn her that our country was about to be attacked.

□ 1930

But let me just say that after the attack on 9–11, our President rose to the occasion. He has been an incredibly impressive human being in the days since 9–11. He has pledged to the American people that he will hunt down every one of those people involved, those terrorists, those murderers who killed our people on 9–11, and that we will do everything necessary to protect America's national security, and that is just what he has been doing over this last year and a half.

He has been handicapped, however, by the same State Department that traveled around after me all those years and stonewalled my efforts to get rid of the Taliban and to prevent them from getting into power, the same entrenched elite State Department is at play, and our President has had to deal with them all of this time in achieving his goals. They undermine elected officials whom they cannot control. And even with a world-class leader like Colin Powell at the helm, this entrenched foreign policy bureaucracy still seems to be in power and still has inordinate control over American foreign policy.

Afghanistan is an example. Even from the outside, the policy that we had towards Afghanistan seemed disjointed. It looked a little bit disjointed in the days after 9–11. It took our President and Secretary Rumsfeld to push aside a State Department that was committed, and get this, our State Department after 9–11 was still committed to keeping the Taliban in power, even after 9–11. It took all of the effort, as I said, our President and Rumsfeld to push that policy aside and trash-can it.

Let me note also, we were operating in Afghanistan after 9–11 almost blind. Members will hear that the CIA was involved in Afghanistan before the Green Berets, but let me tell Members and I cannot give the exact number but almost none, there was very limited CIA presence in Afghanistan. The State Department and the CIA did not know who the players were because they had pooh-poohed all of the anti-Taliban forces for so long they did not know who they were.

The plan at that point that the State Department was pushing was to leave the Taliban in power and to send a huge military force, an American force in through the south using Pakistan as a base of operations, and take control of perhaps Kabul or a city in southern Afghanistan and then to negotiate with the Taliban who controls the entire countryside for the return of bin Laden. That would have been a disaster, and it was based on leaving the Taliban in power, people who hated us, people who turned their country into a staging area for a terrorist operation intentionally. They knew what was going on. They hated America and hated the west, and we were going to leave them in power?

Well, let us put it this way. The best that our State Department could do and the CIA could do is probably that plan because they did not know anybody in the anti-Taliban forces. There was a team of people who went shortly after 9–11 to the Department of Defense, to the State Department, to the CIA, and made sure that our government at the highest levels knew the names and locations of those people who were fighting the Taliban who could provide thousands of fighters. We provided the names, the locations, the number of fighters available, and even the satellite telephone numbers of the so-called warlords who were in charge of tens of thousands of troops who would do our bidding on the battlefield against the Taliban.

That small team that went there to advise our government were made up of people like Charlie Santos, Paul Behrends, Al Santoli, Dusty Rhoades and myself. Meeting after meeting took place, and all this information was transmitted. At the DOD, people went to work immediately to try to put in place a plan that could dislodge the Taliban and destroy al Qaeda. The group in the DOD that took the ball and ran with it include Paul Wolfowitz, Peter Rodman, Bill Lutti and several others who acted immediately on this opportunity to work with the people of Afghanistan to help them throw out their tyrants.

We helped them liberate themselves from the tyranny of the Taliban. Thus, we accomplished our own foreign policy objectives by working with people and promoting our own ideals of freedom and democracy.

What was put into place was Task Force Dagger, one of the most successful military operations in U.S. history. It was turned from a plan into an historical accomplishment by the courage, skill and hard work of unsung heroes, yes, some of them in the CIA, and yes, many of them in the special forces. Special forces heroes like Captain Nutsch became legendary in Afghanistan but unknown to the people of the United States. Thanks to people like Special Forces Captain Nutsch, we won an incredible victory in Afghanistan, losing only about 35 people to hostile fire. We should be proud of our defenders and grateful to the Afghans who fought with them and destroyed the Taliban and bin Laden's forces in Afghanistan. For a second time, these people in Afghanistan did our bidding, rose up and fought America's enemy and defeated that enemy.

I recently visited the grave of a CIA officer who was there on the scene and helped fight this battle and helped organize this magnificent victory. I went to the grave of Mike Spann who was buried in Mazar-e-Sharif. I was there about 10 days ago. The local people are so grateful to Mike Spann they had a ceremony to honor him. They built a monument to him. It is a very inspiring monument because they realize that the Taliban oppressors would have never been defeated had the special forces teams not been there to help them with the logistic supplies and the forces that they needed to defeat the Taliban.

But let us not forget that as the battle in Afghanistan progressed, voices were heard here that were less than supportive of what we were doing. This was even after 9–11. The pessimists and naysayers were at work and they started talking, even after a week or two, talking about a quagmire that we were in, and they started a propaganda campaign against, and they are the ones who came up with the word ''warlords,'' they started labeling our people and trying to find out what was wrong with those forces who were fighting with us rather than being grateful that we had people who were working with us to destroy the Taliban and al Qaeda who had murdered thousands of our people.

Forces under commanders like General Dostum, Halli, Ata, Faheen, and Ishmail Khan led ground forces there in Afghanistan that drove the Taliban out of Afghanistan and defeated the al Qaeda forces. I will let Members know the al Qaeda were the Taliban's old home people who were engaged in this sort of cult, which represented about 10 percent of the people. They were Afghans, but al Qaeda was made up of foreigners, many from Pakistan but many Arabs as well, who had come into Afghanistan to use Afghanistan as a base of operations against the west. But also, anyone in Afghanistan that raised their head in opposition to the Taliban were brutally murdered by bin Laden and his thugs. They were grateful when we came to help free them from these radical fanatics who were coming in from outside their country and murdering them to keep the Taliban in power.

Yes, we can be grateful to those people in Afghanistan. We can also be grateful to our special forces and CIA, and we can be grateful to those people in the United States. Again, these things do not just happen. They happen because we have planned for them. What happened is we had the high-tech weapons system that we needed to do the job. Yes, Bill Clinton during his years did permit some of these weapons systems to be built. He dramatically cut the defense budget, but that is okay. These weapons systems were permitted within the budget left.

But with those high-tech weapons systems, we were able, with the courage and cooperation and alliance with those people in Afghanistan, to get this job done. But what has happened in Afghanistan is not over. We need to do what is right diplomatically and make the right political decisions if we are to make sure that this does not happen all over again, that Afghanistan does not get drawn back into a morass of evil.

What we must do first of all is help them rebuild their country. Our President has laid out a plan that has been very committed even through the Iraqi operation to making sure the people of Afghanistan have the help they need. We have not given them enough as of yet, and there have been bureaucratic roadblocks to the rebuilding of Afghanistan. Although there has been about $1 billion spent and there are signs that things will be getting better, the pace has been inexcusably slow. We need to speed that pace up, and we need to make sure that they can rebuild their country and their aqueducts, rebuild their roads and hospitals and schools.

Mr. Speaker, ten days ago I was in Afghanistan. I drove about half the distance of that country on back roads, and I will tell Members it was a sight to see. There were burned out Russian tanks everywhere and rubble strewn. I saw a gang of kids, probably about 100 of them, and I stopped the car and went over to see them. I had an interpreter with me. It was kids who had arranged the rubble of a building that had been destroyed so they could sit down, and they were teaching each other to read and write. They were teaching each other to read and write sitting in the rubble. We need to work with those young people so they can learn to read and write, do their numbers, and so that they can be part of the community of nations, part of this great new world that we are building rather than be manipulated in ignorance by some extremist religious sect.

We also need to really make solid and right decisions about what is going on politically. Let me note that those people who helped us defeat the Taliban were basically from the northern part of the country where there are five different ethnic groups. These are not warlords and warlord armies, these are ethnic group militias that knew they had to arm themselves to be safe, just like our forefathers armed themselves and had their militias. That represents about half of the country in the north. That represents 50 percent of the Afghan population. The other 50 percent of the Afghan population are Pashtuns. Their territory is along the Pakistani border. Because they represent 50 percent of it, they represent a much bigger portion. Thus, in a central government we can expect that the Pashtuns will have much more influence than those 5 ethnic groups in the north.

□ 1945

But it was the ethnic groups in the north that were America's friends. They were the ones who put their lives on the line for us, and to a certain degree the Pashtuns did not fight very much at all; and, in fact, many of them were relatively sympathetic in one way or the other or at least acquiesced to the Taliban because they were cousins or whatever. This is what is happening today. Unfortunately, I am sad to report after my trip to Afghanistan, our government is again siding with those people who are not our friends, and they are trying to undercut our friends. The people who fought for us and helped liberate Afghanistan from the Taliban, those forces in the north, are being undermined, and they are doing everything they can to try to disarm those people even as skirmishes with the Taliban still occur in the southern part of the country.

And of course our government, the United States Government, the State Department, if I can put that in a more correct term, is pushing to have a system in Afghanistan totally out of sync with the American experience. In fact, they are using the French model in Afghanistan. In Afghanistan what they are doing is asking for a strong central government that will appoint local leaders. That is not what we do in the United States. We have layered government. We have federalism. We have

State and local people elected; thus, if someone takes over Washington, whether it is Bill Clinton or whoever, the whole country does not go crazy. They just say okay, we have different people in different parts of the country. We have checks and balances and separations of power. They want none of that in Afghanistan. They want a strong government that will be dominated by Pashtuns who were sympathetic to Taliban or dominated by an ethnic group that was sympathetic and at the expense of the people who fought for us.

The answer is very simple. Let us look to the American experience. Let us stand for American principles. Let us not model it after France. Let us have a government that we can support in Afghanistan that gives those people freedom like we have in the United States to control their own destiny through the ballot box.

And how should we do that? It is very simple. In Afghanistan let the people there enjoy the right to control their destiny through the ballot box through a federal system, and, that is, they should have the right to elect their local mayors like we do and like in Canada, like what is happening in Iraq. We are insisting they have a system in Iraq where the Kurds and the Shiites and the Sunnies all get to elect their local mayors and provincial governors, but the State Department in Afghanistan is insisting that we go the opposite direction. Why? Because a deal has been cut somewhere. That is what everybody believes. I have no evidence right in front of me that there is a deal any more than I had evidence for a long time that there was a deal with Pakistan and Saudi Arabia about the Taliban to begin with; but in the end if we follow what the State Department is trying to push on the people of Afghanistan, we will have a strong central government and the people in the north who are our greatest friends will be denied the right to elect their own local and provincial leaders. This is wrong. It is wrong, and it will not work.

Our Government works because our Founding Fathers had an understanding of human nature. If people control their own police force or their own schools locally, they will be less threatened by a central government that is someone who controls it who is a bit different than they are, perhaps of a different ethnic group because that person only has control over the national army, which it should, and road systems and communication systems and health care and such that are of national importance, but the people locally can control their own destiny through the ballot box, through electing their own mayors and governors and control their police force. If a policeman is beating someone up, we call the mayor whom we have elected, and the mayor is not an appointee of Kabul. He is our friend because he has been elected there, and he will make sure that we are being treated right by our government.

Or if our kids are not learning in school, I should not have to convince our State Department, Americans, that it is right for people to elect their own leaders, but yet that is what they are trying to foist on the people of Afghanistan, and of course there is a reaction from the north. The so-called warlords, are they going to disarm for that? When I was there, I went and talked to three of the so-called warlords. They are really people who are military leaders of militias of the various ethnic groups, and I got a terrific and a tremendous positive response to the idea of this, and this is what I have offered as a compromise, and of course our State Department, just like when I tried to offer the king as an alternative to the Taliban, I imagine they were trying to undercut this alternative all the way; and that is the military leaders in the north have agreed to disband their armies, to totally demobilize and to disarm if the constitution in Afghanistan, which our government is involved with pushing, guarantees the right of local people to vote and control their own destiny through the ballot box, meaning they can vote for their provincial governors and for their local city councils and mayors. Is that too much?

These so-called warlords who we are going to hear being vilified over and over again, these warlords are willing to disarm, to trade in their bullets in exchange for ballots. Is that not a wonderful accomplishment? And of course I am pushing that as a compromise, and I would hope that our government, just as I know we had to shame the State Department into giving up its notion that the Taliban would stay in power, I hope that the State Department is made to understand that we are going to have a democratic system in Afghanistan that permits all the people guaranteed rights through the same sort of guarantees we have in the United States. We want to use the American model, not the French model, in Afghanistan. That is what will work. That is what we need to do, and I would hope that we do not have a corrupt deal with Pakistan again to try to force one group into a controlled situation of all of Afghanistan.

That is the type of immoral decision-making and political power, wheeling and dealing that does not work. What works, fascinatingly enough, and makes it a more peaceful world and works for the security of our country is not wheeling and dealing pragmatism, which the State Department talks about, but instead principled, principled and moral decision-making. How about that? Pragmatism does not work. It does not make a better world. Principled and moral decision-making does.

So, by the way, just let me just suggest that I think that we too can make it work not only in Afghanistan, but that same idea works with Iraq. Our President showed his incredible leadership and his strength and resolve in liberating Iraq. And as I say, we can help bring those people to a more democratic society and a society where they can elect their provincial leaders. That is our policy in Iraq to let provincial leaders be elected, their governors and their mayors, but not in Afghanistan.

Whether or not Iraq under Saddam Hussein had weapons of mass destruction is not relevant, and I know I keep getting asked this and my liberal friends keep pushing on this, when are we going to find the weapons of mass destruction? I do not care if we never find weapons of mass destruction. The fact is Saddam Hussein had a blood grudge against the people of the United States for what we did in eliminating him from power when he invaded Kuwait. We humiliated him in front of the world. He would have done everything possible to hurt and kill the people of the United States, the more power he got in his hands. And Iraq has vast new oil resources that are becoming available to it. Within a 5-year period had we not acted, Saddam Hussein would be the most economically powerful person not only in that region but in the world.

And is there any doubt he would have used that power to overthrow the weak and the fat Saudi regime and thus he would have become even more powerful, perhaps the most powerful man on the Earth, and we were going to let that happen? A man who hated us and had a blood grudge against us? Maybe he did, maybe he did not have a nuclear weapons program; but with the tens of billions of dollars available to him, 5 years down the road he would have bought as many nuclear weapons from China or Korea as he wanted to buy. That was definitely a threat. And unlike President Clinton, our great President, George Bush, decided not just to pass it on to a future generation. Now that the people of America were focused and willing to do what was necessary for our security, President Bush prudently decided that taking Saddam Hussein out and working with the people of Iraq to build a democratic Iraq was the most important thing we could do for our national security, and I am sure that President Bush is going to leave to the next generation of Americans a world that is safer and more secure and with more opportunity than what his predecessor left the world with, which was he left us with every problem that he did not solve.

I mean, President Clinton left us with the Taliban and al Qaeda; and, by the way, he also left us with a Korea that we now find has what? A nuclear weapon. By the way, the Clinton proposal that stopped the crisis over the nuclear weapons program in Korea was that President Clinton agreed to give lots and lots and lots of money to North Korea, one of the weirdest dictatorships in the world; and over the last 7 years, I guess it has been, over my objection and the gentleman from California's (Mr. COX) and others, North

Korea has been the largest recipient of American foreign aid of any country in Asia; and now they tell us, guess what, we fed their people, and they use their own money to develop a nuclear bomb. Surprise, surprise.

If I have any complaint of our President during this crisis in our lead-up to Iraq was that he did not immediately talk about the moral basis for his decision-making. He was playing lots of games, and I am sure the State Department made him play those political power games at the United Nations and with NATO, but it took him a long time to do that, and he jumped through a lot of hoops trying to prove he was sincere; but I think that was a waste of our time, and, instead, it took him a while to get there, but when he gave a speech at the American Enterprise Institute, he laid the moral case out, and from that moment on we were out to liberate the people of Iraq, to work with them, to stand by them in building a more peaceful and a democratic society and to free them from this monster, Saddam Hussein, who not only had a blood grudge against the people of the United States but was the oppressor and the murderer of their people. So thus the moral case that the President made at AEI, I think it was a historic speech. I would recommend it to all of my colleagues, and I would suggest that was when our effort in Iraq took off. That was when the momentum was created that was unstoppable.

And sometimes I am asked why did the Iraqis not just jump up and start supporting us as we predicted? What had happened was 10 years before under President Bush, Sr., we had let the Iraqis down and they were not certain when our forces came in that we would stay there and actually help them liberate themselves from their tyrannical regime. But I think there is every evidence now that that country is going in the right direction and that country will be a light for democracy, and we will use this victory to spread democratic government and peace throughout this troubled region, a region that was handed to us by George Bush's predecessor in flames. The Shiite demonstrations that we see are much smaller than the people can see on TV. The Shiite people of Iraq are Arab-speaking people. The Shiites of Iran are Persian. They are not the same group of people. And also the people of Iraq just freed themselves, the Shiites, of a monstrous dictatorship. They are not going to replace it with another dictatorship of clerics or anybody else.

Our job in Iraq, as the President has stated, is to help those people build democracy, and we will not let anyone pressure their way into that government. I know the President has the respect of the people of the world now; and when he makes that statement, they listen to him unlike they would any other President.

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So I have every confidence that we will not permit anti-democratic forces to pressure their way into power, and that we will work with the good people of Iraq in building the infrastructure of a system that will permit them to democratically elect their leaders. And, when they do, we will leave, if that is what they want us to do. We will be happy to leave. The President has made that clear. The people of the United States have made that clear. Because in building democracy in Iraq and helping the other people of that region to have democratic government, it helps in our own security.

We are, with our commitment to freedom and democracy, building a better and more peaceful world. This is a world consistent with the dream of our Founding Fathers. This is a world that, again, is based on decision making, morally, in principle, based on decision making. That is the way to make a better world, not pragmatism that is making sort of power compromises and deals with people and regimes and gangsters.

It is when we stand up for our principles and we try to build democratic societies, that is when things get better. That is what works in this world.

So I am very grateful tonight to have had this opportunity to go into these details. We have challenges ahead of us, because there will always be people in the State Department and elsewhere who are thinking they are being pragmatic, but really are not living up to our principles. There always will be people who undercut our efforts and just do not believe that America can be a force for freedom overseas. That happened to President Reagan too, when he tried to fight the Soviets.

But we can, with courage, with a commitment from our people, we can build a world that is more prosperous, we can build a world at peace, and we can build a world that is more free. And our greatest allies are the people of Iraq, the people of Afghanistan and the people everywhere in those Third World countries and other developing countries that long for democratic process and for a better life for them and their children.

HELPING THE PEOPLE OF HAITI

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes.

GENERAL LEAVE

Ms. LEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. LEE. Mr. Speaker, tonight is another opportunity to once again highlight the on-going humanitarian crisis in Haiti and the urgent need for action.

Many of us together have worked to send a message to this administration that it is time to revisit the United States policy toward Haiti. We have become increasingly aware of the humanitarian crisis which is brewing in Haiti. Much of this crisis can be directly pinned to the fact that the United States' eight financial institutions which we are part of are blocking social sector resources from reaching that small island nation. In fact, the United States representative to the Interamerican Development Bank directed the bank's president to block disbursal of four social sector loans to Haiti. These loans had already been approved by the bank's board of directors and were ratified by the Haitian parliament over 3 years ago.

Now, considering Haiti's current crisis, this action is inexcusable. While our government levies our political weight with the international financial institutions and the Organization of American States, Haitians continue to suffer. Further, this delayed delivery of international humanitarian aid to Haiti is fostering instability and anarchy in their struggling democracy.

Haiti's miserable poverty is indisputable. We can no longer bury our heads in the sand on this issue. Without strong leadership, the crisis will continue to spiral out of control. Already, the national rate of persons infected with HIV and AIDS in Haiti has risen to 300,000, or 4 percent of the entire population, leaving 163,000 children orphaned. Haiti makes up 90 percent of all HIV-AIDS cases in the Caribbean. And Haiti's health problems go well beyond HIV and AIDS. The infant mortality rate has increased to 74 deaths out of every 1,000 babies born, and now five mothers will die out of the same 1,000 babies born.

We must remember that many diseases know no boundaries, so it is in our strategic interest to help Haiti heal itself. The doctor-to-patient ratio has fallen to 1 to 11,000, leaving very little chance that sick persons in the rural areas will ever get even the basic health care. 125 Haitians die daily of illnesses. While most of the western world has eradicated diseases like polio, health officials report that many Haitians do not have the resources to pay for life-saving vaccinations for their children.

This is just morally unacceptable. Together, we must urge the President to do the right thing in Haiti. Jared Johnson, the IDB branch director for Haiti, said you cannot run a country through non-governmental organizations. What does this mean? It means we cannot continue to funnel money into USAID and then blame the government of Haiti for lack of resources and poor social services.

Our government and the international financial institutions should

not continue to raise the political bar in order for Haiti to receive basic humanitarian assistance. It is unacceptable to simply stand by and watch a season of misery inflict pain, suffering and death on human beings right here in our own neighborhood.

We must address this injustice. We must release the IDB funds to Haiti and direct the international financial institutions to reengage and reengage now. It is our moral imperative, and it is our commitment.

Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK) a member of the Committee on Armed Services, a Member of the Haitian Task Force, and one who has led our efforts in terms of immigration issues and other issues that he so passionately cares for.

Mr. MEEK of Florida. Mr. Speaker, I thank the chairperson of the Congressional Black Caucus Task Force on Haiti for yielding.

Mr. Speaker, I must say that I concur with the gentlewoman's comments. I know that many of us in this Congress feel very strongly about U.S. involvement as it relates to the way of life in Haiti. What I can tell you is what this Bush administration has done is it has created an atmosphere of conflict.

What I mean by that is the fact that we are saying we want Haitians to stay in Haiti, but we are not creating an environment for Haitians to be in Haiti with a democracy that is functional because it has the resources to be able to work towards providing the kind of services that Haitians need.

I will say this: Haiti is the poorest country in the Western Hemisphere, and it is very disturbing to see this democracy in our hemisphere, the poorest country, and we are standing in front of dollars that were committed years ago to Haiti.

I would also say something else that is very disturbing, and that is why I cannot understand the policy. If we want Haitians to stay in Haiti, if we want to be able to have a strong government in Haiti, if we want to be able to provide drinking water and humanitarian efforts in Haiti, then we should not be standing in front of these dollars.

On the other hand, we should not have unfair immigration policies when Haitians are trying to seek political asylum due to the fact that Haiti is struggling right now, and we have conflict there, political conflict in Haiti.

General Ashcroft, the U.S. Attorney General, put forth a decision just this past week saying that when Haitians are migrating to the United States, that they would be indefinitely detained. This goes against decisions that have been made in the past. Immigration, the INS in Miami, has said we should detain Haitians, even though an immigration judge said they should be paroled while they are waiting for their political asylum case to be heard. But we decide to detain and incarcerate Haitians, thinking that that will stop a mass migration to Florida or to the United States under the auspices of homeland security.

I just want to share tonight with my colleagues that being on the Committee on Homeland Security, being on the Committee on Armed Services, I have not yet heard or seen an FBI report or a CIA report to show any level of or any indication of terrorism in Haiti, or any member of its government that condones terrorism in Haiti, or the Haitian people in general.

I can say that it is quite confusing, since we have a situation in South Florida that could very well, if we are going to live by that policy and use that policy to detain Haitians unfairly, this may very well set forth a policy as it relates to those that are trying to seek political asylum from the island of Cuba. If the Cuban Readjustment Act was brought onto this floor today I would vote for it, because it is the right thing to do. A dictatorship is in Cuba, and I think it is important that we should allow people who want to migrate towards liberation to be able to have that chance.

But Castro sided with Saddam Hussein. Cuba is also a communist country, and every day we have individuals that are migrating to South Florida.

We should be very careful as a country when we start using homeland security against individuals who cannot harm this government. I think it is very important for not only the Attorney General's office to hear this, but the Bush administration to hear this, that we cannot do nothing on both ends. We must do something on one of the ends, and provide aid now for Haiti, humanitarian efforts for Haiti.

I voted on a voice vote for the supplemental for Iraq. I feel that it is our obligation to go in and do the things we are doing in Iraq right now. But I think it is our obligation to do some of the same things in Haiti. And the Haitian people have had to hold off.

Mr. Speaker, I would just say to the gentlewoman from California (Chairman LEE), I just want to say representing the largest concentration of Haitians in the United States, I think it is so very, very important for this government to realize not only its humanitarian effort, but its effort towards fairness and equality. I think it is important that this administration stop standing in front of the dollars that have already been committed. These are not new dollars, the dollars that have already been committed to Haiti.

General Ashcroft's decision did more than stop those dollars that should have been going to Haiti years ago. He has also put questions in the minds of the humanitarian community that has been doing work there. They may feel Haiti is a terrorist state, which is not true. It is important that we fight against those forces.

So, I want to thank the gentlewoman from California (Ms. LEE) for yielding me time tonight, but I just want to say that our efforts have to continue. I want to commend the gentlewoman's efforts for being a stalwart in standing up on behalf of not only what America stands for, but being able to help those countries and individuals, those countries that are democracies, those countries in need, and Haiti is in need.

So the message tonight is to release the dollars to Haiti or the resources to Haiti that have already been committed, and, two, fairness in immigration policies.

Ms. LEE. Mr. Speaker, reclaiming my time, I would like to thank the gentleman from Florida for his leadership and for participating tonight in highlighting the very discriminatory policies and the very inconsistent policies in terms of our immigration policies as they relate to Haiti, and also for his leadership on each and every issue that he is providing to this Congress during his first 2 years. I thank the gentleman for participating with us.

Mr. Speaker, I would like to yield to my good friend the gentleman from North Carolina (Mr. BALLANCE). The gentleman serves as a member of the Committee on Small Business and a member of the Committee on Agriculture and has been involved in many, many issues since he has been in Congress. He is a new Member who has hit the ground running.

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Mr. BALLANCE. Mr. Speaker, HIV and AIDS infections represent a crippling medical crisis worldwide, and it is for that reason I want to sort of focus my remarks on that particular subject in the context of the subject we are discussing this evening. This problem is so pervasive around the world, but as we focus the microscope on the tiny Nation of Haiti, it is indeed an epidemic. I regret very much that America has not done its share to address this issue. In fact, for so long, most of us have been missing in action.

But there is a soldier who has been standing and fighting this battle for so many years. She is the chair of the CBC Brain Trust on Global AIDS and HIV, and that is the distinguished gentlewoman from California (Ms. LEE). I say to the gentlewoman, I do not wear a hat this time of year, but I take my hat off to you for standing so tall.

A lot of people, as we look back on this issue, were afraid to even speak out, were afraid to get involved. As I look back on my own career and on my own life and the life of my fore parents, I recall that it is a long journey from Africa to America. It is a long journey from slavery to freedom. But history tells me that my ancestors got on a boat involuntarily somewhere on the West Coast of Africa. We have been so journeying in America now for more than 400 years. Is it not amazing that we, as ancestors of those who were taken, now find ourselves in a position to provide some help and, hopefully, to provide some financial assistance and,

hopefully, to lead our government to say that, in fact, we are compassionate beyond words, but we are compassionate in deeds. That is what it is going to take to address this issue.

So I have come today to add my voice to those who are crying aloud for attention and help on the subject of HIV and AIDS in this small, tiny Nation of about 8 million people in Africa.

We all have an obligation to make a contribution. Even though we may be healed of whatever ailment may have afflicted us, I believe we have the obligation to turn back and say ''thank you.''

We all remember the story from Luke, chapter 17 when the 10 lepers were passing by and Jesus was on the scene. And they asked for some help. And when they were healed, they went on their way, but one, and only one, turned back to say thank you. Jesus asked the question, what happened to the other nine?

As Members of this great body, in these historic halls of the United States, I am sure sometimes my colleague asks the question, where are the other 434? Well, there are a few of us here today to stand with the gentlewoman from California (Ms. LEE) to say, keep on fighting. To say that help is on the way, we believe, and we thank all who have joined in this recent struggle, including our President. I hope he is genuine in his assessment that he is going to try to make funds available. I hope we can convince some other nations who are concerned about our grain because of this very issue and the generic factor in our grain; a lot of times we can help others by helping ourselves. We can reach out to help this Nation and other nations. We can also help our farmers who have excess grain.

America is a great Nation. I am proud to be an American. But when we stand up to help others, our true greatness comes out. I believe on this issue, history will judge us harshly if we do not respond to this critical issue, not only in this country, but in particular, in a poor country where the income is so low, maybe $60 a year, that they have not the resources to address this problem. We must add our voice. We must turn back and say ''thank you'' by our actions and by our deeds.

Ms. LEE. Mr. Speaker, I would like to thank the gentleman for his very kind and generous and very humbling remarks, and also for his real leadership, and his real and honest commitment to those in need, whether here or abroad. I thank the gentleman for his comments.

Let me now yield to the gentleman from New York (Mr. MEEKS) whose leadership on the Committee on International Relations and on the Committee on Financial Services is making quite a difference in terms of the reordering of our domestic and our foreign policies.

Mr. MEEKS of New York. Mr. Speaker, today I want to thank my colleagues in the Congressional Black Caucus, the Chair, the gentleman from Maryland, (Mr. CUMMINGS), for organizing today's Special Order on Haiti. I want to salute the members of the Haitian Task Force and my good friend and colleague who is from California and shares the Committee on International Relations and the Committee on Financial Services with me, the gentlewoman from California (Ms. LEE), for her outstanding leadership and tireless commitment to the people of the Nation of Haiti and in combating the HIV/AIDS pandemic wherever it raises its ugly head. The Nation indeed owes the gentlewoman from California (Ms. LEE) a debt of gratitude.

There is a saying that all politics are local. And for me, Haiti is a local political issue. I am proud to represent the constituents of the sixth congressional district of New York which has one of the largest Haitian American communities in America.

But that is not the only reason why the Haitian people are important to me and why the Nation of Haiti is important to America. Haiti is important to me because America cannot and should not continue to have a foreign policy towards Haiti, which is one of the poorest nations, if not the poorest nation, in our hemisphere, a foreign policy which, in many ways, fails to support the rights of the Haitian people for democracy, human rights, and economic opportunity. This administration cannot talk with credibility and moral clarity about willingness to use our political, economic, military, and diplomatic foreign policy instruments in the name of spreading America's universal values globally. Yet, we only apply it selectively when it is in our national interests.

Mr. Speaker, the people of Haiti are a proud people, a people who have a long history of being at the forefront of struggles against slavery and for independence against European colonialism in this hemisphere; a history which connects the people of Haiti with African Americans. In 1791, Haitian slaves initiated a successful slave revolt against France. The Haitian slaves ousted Napoleon and by 1804, the island became the first black independent nation. At first, our Nation did not recognize Haiti as an independent Nation out of fear that Haiti could serve as an example to others to fight against any country which practiced slavery. It was not until 1862 that the United States finally granted Haiti diplomatic recognition and sent noted abolitionist Frederick Douglass as America's Consular Minister to Haiti.

But as we know today, for many developing nations, political independence from their former colonial masters did not automatically translate into stable democracies, economic independence, and sustainable development. Haiti, like many post-colonial developing nations, has struggled with internal civil wars and political instability. The people of Haiti have been dripped in decades of structural violence, dictatorship, human degradation, and economic poverty the likes of which are an affront to humanity.

While the reasons for such sufferings are complex, the fact that it exists in today's world of wealth and technology right here in our hemisphere is something that we cannot ignore. We cannot ignore that our immigration policy treats Haitians differently from other immigrants seeking to escape political violence. We cannot ignore that our foreign policy regarding Haiti has become tied to partisan politics. We cannot ignore that Haiti faces an HIV/AIDS epidemic and this administration has played a role in hindering international economic assistance to Haiti because we cannot come up with a policy approach that balances the needs of the Haitian people with our requirement that assistance be used properly.

So, Mr. Speaker, I stand here today to say that if America can muster the political will and mobilize billions of dollars in resources to wage a war thousands of miles away from our shores, what about Haiti? When will America mobilize the same kind of resources and political will to wage a war against poverty, against disease, against human suffering right here in our hemisphere? If such rights and values are truly universal, Haitians deserve nothing less. We can do more to support the people of Haiti so that they can reclaim their human dignity. We can and we must.

Again, I thank the gentlewoman from California (Ms. LEE), my friend, for her tireless effort, commitment, and hard work.

Ms. LEE. Mr. Speaker, I thank the gentleman from New York (Mr. MEEKS) for his very eloquent statement and his kind remarks, and also for reminding us of the history in terms of the connection to our own country and the fact that we do have many Haitian Americans here in our own country who are concerned about their country and have such representatives as the gentleman from New York (Mr. MEEKS) who so ably represents a diverse population of people.

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Mr. Speaker, I yield to my colleague, the gentlewoman from Southern California (Ms. WATSON), who has a wealth of experience as an ambassador, as a Chair of the Senate Health and Human Services Committee in the State of California, and one whose wisdom and counsel we all look to on so many issues.

Ms. WATSON. Mr. Speaker, I thank the gentlewoman from California. We are also very proud of the gentlewoman and her leadership.

Mr. Speaker, I see next to her the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), who was part of our entourage that went to Haiti, and had been there before. She helped to point out the problems and to analyze them while we were there.

I want to give another thanks, too, to the gentleman from California (Mr. ROHRABACHER). I was sitting in my office listening to his presentation. He talked about American democracy and that we were not really ready yet, because we had to realize that we had some problems in this country. We had enslaved a large group of people who make up a tremendous part of our population today.

He also said that we are going to have to correct that which is broken. This is what we come together to talk about, a nation that is broken in our own hemisphere.

Mr. Speaker, I am appalled by the unsubstantiated allegations made by the United States Attorney General, John Ashcroft, with respect to Haiti. He claimed that the Pakistanis, the Palestinians, and others are using Haiti as a staging point for trying to get into the United States. What a ridiculous statement.

I would ask him, has he been there, Mr. Attorney General? If not, he needs to go. He needs to scour every single part of that island nation. After what he is going to see he will be declaring another war, and that is on poverty, on starvation, on the fact that the people there have nothing; and we are allowing that to continue in this hemisphere.

Even the State Department's consular officers and officials are puzzled by his remarks. Jorge Martinez, a spokesman for Ashcroft's office, could not immediately say where the Attorney General got the information. Martinez then directed inquiries to the Department of Homeland Security, and a Homeland Security spokeswoman redirected questions right back to Martinez.

Mr. Speaker, according to the State Department, Haiti is not on the United States' terrorist watch list. Why is, then, the Justice Department and the State Department, our Department of Homeland Security, amending this list?

Haiti, a nation of 8.3 million people, is one of the most impoverished nations in the Western Hemisphere and the fourth poorest country in the world. The unemployment rate is estimated to be around 60 percent, the literacy rate is approximately 45 percent, and 90 percent of all HIV and AIDS infections in the Caribbean are in Haiti.

The current U.S. policy towards Haiti is one that discourages travel between the two countries. There is a de facto embargo on loans and grants from the multilateral development banks. Assistance from the United States Government has been put on hold in order to leverage change in the present political structure of the Haitian Government.

I say to the Attorney General, he needs to go and talk to the President. He needs to understand why he sent his fiscal people over here to Washington, D.C. to explain how they have developed their budget. He needs to understand why he is working on getting a police force put together, and why he has not formulated a court.

Remember, the past regimes were corrupt and there are many corrupt people still lurking around, so he has to be careful who he gives power to. That, indeed, takes time.

In effect, our current policy towards Haiti in the name of humanity promotes poverty and inhumanity. For example, on July 21, 1998, the Haitian Government and the IDB signed a $22.5 million loan for phase 1 of a project to decentralize and reorganize the Haitian health care system. The funds would be used to construct low-cost community health centers, train community health agents, and purchase medical equipment and essential medicines. The ultimate objective of phase 1 was to reduce the high infant mortality rate, reduce the high juvenile death rate, and reduce birth rates.

This health loan, as well as close to $150 million in humanitarian loans, has been blocked by the United States-led embargo against Haiti. This in itself is an inhumane policy.

It is time to stop this war on Haiti. External aid is essential to the future economic development of this nation. Comparative social and economic indicators show Haiti falling behind other low-income developing countries since the 1980s. Mr. Speaker, we cannot let our neighbor continue in this downward spiral.

Ms. LEE. Mr. Speaker, I thank the gentlewoman from California for her comprehensive statement, for her clarity on our government's policy as it relates to Haiti, and for bringing forth the facts of some very recent revelations with regard to the Attorney General which hopefully we will get some answers to.

Mr. Speaker, I yield to my colleague, the gentleman from Baltimore, Maryland (Mr. CUMMINGS), the Chair of the Congressional Black Caucus who has demonstrated for many, many years prior to coming to Congress, and now here in the United States Congress, his leadership on a myriad of issues.

I thank the gentleman for pulling this Special Order together and for ensuring that the Congressional Black Caucus is central to all of the policy debates that we engage in here in the United States House.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman for yielding to me. I also thank her for consistently standing up.

I thank the Congressional Black Caucus, a group of 39 men and women, as I have often said, who are ordinary people called to an extraordinary mission. In the process of doing the extraordinary, they have become extraordinary and have made it clear, Mr. Speaker, to God that the lives they live are not their own.

Consistent with that, we come here tonight to speak on behalf of Haiti. I thank the gentlewoman from California (Ms. LEE) for her leadership in initiating and organizing the Congressional Black Caucus's Special Order tonight urging the international community to let Haiti live.

Mr. Speaker, for several years now the Members of the Congressional Black Caucus have come to the floor of this great House to speak out on behalf of the 8.3 million people of Haiti, to draw attention to the unnecessary and horrible circumstances that they are forced to endure every day.

Mr. Speaker, the people of Haiti are suffering and dying. They are suffering and dying because of the seemingly sheer indifference to their plight. In just the last week, the United Nations reported that only 46 percent of Haiti's population has access to clean drinking water, and 56 percent of the Haitian population suffers from malnutrition in 2003. Fifty-six percent of 8.3 million people is 4,648,000 human beings, nearly as many people as the populations of Idaho, Mississippi, and the District of Columbia combined.

Mr. Speaker, denying the most basic human needs, such as food and water, is almost the equivalent of a death sentence by a judge or a jury. Unfortunately, for several years now the United States Government has made this situation worse. Our government, Mr. Speaker, has unfairly and unnecessarily linked humanitarian assistance to Haiti with trying to change and to pressure the current government in Haiti to make concessions to the opposition party as it relates to domestic politics.

How can we allow over 4 million people in that country to live in utter poverty while we play politics? Is not the argument about the suffering of the people the same argument that many of my colleagues on the other side of the aisle made as it relates to Iraq? It is imperative that we release the humanitarian assistance for the people of Haiti so they may simply just live another day.

Mr. Speaker, last week the United Nations also made a plea that I will second tonight and I know all the Members of the Congressional Black Caucus would second, too. The plea is that the international community immediately make funds available to help stem this humanitarian crisis in Haiti. Mr. Speaker, the United States of America is the richest country in the world and must answer that plea. We must help our neighbor, and we must help our neighbor now.

How will future generations judge our country when the history of our relationship with Haiti is written? We know the suffering. Members have heard a little bit about it already tonight. Think about the children, both here in America and in Haiti. What are we telling them by our actions?

The life expectancy in Haiti is 49 years. The unemployment rate is 60 percent. The infant mortality rate is 74 deaths for every 1,000 live births. Ninety percent of the HIV/AIDS infections in the Caribbean are in Haiti. There are

over 200,000 children orphaned by HIV/AIDS. I could go on and on and on.

The fact is, Mr. Speaker, we have to do better. We must release those humanitarian assistance loans, and we must begin a new relationship with the country and the people of Haiti. The Congressional Black Caucus will not rest until we do. We will continue to advocate for justice at home and abroad.

Ms. LEE. Mr. Speaker, I thank the gentleman from Maryland once again for his leadership, but also for laying out the facts in terms of why we are here tonight. I thank the gentleman for putting his all into making sure that we understand that this is an emergency, that we should do the right thing, and that our policies are really resulting in the dire humanitarian crisis that we are seeing in Haiti.

I thank the gentleman again for his leadership. I appreciate his being here this evening.

Mr. CUMMINGS. Mr. Speaker, if the gentlewoman would yield for one second further, we see the President talk about the urgent situation in Iraq and how he wanted to do all that he did. As the gentlewoman probably well knows, we just allocated some $80 billion.

Here we have a small country simply trying to survive, having drinking water and sanitation. It makes us wonder sometimes. As one author said, it makes me want to holler and throw up both my hands.

Ms. LEE. I would say that $146 million is a mere drop in the bucket and would save many, many lives. It would get the country of Haiti back on track in terms of its development.

Mr. Speaker, I yield to my colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a leader on many, many issues; a woman who is a physician who chairs our Congressional Black Caucus Health Brain Trust, and who is leading the charge for universal health care.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentlewoman for yielding to me. It is a pleasure to be here with her.

I just had to come over and join the gentlewoman on the floor here tonight because the problems of Haiti and the obstacles that we have been facing together that the gentlewoman has led us through so steadfastly continue to plague that country and cause suffering to the millions of people who live there. So it is important for us as a caucus to stand here with the gentlewoman tonight and once again to call on our colleagues and the President of these United States to let Haiti live.

□ 2045

Last week I traveled to the eastern end of Hispaniola and there on that side, and it is so different, even when you just fly over the island. It turns from gray to green. There I found a struggling but overcoming people, where jobs were being created, standard of living was being raised, children were being educated, the health care system was ever improving.

It was my second time in the Dominican Republic but I have been to Haiti many times, and it troubles me deeply that this situation is so startling different compared to that of the neighbor on this same island in the Caribbean of which I am a part. And why should this be? Because the people of Haiti have accepted democracy that we helped to bring to their nation, and they have accepted its promise. Though imperfect, that democracy is new, and building democracies take time.

As I am sure this country will find out in Iraq, but perhaps we will be a bit more patient there than with the people of Haiti because we certainly have not been patient or supporting of their efforts to make democracy work. The reason for the difference is clearly that our country, the United States of America, has stood in the way of allowing the people of Haiti to grow, to thrive and to actually allow the democracy that we so are so honored to thrive in this country of poor but proud, hard-working and spirited people of African decent.

We are here tonight again to say let Haiti live, first, by releasing the loans that are needed to build their sanitation, transportation, health and educational infrastructure, and also by fully supporting the OAS mission there, whose responsibility it is to ensure the changes that we claim to seek in their judiciary and their police system and in their electoral process.

Mr. Speaker, I want to say thank you to the gentlewoman from California (Ms. LEE) and the gentleman from Michigan (Mr. CONYERS) who have both led this fight for their faithfulness and steadfastness and the support of Haiti and their work on its behalf. We have under their leadership talked to people at Treasury. We have talked to leaders at USAID. We have talked to folks at the OAS. We have talked to the international lending institutions. I think we have done what we can. I guess we could do more. But we have done the things that have been open to us to do. There is no excuse for what this country is doing by holding back these so badly needed funds. As the gentlewoman said, 140 something million dollars is nothing to this country, but it means everything to the people of Haiti.

What Haiti is asking for is what has been done for every other country in this region that has been similarly situated. There is no reason for it to be treated different. Mr. President, our brothers and sisters are suffering, many are dying. And we are asking you once again to let that money go, to let our brothers and sisters go and to let Haiti live.

Ms. LEE. Mr. Speaker, I would like to thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for her very passionate and very clear statement, and also for making sure that on all of our HIV/AIDS initiatives, that the Caribbean is part of that effort. And it is because of the gentlewoman that now we hear the President and others talk about sub-Saharan Africa and the Caribbean and other parts of the world as being in need in terms of our resources and our assistance. So I thank her again. And, yes, we have done something, just our small efforts. We are going to move forward. Hopefully we can do more. And I believe tonight with her help and with all of those here, with the CBC and other Members of Congress, sooner or later the administration is going to wake up and realize that this is a political fight that they really do not need to have.

Haitian-Americans care about this. All Americans care about this and we have got to get those loans released.

Now, I would like to yield to the gentleman from Detroit, our dean and the chair of the Haitian task force, one who has provided leadership on so many issues and who has beat the drum for so many years on Haiti and our very cruel policy towards that country, the gentleman from Detroit, Michigan (Mr. CONYERS).

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

Mr. CONYERS. Mr. Speaker, I would like to report a new bill that has been introduced by 16 Members of the House and the Senate to create employment in the Haitian textile industry by giving that country the opportunity to become a garment production center. It amends the Trade and Development Act of 2000 by granting duty free status to Haitian apparel articles that are assembled or knit to shape from countries with whom the United States has a free trade agreement or a regional agreement. And it departs from current law, which only allows duty free status to Haitian apparel articles if the articles are made from U.S. fabrics or yarn.

It would be a win/win proposition for our American workers because it would encourage the immigration of jobs from other parts of the world back to our hemisphere. I would like Members to know that this measure has been referred to our House Committee on Ways and Means. And at this point, Members should know that in addition to the junior Senator from Ohio, Mr. DEWINE, the senior Senator from Florida, Mr. GRAHAM, we have in the House the gentleman from California (Mr. BERMAN), myself, the gentleman from Florida (Mr. JIM DAVIS), the gentleman from Florida (Mr. GOSS), the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Florida (Mr. MEEK), the gentlewoman from the District of Columbia (Ms. NORTON), the gentleman from New York (Mr. RANGEL), the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the gentleman from Illinois (Mr. CRANE), the gentleman from Florida (Mr. FOLEY), the gentleman from Florida (Mr. HASTINGS), the gentlewoman from California (Ms. LEE), the gentlewoman from California (Ms. MILLENDER-

MCDONALD), the gentleman from New York (Mr. OWENS) and the gentlewoman from California (Ms. WATSON).

This is a positive piece of legislation. We will be conferring with the ranking member of the Committee on Ways and Means for its hearings promptly and hope that we can move it forward. It is sponsored in both bodies of the legislature and we feel very confident that this measure will be an important beginning economic legislative initiative of which there will be more to come.

Tonight, I also rise with the rest of the Congressional Black Caucus to encourage my colleagues in Congress to support the Haitian people as they struggle to rebuild their nation. Not only does Haiti play an important role in the world community, but it is also strategically significant to the United States; particularly because it is located only 410 miles from the nearest U.S. shores. Further, historically the Haitian people's fight for freedom has been an inspiration to oppressed people throughout the globe. In 1804, the people of Haiti triumphed over colonial powers by gaining their independence and establishing the first black nation in the Western Hemisphere.

Nearly two hundred years later, the people of Haiti are engaged in a battle to preserve their way of life and their nation. Haiti is one of the most impoverished nations in the Western Hemisphere and the fourth poorest country in the world, where life expectancy is only 49 years. The unemployment rate is approximately 60%, only 45% of the population is literate, and half of the population earns $60 or less per year. In addition, the country of Haiti has been devastated by the AIDS epidemic. 90% of all HIV and AIDS infections in the Caribbean are in Haiti, and due to the spread of the disease, 163,000 children have been left orphaned. Furthermore, the infant mortality rate is alarming, with 75 deaths per 1,000 births. Given the statistics I have mentioned, it is not surprising that tuberculosis remains a major cause of adult mortality and there is only one doctor for every 10,000 people in Haiti.

Although Haiti is located in our backyard, we continue to endorse a policy that prevents the return of economic stability and democracy of Haiti. Instead of supporting the flow of aid to Haiti in order to resolve the political impasse, the U.S. has adopted a policy of embargos to punish the Haitian government and people. The U.S. government has the power to veto the disbursement of loans to Haiti from financial institutions such as the World Bank, IMF, and Inter-American Development Bank. To the detriment of the people of Haiti, the U.S. government, specifically the Departments of Treasury and State, has exercised this authority. For example, the Inter-American Development Bank has not released $146 million in aid to Haiti, which was initially approved by the IDB Board of Directors. It is more distressing that in the interim, Haiti has been forced to pay arrears payments to maintain its status with the IDB.

The Congressional Black Caucus as well as many Members of Congress are concerned about the humanitarian crisis and political situation in Haiti. Particularly, the caucus has worked to assist the people of Haiti by introducing legislation such as the Haitian Economic Recovery Opportunity Act, the Haiti Aid in Transition Initiative, and the Access to Capitol for Haiti bill. We also met with officials from the World Bank, IMF, IDB, and the Departments of State and Treasury to advocate that these institutions release badly needed funds. Further, we have supported economic initiatives, such as the Harding Enterprises proposal for a Hilton Hotel in Haiti, and worked to modify the Millennium Account, so that more African and poor countries like Haiti can access it. Lastly, the caucus has hosted a variety of forums, briefings, and braintrusts on Haiti, and is working on other proposals to assist the people of Haiti.

The Congressional Black Caucus is committed to aiding the people of Haiti in their struggle for democracy, the rule of law, and economic stability. I ask that this Congress support realistic policies that will help the people of Haiti, instead of destabilizing their nation.

Ms. LEE. Mr. Speaker, I thank the gentleman very much for his statement and for providing this information with regard to another piece of legislation that we know will let Haiti live, and, hopefully, we will be able to build cosponsorship and support for your legislation so we can have a hearing and move the bill to the floor and to the Senate and then to the White House.

Let me, in closing, just reiterate some of the facts we heard tonight and why members of the Congressional Black Caucus and other Members of Congress want to see Haiti live and want to see Haiti move forward into the 21st Century as a new democracy who we can support in a way that we know we should.

First of all, Haiti is the most impoverished nation in the Western Hemisphere. Haiti accounts for 90 percent of all HIV/AIDS cases in the Caribbean. HIV and AIDS infections have approached epidemic proportions. Over 300,000 infected people have been identified and deaths from HIV and AIDS have left 200,000 children orphaned. It is estimated that over 12,000 people in Haiti are living with HIV/AIDS. Between 150,000 to 350,000 children are AIDS orphans.

Haiti's infant mortality rate is staggering. It is 93 deaths per 1,000 live births. For every doctor in Haiti, there are 10,000 people. Tuberculosis remains a major cause of adult mortality. Cases of TB in Haiti are more than 10 times as high as those in other Latin American countries. Only 40 percent of Haitians have access to clean water, drinking water. The life expectancy rate which we heard earlier, I believe from the gentleman from Maryland (Mr. CUMMINGS), is 49 years of age. More than 75 percent of the population lives in abject poverty. The unemployment rate is approximately 60 percent. The literacy rate is approximately 45 percent. And half of the population of Haiti earns $60 or less, that is $60 or less per year, not per day but per year. The total expenditure on health per person is about $54 compared to about $4,400 in the United States and $483 in Mexico.

So with those kind of statistics, there is no way that our country can morally do what it is doing in terms of blocking the release of the $146 million. There is no way with these kinds of numbers and this kind of data, this kind of human misery and tragedy right next to us, that our efforts should be about blocking the release of loans that had been negotiated 3 years ago. That is outrageous. I do not even understand how we can believe that could even be half way right to do.

I think I have a couple more minutes, Mr. Speaker, I would like to yield to my colleague from Maryland (Mr. CUMMINGS) who has an additional statement he would like to make in the short time we have left.

Mr. CUMMINGS. Mr. Speaker, I would like to again thank the gentlewoman and thank the caucus. It has been said over and over again that the Congressional Black Caucus is the conscience of the Congress. But I have often said that we are the conscience of the country and of the world. And what we are doing tonight is pleading with the President and those who control the purse strings of this country to reach out and lift up a small country that is merely trying to survive.

I have often said that the most powerful thing that we can do is help children become all that God meant for them to be. And we heard speeches from this floor over and over again coming from the Bible about what we should be doing for our brothers and our sisters throughout the world. And this is just a small part of our efforts to say to the world, we will not allow, we will not stand by and allow people, our neighbors, in fact, to simply perish and live in the way that they are living. And I do appreciate the gentlewoman's leadership on this issue, consistently standing up, and again I am very appreciative of the Congressional Black Caucus for standing up.

Ms. LEE. Mr. Speaker, we are turning the heat up on this. We have been nice and we have played many, many roles in trying to let Haiti live. And we are going to become even more aggressive on this because I think after what we have heard tonight, I think the people in our country are going to begin to question our policies and why we are holding up $146 million. What that means in light of the fact that we are, yes, we should be doing this, building a universal health care system in Iraq and providing quality public education for people in Iraq. And yet, here in a country right next door and in our own country we cannot find the resources to help people of African decent. And that is a very important point, I think, that I want to leave tonight with in this body.

Ms. WATERS. Mr. Speaker, I thank the gentlewoman [Representative BARBARA LEE] for the time, and I applaud her efforts to draw attention to the needs of the Haitian people.

Haiti is the fourth poorest country in the world. Half of the population of the country earns no more than $60 per year. Haiti has an

unemployment rate of about 60% and an illiteracy rate of only 45%. Only 40% of all Haitians have access to potable water. Tuberculosis cases in Haiti are ten times as high as those in other Latin American countries, and 90% of all HIV infections in the Caribbean are in Haiti.

The Inter-American Development Bank (IDB) is denying Haiti any access to loans for development assistance. Haiti has already had $145.9 million in development loans approved by the IDB. These loans include $50 million for rural road development, $22.5 million for reorganization of the health sector, $54 million for potable water and sanitation and $19.4 million for basic education programs. Haiti could also qualify for an additional $317 million in new loans for development projects, as well as a $50 million investment sector loan. However, the IDB is refusing to consider Haiti for any additional loans and has not even disbursed the loans that have been approved.

The IDB is effectively denying Haiti access to critical development assistance. Furthermore, Haiti is deeply in debt and has also been denied the opportunity to receive any debt relief for its existing debts.

The reasons provided by the IDB and the U.S. government concerning the suspension of lending and assistance to Haiti shift from day to day. None of the purported explanations provide any justification for withholding this vitally needed aid. While the IDB and the Administration dither, the people of Haiti suffer and continue to live in poverty.

On March 5, 2003, I introduced H.R. 1108, the Access to Capital for Haiti's Development Act. This bill would require the United States to use its voice, vote and influence to urge the Inter-American Development Bank to immediately resume lending to Haiti, disperse all previously approved loans, assist Haiti with the payment of its existing debts and consider providing Haiti debt relief. The Access to Capital for Haiti's Development Act would allow Haiti to build roads and infrastructure and provide basic education and health care services to the Haitian people. This bill currently has 24 cosponsors.

The United States is now spending billions of dollars to rebuild Iraq. Earlier this month, this Congress passed a Supplemental Appropriations Act that contained $1.7 billion to rebuild Iraq's infrastructure. That bill included funds for health care services for 13 million Iraqis and financed the repair or reconstruction of 25,000 schools, 20,000 houses and 3,000 miles of roads in Iraq. The bill also contained assistance for Colombia, Afghanistan, Israel, Jordan, Turkey, and the Eastern European countries of Poland, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Romania, Slovenia and Bulgaria.

Debt relief for Iraq is being discussed by officials of the Paris Club of creditor countries. Some Members of Congress have even suggested that France, Germany, and Russia can best contribute to the reconstruction of Iraq by the forgiveness of Iraq's debts.

Haiti is a deeply impoverished country on an island just off our shores. We cannot provide assistance to countries all over the world while ignoring the needs of people so close to our border. It is time for the United States and the Inter-American Development Bank to resume lending to Haiti and provide debt relief and development assistance to this impoverished country.

Mr. RANGEL. Mr. Speaker, today, like many members of the Congressional Black Caucus, I am moved to speak about the humanitarian and economic situation of the people of Haiti. It is no secret that the people there are suffering greatly. Haiti is the poorest country in the Western Hemisphere with roughly 70 percent of its 7 million population unemployed and 80 percent living in poverty. HIV/AIDS is devastating the country, with roughly 1 in 12 Haitians infected with HIV and the Center for Disease Control predicting 44,000 new HIV/AIDS cases this year. Additionally, AIDS has orphaned over 200,000 children, and that number is expected to increase to 350,000 over the next ten years.

While there are many explanations for the current situation in Haiti, it is clear that the Haitian government and international community disagree as to the cause and the solution. Regardless of who is to blame, the people of Haiti continue to suffer and I believe that it is time for their suffering to end. We must provide assistance to provide jobs and hope for the people of Haiti.

It is for this reason that I, in conjunction with Congressman JOHN CONYERS, Jr., introduced the Haitian Economic Recovery (HERO) Act, which would help in moving Haiti towards economic stability by providing labor and trade opportunities through investment in the apparel and other assembly industries. For similar reasons, I cosponsored the Haiti Aid in Transition Initiative and Access to Capitol for Haiti bills offered by my colleagues Congresswomen BARBARA LEE and MAXINE WATERS. Both of these bills urge that previously approved loans, totaling $146 million dollars in humanitarian assistance, be released to Haiti.

I sincerely believe that the opportunity for change is ripe in Haiti and that an opportunity still exists to overcome the obstacles that have blocked the economic assistance so desperately needed by Haiti to relieve its humanitarian crisis. I know that this requires that the Haitian government resolve the alienation of the international community by further demonstrating that it is on the road to resolving its political and human rights concerns. I believe that it is still possible for both the U.S. and Haitian governments to work together to meet these goals. I will continue to do what I can to support the delivery of food, medicines, and other essentials to the people of Haiti that I know are desperately needed.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in solidarity with my colleagues on the Congressional Black Caucus, to speak against the United States' unfair treatment of the people of Haiti.

Haiti is one of the most impoverished countries in the western hemisphere and the fourth poorest country in the world. There are 8.3 million people residing in Haiti.

The people of Haiti are also facing a severe medical crisis as a result of their poverty. Haiti is the home of 90% of all HIV/AIDS patients in the Caribbean. Over 200,000 Haitian children will be orphaned by HIV/AIDS. Child mortality rates in Haiti are also excessively high. For every 1,000 births in Haiti, 74 infant deaths will occur.

The social conditions in Haiti are as deplorable as the medical condition. Of the millions of Haitian residents, only 46% have access to clean drinking water. Furthermore, 53% of all Haitian residents are malnourished.

Despite our close proximity to Haiti, and the widespread publication of the social and medical plight of Haitian residents, the U.S. government has insisted on blocking humanitarian aid. The U.S. government is attempting to shape the political landscape in Haiti to the severe detriment of the innocent people of Haiti.

The United States government owes Haiti substantial funds in foreign aid. Substantial loans have been negotiated for the people of Haiti. Some estimates have the loans valued at as much as $146 million dollars. The United States government is delaying the disbursement of these funds to advance their political aims. While the U.S. government stubbornly maintains these restrictive policies the people of Haiti are suffering and dying.

The U.S. government has promised Iraq $80 billion in aid to rebuild their war torn country. The people of Haiti have suffered as well. But instead of providing much needed aid, the U.S. government blocks humanitarian efforts and refuses to honor outstanding loans.

Mr. Speaker, it is a disgrace that our Congress stands by while the people of Haiti suffer and die. I join my colleagues on the Congressional Black Caucus in imploring the U.S. government to let Haiti live.

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

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KINGSTON (at the request of Mr. DELAY) for today on account of attending a memorial service for 34 members of the Third Infantry Division based at Fort Stewart, Georgia, who were killed in Operation Enduring Freedom.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. VAN HOLLEN) to revise and extend their remarks and include extraneous material:

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today.

The following Members (at their own request) to revise and extend their remarks and include extraneous material:

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

SENATE BILL REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 39. Concurrent Resolution supporting the goals and ideals of St. Tammany Day on May 1, 2003, as a national day of recognition for Tamanend and the values he represented; to the Committee on Government Relations.

ADJOURNMENT

Ms. LEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, May 1, 2003, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2002 and the first quarter of 2003, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. RICK BOUCHER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 15 AND FEB. 23, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Rick Boucher	2/15	2/18	England	739	1,197.00						1,197.00
	2/18	2/20	Belgium	[3] 1,418	1.5321.00						1,532.00
	2/20	2/23	Spain	([3])			5,613.04				5.613.04
Committee total					2,729		5,613.04				8,342.04

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] In Euro currency.

RICK BOUCHER, Chairman, Apr. 17, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Boehner [3]	11/23	11/29	Italy		2,080.00		([4])				2,080.00
	11/29	12/01	Greece		236.00		([4])				236.00
	12/01	12/02	Spain		196.00		([4])				196.00
Committee total					2,512.00						2,512.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] To participate in Congressional delegation of Hon. David L. Hobson.
[4] Military air transportation.

JOHN A. BOEHNER, Chairman, Apr. 3, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael Ennis, Staff	6/28	7/8	Europe and Africa		2,600.00						2,600.00
Commercial airfare							9,121.33				9,121.33
James Lewis, Staff	6/28	7/8	Europe and Africa		2,600.00						2,600.00
Commercial airfare							9,121.33				9,121.33
Hon. Nancy Perlosi	6/29	7/3	Europe		1,520.00		[3] 305.60		1,050.16		2,875.76
Hon. Sanford Bishop, Jr.	6/29	7/3	Europe		1,520.00	305.60	([3])	1,050.16		2,875.75	
Hon. Tim Roemer	6/29	7/3	Europe		1,520.00		[3] 305.00		1,050.16		2,875.76
Hon. Bud Cramer	6/29	7/3	Europe		1,520.00		[3] 305.60		1,050.16	2,875.76	
Michael Sheehy, staff	6/29	7/3	Europe		1,520.00		[3] 305.60		1.050.16		2,875.76
Joseph Jakub, staff	6/26	8/1	Asia		1.950.00						1,950.00
Commercial airfare							4,576.04				4,576.04
Hon. Collin Peterson	7/28	8/5	Europe		760.00						760.00
Commercial airfare							4,569.08				4,569.08
Hon. Jim Gibbons	8/5	8/9	Europe		1,250.00						1,250.00
Commercial airfare							6,389.86				6,389.86
Brant Bassett staff	8/5	8/9	Europe		1,250.00						1,250.00
Commercial airfare							6,389.86				6,389.86
Robert Emmett staff	8/5	8/13	South America		2,561.00						2,561.00
Commercial airfare							5,318.10				5,318.10
Wyndee Parker, staff	8/8	8/17	Africa and Europe		1,735.00						1,735.00
Commercial airfare							6,368.39				6,368.39
Carolyn Bartholomew, staff	8/8	8/30	Africa and Europe		5,068.00						5,068.00
Commercial airfare							7,547.09				7,547.09
Kathleen Reilly, staff	8/12	8/20	Asia		2,070.00						2,072.00
Commercial airfare							3,571.07				3,571.07
Michele Lang, staff	8/12	8/20	Asia		2,072.00						2,072.00
Commercial airfare							3,571.07				3,571.07
Riley Perdue, Staff	8/19	8/23	Europe		1,198.00						1,198.00
Commercial airfare							6,572.33				6,572.33
Elizabeth Larson, staff	8/19	8/23	Europe		1,198.00						1,198.00
Commercial airfare							6,572.33				6,572.33
Timothy Sample, staff	8/27	8/30	Europe		1,158.00						1,158.00
Commercial airfare							3,452.77				3,452.77
Kathleen Reilly, staff	8/27	8/30	Europe		1,158.00						1,158.00
Commercial airfare							5,138.42				5,138.42
Hon. Jane Harman	8/30	9/3	Middle East		1,590.00						1,590.00
Commercial airfare							4,730.50				4,730.50
Committe total					37,820.00		94,537.57		5,250.80		137,608.37

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER J. GOSS, Chairman, Sept. 25, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Joseph Jakub, staff	9/28	10/2	Europe		1,930.00						1,930.00
Commercial airfare							6,726.16				6,726.16
Brant Bassett, staff	10/27	11/3	Europe		2,201.00						2,201.00
Commercial airfare							6,437.73				6,437.73
Timothy Sample, staff	10/30	10/31	Europe		318.00						3118.00
Commercial airfare							7,334.19				7,334.19
Merr=ell Moorhead, staff	11/15	11/22	Europe		2,226.00						2,226.00
Commercial airfare							5,986.43				5,98.436
Joseph Jakub, staff	11/15	11/22	Europe		2,226.00						2,226.00
Commercial airfare							5,986.43				5,986.43
Elizabeth Laron, staff	11/14	11/19	Asia		1,860.00						1,860.00
Commercial airfare							5,861.13				5,861.13
Wyndee Parker, staff	11/14	11/19	Asia		1,860.00						1,860.00
Commercial airfare							5,861.13				5,861.13
Hon. Jim Gibbons	11/16	11/23	South America		1,392.00		[3]				1,392.00
Brant Bassett, staff	11/16	11/26	South America		1,865.00						1,865.00
Commercial airfare							3,499.20				3,499.20
Christopher Barton, staff	11/16	11/26	South America		1,865.00						1,865.00
Commercial airfare							3,499.20				3,499.20
Michele Lang, staff	11/17	11/26	South America		1,640.00						1,640.00
Commercial airface							4,326.50				4,326.50
James Lewis, staff	11/18	11/23	Asia		1,321.00		112.00				1,426.50
Commercial airfare							10,106.38				10,106.38
Michael Ennis, staff	11/18	11/23	Asia		1,321.00		112.00				1,433.00
Commercial airfare							9,972.17				9,972.17
Robert Emmett, staff	11/18	11/23	Asia		678.00						678.00
Commercial airfare							6,108.83				6,108.83
Hon. Peter Hoekstra	12/2	12/6	Europe		845.00						845.00
Commercial airfare							6,478.04				6,478.03
James Lewis, staff	12/2	12/6	Europe		845.00						845.00
Commercial airfare							5,154.53				5,154.53
Riley Perdue, staff	12/15	12/22	Asia		1,984.00						1,984.00
Commercial airfare							3,976.12				3,976.12
Joseph Jakub, staff	12/17	12/20	Europe		1,192.00						1,192.00
Commercial airfare							6,039.09				6,039.09
Committee total					27,569.00		103,577.25				131,146.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER J. GOSS, Chairman, Apr. 29, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

FOR HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB GOODLATTE, Chairman, Apr. 3, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return.☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD POMBO, Apr. 9, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Todd Akin	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Roscoe Bartlett	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Sherwood Boehlert	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Wayne Gilchrest	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Nick Lampson	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Nick Smith	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/12	1/20	Australia		467.00		[3]				467.00
Hon. Anthony Weiner	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		467.00		[3]				467.00
Hon. Dan Byers	1/12	1/18	New Zealand		1,175.00		[3]				1,175.00
	1/18	1/20	Australia		460.00		[3]				460.00
Hon. Tim Clancy	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		460.00		[3]				460.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Scott Giles	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		460.00		[3]				460.00
Hon. John Konkus	1/12	1/18	New Zealand		1,175.00		[3]				1,175.00
	1/18	1/20	Australia		460.00		[3]				460.00
Hon. James Turner	1/12	1/18	New Zealand		587.00		[3]				587.00
	1/18	1/20	Australia		460.00		[3]				460.00
Hon. Eric Webster	1/12	1/18	New Zealand		1,175.00		[3]				1,175.00
	1/18	1/20	Australia		460.00		[3]				460.00
Committee total					15,424.000						15,424.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

SHERWOOD L. BOEHLERT, Chairman, Apr. 14, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ian Deason	3/1	3/12	China		[3] 2,532.00		2,170.00		856.00		3.026.00
Matthew Szymanski	3/1	3/12	China		[4] 2,532.00		2,170.00		1,038.00		3.208.00
Committee total					5,064.00		4,340.00		1,894.00		6,234.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Returned $1,676. [4] Returned $1,494.

DONALD A. MANZULLO, Chairman, Apr. 14, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOEL HEFLEY, Chairman, Apr. 2, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL THOMAS, Chairman, Apr. 7, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jim Gibbons	1/11	1/17	Africa		1,120.00				208.34		1,328.34
	1/17	1/18	Europe		632.00				209.80		841.80
Commercial airfare							7,584.12				7,584.12
Christopher Barton	1/11	1/17	Africa		1,120.00				208.34		1,328.34
	1/17	1/18	Europe		632.00				208.34		841.80
Commercial airfare							7,584.12				7,584.12
Brant Bassett	1/11	1/17	Africa		1,120.00				208.34		1,328.34
	1/17	1/18	Europe		632.00				209.80		841.80
Commercial airfare							6,591.80				6,591.80
Hon. Collin Peterson	1/11	1/16	South America		1,474.00						1,474.00
Commercial airfare							6,273.40				6,273.40
Hon. Porter J. Goss	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Hon. Ray LaHood	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Hon. Richard Burr	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Hon. Terry Everett	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Hon. Silvestre Reyes	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Hon. Jane Harman	1/12	1/22	Europe		3,840.00				576.97		4,416.97
Commercial airfare							2,868.40				2,868.40
Timothy Sample	1/12	1/22	Europe		3,840.00				576.97		4,416.97
Commercial airfare							2,868.40				2,868.40
Michael Meermans	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Joseph Jakub	1/12	1/22	Europe		3,840.00		[3]		576.97		4,416.97
Riley Perdue	1/15	1/21	Europe		1,934.00				576.97		2,510.97
Commercial airfare							6,537.77				6,537.77

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Merrell Moorhead	1/12	1/22	Europe		3,840.00		([3])		576.97		4,416.97
Christine Healey	1/12	1/19	England		2,924.00						2,934.40
Commercial airfare							2,955.34				2,955.34
Brant Bassett	1/18	1/22	Europe		1,316.00		([3])		576.97		1,892.97
Hon. Peter Hoekstra	1/12	1/18	Europe		2,234.00						2,234.00
	1/19	1/20	Middle East		389.00						389.00
Commercial airfare							6,333.02				6,333.02
James Lewis	1/15	1/20	Middle East		1,643.00						1,643.00
Commercial airfare							5,570.00				5,570.00
Michael Ennis	1/15	1/20	Middle East		1,643.00						1,643.00
Commercial airfare							5,570.00				5,570.00
Elizabeth Larson	1/22	1/23	North America		223.00						223.00
Commercial airfare							978.82				978.82
Wyndee Parker	1/22	1/23	North America		223.00						223.00
Commercial airfare							978.82				978.82
James Lewis	2/12	2/23	Africa		2,626.00		178.00				2,804.00
Commercial airfare							8,215.26				8,215.26
Michele Lang	2/12	2/20	Africa		2,626.00		178.00				2,804.00
Commercial airfare							7,867.52				7,867.52
Robert Emmett	2/13	2/22	Europe		2,808.00						2,808.00
Commercial airfare							4,770.35				4,770.35
Elizabeth Larson	2/16	2/24	South America		2,310.00						2,310.00
Commercial airfare							6,336.40				6,336.40
Wyndee Parker	2/16	2/24	South America		2,310.00						2,310.00
Commercial airfare							6,336.40				6,336.40
Pat Murray	2/19	2/21	Germany		650.00						650.00
Commercial airfare							6,015.48				6,015.48
Joseph Jakub	2/19	2/21	Germany		650.00						650.00
Commercial airfare							6,015.48				6,015.48
Merrell Moorhead	2/19	2/21	Germany		650.00						650.00
Commercial airfare							6,015.48				6,015.48
Committee total					72,289.00		114,622.38		8,178.06		195,089.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER GOSS, Chairman, Apr. 7, 2003.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1938. A letter from the Assistant Secretary, Department of Education, transmitting Final Priority — Rehabilitation Engineering Research Centers Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

1939. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-79, ''Inspector General Qualifications Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1940. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-70, ''Washington Convention Center Advisory Committee Continuity Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1941. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-67, ''Commercial Vehicle Parking Fines Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1942. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-66, ''Health Services Planning and Development Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1943. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-65, ''Presidential Primary Election Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1944. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-64, ''Health-Care Decisions Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1945. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-63, ''Traffic Adjudication Appeal Fee Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1946. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-62, ''Service Improvement and Fiscal Year 2000 Budget Support Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1947. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-60, ''Georgetown Project Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1948. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-59, ''Kivie Kaplan Way Designation Temporary Amendment Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1949. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-58, ''Closing of a Public Alley in Square 377, S.O. 02-3683, Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1950. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-57, ''Rosedale Conservancy Real Property Tax Exemption and Relief Act of 2003'' received April 30, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

1951. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1952. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1953. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting copies of several reports from the Corporation; to the Committee on Government Reform.

1954. A letter from the Inspector General Liaison, Selective Service System, transmitting a report in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

1955. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart D — Subsistence Taking of Fish, Customary Trade (RIN: 1018-AI31) received April 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1956. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Maryland Regulatory Program [MD-049-FOR] received April 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1957. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska

[Docket No. 021122286-3036-02; I.D. 040703C] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1958. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Correction [Docket No. 011128283-3075-03; I.D. 111401B] (RIN: 0648-AN55) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1959. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones, Security Zones, Drawbridge Operation Regulations and Special Local Regulations [USCG-2002-13968] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1960. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD [CGD05-02-069] (RIN: 2115-AE46) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1961. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Pamlico River, Washington, North Carolina [CGD05-02-056] (RIN: 2115-AE46) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1962. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patuxent River, Solomons, Maryland [CGD05-02-051] (RIN: 2115-AE46) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1963. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones, Security Zones, Drawbridge Operation Regulations and Special Local Regulations [USCG-2002-13968] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1964. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Collision Avoidance Systems [Docket No: FAA-2001-10910; Amendment Nos. 121-286, 125-41, and 129-37] (RIN: 2120-AG90) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1965. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30361; Amdt. No. 3052] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1966. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30360; Amdt. No. 3051] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1967. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Repair Stations; Correction [Docket No. FAA-1999-5836] (RIN: 2120-AC38) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1968. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Flightcrew Compartment Access and Door Designs [Docket No. FAA-2001-10770; SFAR 92-5] (RIN: 2120-AH97) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1969. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Rome, NY [Airspace Docket No. 02-AEA-13] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1970. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Herington, KS [Docket No. FAA-2003-14457; Airspace Docket No. 03-ACE-10] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1971. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; and modification of Class E; Dubuque, IA [Docket No. FAA-2003-14463; Airspace Docket No. 03-ACE-16] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1972. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points [Docket No. FAA-2003-14698; Amendment Nos. 1-50; 71-32; 95-339; 97-1334] (RIN: 2120-AH77) received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1973. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E surface area airspace and modification of Class E airspace; Jefferson City, MO [Docket No. FAA-2002-14129; Airspace Docket No. 02-ACE-14] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1974. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class E Airspace; Brookfield, MO [Docket No. FAA-2003-14243; Airspace Docket No. 03-ACE-3] received April 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1975. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Proposed Audit Guidance for External Auditors of Qualified Intermediaries (Notice 2001-66) received April 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of January 2, 2003]

Mr. NUSSLE: Committee on the Budget. Activities and Summary Report of the Committee on the Budget During the 107th Congress (Rept. 107–811). Referred to the Committee of the Whole House on the State of the Union.

[Submitted April 30, 2003]

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 210. Resolution providing for consideration of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes (Rept. 108–80). Referred to the House Calendar.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 100. A bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940; with an amendment (Rept. 108–81). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MANZULLO (for himself and Ms. VELAZQUEZ):

H.R. 1873. A bill to amend the Internal Revenue Code of 1986 to provide that the deduction for the health insurance costs of self-employed individuals be allowed in determining self-employment tax; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. SMITH of New Jersey):

H.R. 1874. A bill to establish a demonstration project to clarify the definition of homebound for purposes of determining eligibility for home health services under the Medicare Program, and to conditionally authorize that clarification; referred 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. LANTOS (for himself, Mr. HYDE, Mr. BERMAN, Mr. BEREUTER, and Mr. ACKERMAN):

H.R. 1875. A bill to strengthen the missile proliferation laws of the United States, and for other purposes; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 1876. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide, in the case of an employee welfare benefit plan providing benefits in the event of disability, an exemption from preemption under such title for State tort actions to recover damages arising from the failure of the plan to timely provide such benefits; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 1877. A bill to amend chapter 89 of title 5, United States Code, to make available to Federal employees the option of obtaining health benefits coverage for dependent parents; to the Committee on Government Reform.

By Mr. ANDREWS:

H.R. 1878. A bill to amend the Federal Election Campaign Act of 1971 to provide for public funding for House of Representatives elections, and for other purposes; to the Committee on House Administration.

By Mr. ANDREWS:

H.R. 1879. A bill to direct the National Highway Transportation Safety Administration to issue standards for the use of motorized skate boards; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 1880. A bill to amend title XVIII of the Social Security Act to provide certain Medicare beneficiaries living abroad a special

Medicare part B enrollment period during which the late enrollment penalty is waived and a special Medigap open enrollment period during which no underwriting is permitted; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 1881. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; referred to the Committee on Rules, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. CORRINE BROWN of Florida:

H.R. 1882. A bill to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the ''Arthur 'Pappy' Kennedy Post Office''; to the Committee on Government Reform.

By Ms. CORRINE BROWN of Florida:

H.R. 1883. A bill to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the ''Eddie Mae Steward Post Office''; to the Committee on Government Reform.

By Mr. BURR:

H.R. 1884. A bill to amend the Internal Revenue Code of 1986 to provide that certain individuals under contract to perform fire fighting services for a local government shall be treated as employees of such government for pension plan purposes; to the Committee on Ways and Means.

By Mrs. DAVIS of California (for herself and Mr. SKELTON):

H.R. 1885. A bill to amend title 37, United States Code, to ensure that military pay increases are comparable to private sector pay growth, as measured by the Employment Cost Index; to the Committee on Armed Services.

By Ms. DELAURO (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Ms. BALDWIN, Ms. BERKLEY, Mr. BERRY, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOSWELL, Mr. BOUCHER, Mr. BOYD, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. CASE, Mrs. CHRISTENSEN, Mr. CLAY, Mr. COOPER, Mr. COSTELLO, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. DEUTSCH, Mr. DICKS, Mr. DINGELL, Mr. DOYLE, Mr. EMANUEL, Mr. ENGEL, Mr. ETHERIDGE, Mr. EVANS, Mr. FARR, Mr. FATTAH, Mr. FOLEY, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GORDON, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Ms. HARMAN, Ms. HART, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KING of New York, Mr. KLECZKA, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LOBIONDO, Mrs. LOWEY, Mr. LYNCH, Ms. MCCARTHY of Missouri, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINTYRE, Mr. MCNULTY, Mrs. MALONEY, Mr. MARKEY, Mr. MATSUI, Mr. MEEHAN, Mr. MENENDEZ, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. MURTHA, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE, Mr. REYES, Ms. ROS-LEHTINEN, Mr. ROSS, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SERRANO, Mr. SHERMAN, Mr. SIMMONS, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SNYDER, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. VITTER, Ms. WATERS, Mr. WATT, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 1886. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; referred to the Committee on Energy and Commerce, 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. GUTIERREZ:

H.R. 1887. A bill to treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions, and for other purposes; to the Committee on Financial Services.

By Mr. KLECZKA:

H.R. 1888. 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 Government Reform.

By Mrs. LOWEY (for herself, Mr. ABERCROMBIE, Mr. BOEHLERT, Mr. BOSWELL, Mr. CAPUANO, Mr. CASE, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. CROWLEY, Ms. DELAURO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FORD, Mr. FROST, Mr. HOLDEN, Mrs. KELLY, Ms. KILPATRICK, Mr. KLECZKA, Mr. LEVIN, Mr. LOBIONDO, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Ms. NORTON, Mr. LARSEN of Washington, Ms. SOLIS, Mr. WEINER, Mr. GORDON, Mr. COSTELLO, Ms. ROYBAL-ALLARD, Mr. SANDLIN, Mr. GUTIERREZ, Mr. HONDA, Ms. HOOLEY of Oregon, Mr. PALLONE, and Mr. THOMPSON of California):

H.R. 1889. A bill to amend title 49, United States Code, to improve the training requirements for and require the certification of cabin crew members, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCCRERY (for himself, Mr. CARDIN, Mr. SHAW, Mr. RANGEL, Mr. HOUGHTON, Mr. STARK, Mr. HERGER, Mr. MATSUI, Mr. CAMP, Mr. KLECZKA, Mr. RAMSTAD, Mr. LEWIS of Georgia, Mr. SAM JOHNSON of Texas, Mr. NEAL of Massachusetts, Ms. DUNN, Mr. BECERRA, Mr. PORTMAN, Mr. POMEROY, Mr. ENGLISH, Mr. SANDLIN, Mr. HAYWORTH, Mrs. JONES of Ohio, Mr. WELLER, Mr. MCINNIS, Mr. FOLEY, Mr. CANTOR, and Mr. LEVIN):

H.R. 1890. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 1891. A bill to amend the Clean Air Act to prohibit liability for the effects of emissions, and emission byproducts, resulting from or caused by an act of nature, and for other purposes; referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE:

H.R. 1892. A bill to provide authorizations of appropriations for the global initiative to end the continuing menace of polio; referred to the Committee on Energy and Commerce, 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. PETRI (for himself, Mr. KIND, Mr. SENSENBRENNER, Mr. GREEN of Wisconsin, Ms. BALDWIN, and Mr. RYAN of Wisconsin):

H.R. 1893. A bill to amend the Age Discrimination in Employment Act of 1967 with respect to voluntary early retirement benefits and medical benefits; to the Committee on Education and the Workforce.

By Mr. RANGEL (for himself, Mr. STARK, Mr. MATSUI, Mr. LEVIN, Mr. CARDIN, Mr. MCDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. BECERRA, Mr. POMEROY, Mr. SANDLIN, Mrs. JONES of Ohio, and Ms. DELAURO):

H.R. 1894. A bill to prohibit the implementation of discriminatory precertification requirements for the earned income tax credit; to the Committee on Ways and Means.

By Mr. ROTHMAN (for himself, Mr. HOLT, Ms. NORTON, Mr. PALLONE, Ms. CORRINE BROWN of Florida, Mr. WEXLER, Ms. KILPATRICK, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CROWLEY, Mr. MCNULTY, Ms. BALDWIN, Mrs. CAPPS, Mr. BROWN of Ohio, Mr. SERRANO, Mr. MCGOVERN, Mr. RANGEL, Ms. MCCOLLUM, Ms. MILLENDER-MCDONALD, Ms. LINDA T. SANCHEZ of California, Mr. DOGGETT, Mr. UDALL of New Mexico, and Mr. CUMMINGS):

H.R. 1895. A bill to amend Federal crime grant programs relating to domestic violence to encourage States and localities to implement gun confiscation policies, reform stalking laws, create integrated domestic violence courts, and hire additional personnel for entering protection orders, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. MATSUI, Mr. MCINNIS, and Mrs. JONES of Ohio):

H.R. 1896. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 1897. A bill to amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of social security benefits; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 1898. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to extend energy assistance to households headed by certain senior citizens; referred to the

Committee on Energy and Commerce, 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. YOUNG of Alaska:

H.R. 1899. A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; to the Committee on Resources.

By Mr. NEAL of Massachusetts (for himself, Mr. KING of New York, Mr. FORD, Mr. BECERRA, Mr. TOWNS, Mr. MCDERMOTT, Mr. RUSH, Mr. WYNN, Ms. JACKSON-LEE of Texas, Mr. WATT, Mr. WAXMAN, Mrs. CHRISTENSEN, Mr. RANGEL, Mr. OWENS, Mr. DAVIS of Illinois, Mr. CUMMINGS, Mr. KENNEDY of Rhode Island, Mr. UPTON, Mr. BROWN of Ohio, Mr. CAPUANO, Mr. OLVER, Mr. FERGUSON, Ms. LEE, Mr. NEY, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Mr. FATTAH, Ms. MAJETTE, Mr. MEEKS of New York, Mrs. CAPITO, Mr. MARKEY, Mr. BOEHLERT, Ms. NORTON, Mr. MEEHAN, Mr. SWEENEY, and Mr. JOHNSON of Illinois):

H.R. 1900. A bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of the Congress that there should be a national day in recognition of Jackie Robinson; to the Committee on Financial Services.

By Ms. WATERS:

H.R. 1901. 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 Government Reform.

By Ms. MILLENDER-MCDONALD (for herself, Ms. CARSON of Indiana, Ms. LEE, Mr. SNYDER, Mr. PAYNE, Mr. LANTOS, Mr. TOWNS, Ms. KILPATRICK, Mrs. MALONEY, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. KILDEE, Ms. SLAUGHTER, Mrs. JONES of Ohio, Ms. NORTON, Mr. GRIJALVA, Mrs. CAPPS, Mr. MCNULTY, Mr. RODRIGUEZ, Mr. MCGOVERN, Ms. WATERS, Mr. STARK, Mr. KENNEDY of Rhode Island, Ms. JACKSON-LEE of Texas, Mr. FARR, Mr. MCDERMOTT, Mr. CUMMINGS, Mrs. CHRISTENSEN, and Mr. WAXMAN):

H. Con. Res. 158. A concurrent resolution recognizing the importance of inheritance rights of women in Africa; to the Committee on International Relations.

By Mr. FOLEY (for himself, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DELAY, Mr. BLUNT, Mr. MARIO DIAZ-BALART of Florida, Ms. PRYCE of Ohio, Mr. CRENSHAW, Ms. GINNY BROWN-WAITE of Florida, Mr. FEENEY, Mr. KELLER, Mr. MILLER of Florida, Mr. PUTNAM, Mr. DEUTSCH, Mr. MICA, Mr. SHIMKUS, Mr. PAUL, Mr. GARRETT of New Jersey, Mr. MORAN of Kansas, Mr. NETHERCUTT, Mr. ISAKSON, Mr. REYNOLDS, and Ms. HARRIS):

H. Res. 208. A resolution expressing the sense of the House of Representatives regarding the systematic human rights violations in Cuba committed by the Castro regime and calling for the immediate removal of Cuba from the United Nations Commission on Human Rights; to the Committee on International Relations.

By Mr. MENENDEZ:

H. Res. 209. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. LINCOLN DIAZ-BALART of Florida:

H. Res. 210. A resolution providing for consideration of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

By Mr. LARSEN of Washington (for himself, Mr. DICKS, Mr. NETHERCUTT, Mr. SKELTON, Ms. DUNN, Mr. SMITH of Washington, Mr. HASTINGS of Washington, Mr. MCDERMOTT, Mr. BAIRD, and Mr. INSLEE):

H. Res. 211. A resolution recognizing and commending the members of the Navy and Marine Corps who served on the USS *Abraham Lincoln* and welcoming them home from their recent mission abroad; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. YOUNG of Alaska, Mr. TANCREDO, Mr. MILLER of Florida, and Mr. GARY G. MILLER of California.

H.R. 33: Mr. OTTER.

H.R. 100: Mr. JONES of North Carolina and Mr. EDWARDS.

H.R. 102: Mr. FROST, Mr. ALLEN, Mr. ISRAEL, Mr. STARK, and Mr. EMANUEL.

H.R. 111: Mrs. DAVIS of California, Mr. YOUNG of Alaska, Mr. MARKEY, and Mr. NETHERCUTT.

H.R. 139: Mr. OSE.

H.R. 140: Mr. PETERSON of Minnesota.

H.R. 141: Mr. PICKERING and Mr. PETERSON of Minnesota.

H.R. 179: Mr. PITTS and Mr. SAM JOHNSON of Texas.

H.R. 198: Ms. GINNY BROWN-WAITE of Florida and Mr. SENSENBRENNER.

H.R. 278: Mr. ISAKSON.

H.R. 284: Mr. GREEN of Texas.

H.R. 303: Mrs. LOWEY and Mr. RYUN of Kansas.

H.R. 442: Mr. GOODE.

H.R. 463: Mr. POMEROY, Mr. RAMSTED, Mr. WELLER, Mr. BECERRA, Mrs. MUSGRAVE, Ms. DUNN, and Mrs. MYRICK.

H.R. 490: Mrs. NAPOLITANO and Mr. MCNULTY.

H.R. 491: Mr. ISAKSON.

H.R. 496: Mr. GORDON.

H.R. 527: Mr. BARRETT of South Carolina.

H.R. 531: Mr. BOUCHER, Ms. DEGETTE, and Ms. KAPTUR.

H.R. 573: Mr. RENZI.

H.R. 627: Mr. GORDON.

H.R. 660: Mr. MORAN of Virginia, Mr. SULLIVAN, Ms. HARRIS, Mr. FEENEY, Mr. SMITH of Michigan, Mr. THOMPSON of Mississippi, Mr. LAHOOD, Mr. MILLER of Florida, Mr. BONILLA, Mr. PITTS, and Mr. ISRAEL.

H.R. 684: Mr. LEWIS of Kentucky.

H.R. 716: Mr. GRIJALVA, Mr. FRANK of Massachusetts, Mr. BELL, Mr. JENKINS, Mr. BALLANCE, Mr. PETERSON of Minnesota, Mr. DEUTSCH, Mr. FARR, Mr. BOEHLERT, and Mr. NETHERCUTT.

H.R. 737: Mr. INSLEE, Mr. SMITH of Washington, Mrs. DAVIS of California, and Ms. ESHOO.

H.R. 754: Mrs. EMERSON, Mr. LEWIS of Kentucky, Mr. BOOZMAN, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 759: Mr. TERRY and Mr. HOEKSTRA.

H.R. 765: Mr. KING of Iowa and Mr. RYAN of Ohio.

H.R. 766: Mr. WU.

H.R. 768: Mr. EHLERS.

H.R. 771: Mr. BOSWELL.

H.R. 772: Mr. HOUGHTON.

H.R. 791: Mr. ISAKSON and Mr. SHUSTER.

H.R. 823: Mr. EVANS and Ms. ESHOO.

H.R. 857: Mr. LARSEN of Washington.

H.R. 871: Mr. LEWIS of Kentucky and Mr. SKELTON.

H.R. 876: Mr. BOOZMAN, Mr. FRELINGHUYSEN, Mr. BAKER, Mr. SAXTON, Mr. ROGERS of Michigan, Mr. LEWIS of Kentucky, Mr. PETERSON of Minnesota, and Mr. POMEROY.

H.R. 898: Mr. DAVIS of Illinois, Mr. PETERSON of Minnesota, Ms. HARMAN, and Mr. DOGGETT.

H.R. 906: Mr. GARY G. MILLER of California, Mr. SKELTON, Mrs. KELLY, Mr. DUNCAN, and Mrs. CAPITO.

H.R. 919: Mr. TOWNS, Mr. POMEROY, Mr. BROWN of South Carolina, and Mrs. MYRICK.

H.R. 934: Mr. HINCHEY.

H.R. 936: Mr. BELL.

H.R. 937: Mr. ROSS, Mr. STRICKLAND, and Mr. PETERSON of Minnesota.

H.R. 941: Mr. HERGER.

H.R. 953: Mr. WELDON of Pennsylvania.

H.R. 972: Mr. UDALL of New Mexico.

H.R. 977: Mr. COLE.

H.R. 979: Mr. COSTELLO.

H.R. 996: Mr. MCHUGH, Mr. CARSON of Oklahoma, Mrs. EMERSON, Mr. MCINTYRE Mr. ALEXANDER, and Mr. BEREUTER.

H.R. 998: Mr. BROWN of Ohio.

H.R. 1013: Mr. HERGER.

H.R. 1019: Mr. HONDA.

H.R. 1022: Mr. MCNULTY.

H.R. 1024: Mr. ANDREWS.

H.R. 1032: Mr. CRANE.

H.R. 1046: Mr. GRIJALVA and Mr. RODRIGUEZ.

H.R. 1071: Mr. BONILLA.

H.R. 1105: Ms. WATERS, Mr. MENENDEZ, Mr. REYES, Mr. LYNCH, Mr. RODRIGUEZ, Ms. LOFGREN, Mr. RANGEL, Ms. WATSON, and Mr. LAMPSON.

H.R. 1111: Mr. INSLEE and Mr. PLATTS.

H.R. 1118: Mr. DOGGETT, Mr. BALLANCE, and Mr. RAMSTAD.

H.R. 1136: Ms. KAPTUR.

H.R. 1157: Mr. MORAN of Virginia.

H.R. 1163: Ms. GINNY BROWN-WAITE of Florida.

H.R. 1202: Mr. PENCE, Mr. WICKER, Mr. KING of Iowa, Mr. MURPHY, Mr. JANKLOW, Mr. ENGLISH, Mr. WELDON of Florida, Mrs. MUSGRAVE, and Mr. COX.

H.R. 1205: Ms. ESHOO.

H.R. 1206: Mr. ENGLISH.

H.R. 1212: Mr. PALLONE, Mr. HOLT, and Mr. PASCRELL.

H.R. 1220: Ms. GINNY BROWN-WAITE of Florida.

H.R. 1229: Mr. KING of Iowa, Mr. GREEN of Wisconsin, Mr. ROGERS of Michigan, and Mr. DEMINT.

H.R. 1231: Mr. RAMSTAD, Mr. BOEHLERT, Mr. BISHOP of Utah, Mr. MILLER of Florida, Mrs. CHRISTENSEN, Ms. HARRIS, Mr. FRELINGHUYSEN, Mr. HASTINGS of Washington, Ms. PRYCE of Ohio, Mrs. MALONEY, Mr. HOEFFEL, Mr. SHERMAN, Mr. RENZI, Mr. DINGELL, and Mr. HONDA.

H.R. 1251: Mr. OWENS, Mr. MCDERMOTT, and Mr. MORAN of Virginia.

H.R. 1258: Ms. CARSON of Indiana, Mr. WALSH, Mr. THOMPSON of Mississippi, Mrs. MCCARTHY of New York, Mrs. CAPPS, and Mr. STUPAK.

H.R. 1267: Ms. SOLIS, Mr. BELL, and Mr. MARKEY.

H.R. 1275: Mr. HOYER and Mr. ACKERMAN.

H.R. 1276: Mr. BOOZMAN and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1294: Mr. HOLT, Mr. BISHOP of New York, and Mr. MCNULTY.

H.R. 1309: Mr. FARR.

H.R. 1315: Mr. SMITH of New Jersey, Mr. OBERSTAR, Mr. LIPINSKI, Mr. SIMMONS, Mr. DEFAZIO, Ms. HOOLEY of Oregon, Mr. ABERCROMBIE, Mr. CONYERS, Mr. GRIJALVA, Mr. SABO, Mr. MEEHAN, Ms. JACKSON-LEE of Texas, and Mr. FROST.

H.R. 1323: Mr. CUMMINGS and Mr. GOODE.
H.R. 1340: Mr. MEEHAN and Mr. OLVER.
H.R. 1367: Mr. ETHERIDGE.
H.R. 1372: Mr. INSLEE, Mr. BISHOP of Utah, Mr. DOOLITTLE, Mr. ROYCE, Mr. WALDEN of Oregon, and Mr. FLAKE.
H.R. 1373: Mr. PITTS, Mr. TANCREDO, and Mr. DOOLITTLE.
H.R. 1385: Ms. LEE, Mr. LUCAS of Kentucky, Mr. SCOTT of Georgia, Mr. QUINN, Ms. BALDWIN, Ms. BERKLEY, and Mr. STARK.
H.R. 1387: Ms. VELAQUEZ, Mr. FROST, Mr. ALLEN, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 1414: Mr. BROWN of Ohio.
H.R. 1422: Mr. HOEFFEL, Mr. ENGEL, Mr. JEFFERSON, Ms. KAPTUR, Mr. GREEN of Wisconsin, Mr. DICKS, Mr. CRENSHAW, Mr. PAYNE, and Mr. PETERSON of Minnesota.
H.R. 1426: Mr. RENZI, Mr. STUPAK, Mr. TOWNS, Mr. PALLONE, and Mr. FALEOMAVAEGA.
H.R. 1442: Mr. DOOLITTLE, Mr. MORAN of Virginia, Ms. MILLENDER-MCDONALD, Mr. GILLMOR, Mr. CALVERT, Mr. FALEOMAVAEGA, Mrs. MCCARTHY of New York, Mr. LATOURETTE, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, Mr. RUPPERSBERGER, Mr. DEUTSCH, Mr. DINGELL, Mr. MARKEY, Mr. FORD, Mr. GORDON, Mr. MCINNIS, Mr. MATHESON, Mr. NEY, Mr. SAXTON, and Mr. TANCREDO.
H.R. 1443: Mr. BOEHNER.
H.R. 1472: Ms. ROS-LEHTINEN, Mr. MCNULTY, Mr. UDALL of Colorado, and Mr. WHITFIELD.
H.R. 1473: Mr. GRIJALVA.
H.R. 1479: Mr. HERGER, Mr. GOODE, Mr. BONNER, and Mr. CUNNINGHAM.
H.R. 1493: Mr. UDALL of Colorado.
H.R. 1516: Mr. MURTHA, Mr. HOLDEN, Mr. PITTS, Mr. FATTAH, Mr. ENGLISH, Mr. BRADY of Pennsylvania, Mr. GREENWOOD, Mr. PLATTS, Ms. HART, Mr. KANJORSKI, and Mr. MURPHY.
H.R. 1536: Mr. NEAL of Massachusetts.
H.R. 1576: Mr. BELL and Ms. LEE.
H.R. 1582: Mr. UDALL of Colorado, Mrs. MUSGRAVE, Mr. LEACH, Mr. FRANKS of Arizona, and Mr. LATHAM.
H.R. 1615: Mr. CROWLEY.
H.R. 1617: Mrs. TAUSCHER and Ms. WATSON.
H.R. 1628: Mr. NEY, Mr. CUNNINGHAM, Mr. PALLONE, Mr. DOYLE, Mr. WICKER, and Mr. CARSON of Oklahoma.
H.R. 1634: Mr. JOHNSON of Illinois, Mr. MCHUGH, Mrs. MCCARTHY of New York, Mr. HINCHEY, Mr. ANDREWS, Mr. TANCREDO, Mr. VITTER, Mr. JEFFERSON, Mr. NETHERCUTT, and Mr. CALVERT.
H.R. 1635: Mr. GUTIERREZ.
H.R. 1638: Mrs. JO ANN DAVIS of Virginia, Mr. SANDLIN, and Mr. RYAN of Ohio.
H.R. 1643: Mr. HOUGHTON and Mr. FRANK of Massachusetts.
H.R. 1652: Mr. BROWN of Ohio, Ms. CORRINE BROWN of Florida, Mr. KILDEE, Mr. GRIJALVA, Mr. MICHAUD, Ms. NORTON, Mr. OLVER, Mr. RYAN of Ohio, Ms. BALDWIN, Ms. KILPATRICK, Ms. SCHAKOWSKY, Ms. WOOLSEY, Mr. OWENS, Mr. BLUMENAUER, Mr. WAXMAN, Mr. SHERMAN, Mr. DEUTSCH, Mr. BISHOP of New York, Mr. RODRIGUEZ, Mr. GORDON, Mr. COSTELLO, Ms. DELAURO, Mr. UDALL of Colorado, and Mr. CARDOZA.
H.R. 1675: Mr. KING of Iowa, Mr. HINOJOSA, Mr. GORDON, Mr. COSTELLO, Mr. CAMP, Mr. OTTER, Mr. CRAMER, Mrs. EMERSON, Mr. LATHAM, Mr. FROST, Mr. PETERSON of Minnesota, Mr. RAHALL, and Mr. TURNER of Texas.
H.R. 1676: Mr. DAVIS of Illinois and Mr. SANDLIN.
H.R. 1708: Mr. MATHESON, Mr. LANGEVIN, Mr. YOUNG of Alaska, Mr. NEY, Mr. BACA, Mr. HAYES, Mr. SIMMONS, Mr. MCHUGH, Ms. GINNY BROWN-WAITE of Florida, Mr. FARR, Mr. WALSH, and Mr. ROTHMAN.
H.R. 1723: Mr. FALEOMAVAEGA and Mr. OWENS.
H.R. 1725: Mr. TIBERI.
H.R. 1742: Mr. BRADY of Texas and Mr. EDWARDS.
H.R. 1749: Mr. TIBERI, Mr. KLECZKA, Mr. BOEHNER, Mr. BACHUS, Mr. EHLERS, Mr. OBERSTAR, Ms. HART, Mr. WILSON of South Carolina, and Mr. GOODE.
H.R. 1814: Mr. HONDA, Mr. SMITH of New Jersey, Mr. REYES, Mr. RODRIQUEZ, and Mr. EVANS.
H.R. 1861: Mr. HINCHEY and Ms. SOLIS.
H.J. Res. 4: Mr. LEWIS of Kentucky and Mr. COSTELLO.
H.J. Res. 36: Ms. ESHOO, Mr. MICHAUD, Mr. GRIJALVA, Mr. LEVIN, Mr. FILNER, Mr. GEORGE MILLER of California, Mr. FRANK of Massachusetts, Ms. WOOLSEY, and Mrs. CAPITO.
H. Con. Res. 56: Mr. TAYLOR of Mississippi and Mr. ENGEL.
H. Con. Res. 76: Mr. LATOURETTE, Mr. MCNULTY, Mr. LIPINSKI, Mr. WAMP, Mr. UDALL of Colorado, and Mr. LAHOOD.
H. Con. Res. 151: Mr. WILSON of South Carolina, Mr. STARK, Mr. FOSSELLA, Mr. REYNOLDS, Mr. EHLERS, and Mrs. JONES of Ohio.
H. Res. 136: Mr. LOBIONDO and Mr. WOLF.
H. Res. 157: Mr. DAVIS of Illinois and Mr. SCHIFF.
H. Res. 194: Mr. WAXMAN.

PETITIONS, ETC.

Under clause 3 of rule XII,

11. The SPEAKER presented a petition of Board of Supervisors of Rockingham County, Virginia, relative to a Resolution petitioning the United States Congress to recognize the sacrifices being made by our citizens to protect the cause of freedom throughout the world; which was referred to the Committee on Armed Services.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, APRIL 30, 2003 *No. 63*

Senate

The Senate met at 10 a.m. and was called to order by the Honorable LINDSEY O. GRAHAM, a Senator from the State of South Carolina.

The PRESIDING OFFICER. Our morning prayer will be offered by the Reverend Canon Martyn Minns, Truro Episcopal Church of Fairfax, VA.

PRAYER

The guest Chaplain offered the following prayer:

Almighty God, You have given us this good land for our heritage, and You have blessed us with freedom, peace, and prosperity. Save us from pride and arrogance that we may be a people of peace among ourselves and a blessing to other nations of the Earth.

We ask that You direct the women and men of this Senate as they take counsel together and enact laws to govern this Nation. Give them wisdom to discern what is pleasing in Your sight and the courage to follow Your will. Remind them of Your love for the poor and oppressed, for those in prison, for children who are at risk, for refugees, and for those whose lives are without hope because of ill health or joblessness.

Protect them from selfish desires and petty divisions. Grant them the desire to do only those things that will glorify Your name and provide for the welfare of all Your people.

All this we pray because of the love first shown to us in the call of Abraham and Sarah and now revealed to us in the life and witness of Jesus the Christ. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINDSEY O. GRAHAM led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 30, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINDSEY GRAHAM, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. GRAHAM of South Carolina thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

SCHEDULE

Mr. ENZI. Mr. President, today the Senate will be in a period of morning business until 11 a.m. Following morning business, the Senate will begin consideration of S. 196, the digital and wireless technology program legislation. Under the consent agreement reached, there will be 1 hour for debate prior to the vote on passage. Senators should therefore expect a vote at approximately 12 noon today. Following that vote, the Senate may consider any other legislative or executive items ready for action.

The two leaders have been working on an agreement to allow for the consideration of several judicial nominations, and it is possible that those nominations would be considered today. The Senate may also resume consideration of the Owen nomination during today's session. As a reminder, a cloture motion was filed with respect to Priscilla Owen to be a U.S. circuit court judge for the Fifth Circuit. That cloture vote will occur tomorrow.

Finally, there are a number of other legislative matters that also may be considered this week, including the State Department authorization and the bioshield bill.

Mr. REID. Mr. President, we have scheduled to appear in the Capitol today Secretary Wolfowitz from 2 to 3. I think it would be to everyone's best interest if we were not in session at that time. I would ask the acting majority leader to visit with the majority leader and find out if we could enter into a unanimous consent that we could be in recess during that period of time.

Mr. ENZI. I will check with the leader and see if that cannot be arranged.

Mr. REID. We have had a lot of interest on this side. This is the first major briefing we will have the opportunity to have after the recess. I think a lot of people will want to attend.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 11 a.m., with the time to be equally divided between the two leaders or their designees.

ORDER TO RECOMMIT—EXECUTIVE CALENDAR NO. 35

Mr. ENZI. As in executive session, I now ask unanimous consent that Executive Calendar No. 35, John Roberts, be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

recommitted to the Judiciary Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota.

RECOGNITION OF THE GOLDEN GOPHERS

Mr. COLEMAN. Mr. President, I am proud to stand here with my distinguished colleague, the senior Senator from Minnesota, MARK DAYTON, to offer congratulations to a group of young men of great accomplishment. In these difficult and troubled times, it is wonderful to recognize the accomplishment of young people. This accomplishment is something that is very close to the hearts of Minnesotans and folks in other parts of the country. It is about hockey.

Hockey is a sport in which it is not about individual team stars. It is about folks working as a team and toughing it out and showing courage and determination. Hockey is a family sport. Moms and dads, hockey moms and dads are folks who get up at 4, 5 o'clock in the morning to find ice time for their kids. And if it is not in the formal rink, it is a little rink outside where you kind of dust away the snow so your kids can skate. It represents so much of the best of America.

I am proud to announce I will be introducing, with my colleague Senator DAYTON, a resolution later today commending the University of Minnesota Golden Gophers men's hockey team for winning the NCAA Division I National Championship. And again, I am pleased to be joined by my colleague.

Hockey is not a partisan sport. I don't know whether hockey players are Democrats or Republicans. They are good Americans, and they are good young people.

I understand that upon this resolution's introduction, the Senate will take up and pass this fitting tribute to the Golden Gophers.

During their championship game against New Hampshire, a Gophers fan in attendance held up a sign that said, ''The Dynasty Begins.'' With this as their second straight championship, the first team to accomplish this in 31 years, I would have to agree. At last year's Frozen Four, they defeated Maine in overtime 4 to 3, and this year's championship win came by a score of 5 to 1. Their first and second round games were also big wins, leading them to face Michigan in the semifinals, where they defeated the Wolverines in overtime.

With their achievements on the ice, it is clear this hockey team has exceptional athletic abilities. But they should also be recognized for their academic excellence; they maintained a grade point average above the university-wide average.

On a side note, allow me the opportunity to mention that the Minnesota-New Hampshire match in the final led to a similar competition here in the Senate between my good friend and colleague, Senator GREGG. As to that outcome, let me just say I am looking forward to my lobster and maple syrup. I will be presenting this very stylish Minnesota necktie with the Golden Gopher colors to my good friend, the senior Senator from New Hampshire, for him to wear proudly as a sign of the great triumph for the people of Minnesota over the folks from New Hampshire. On behalf of all Minnesotans, I am pleased to make this addition to his wardrobe and, again, I look forward to his wearing this good-looking gopher tie on one of his many high profile days in the Senate.

I am proud to stand today to commend the Golden Gophers hockey team for winning the national championship and to recognize the outstanding achievements of all the team players, their coach Don Lucia and his staff.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DAYTON. I rise with my colleague on the morning after a difficult night for Minnesota sports fans with both of our teams, the Timberwolves and the Wild, losing playoff games at home. This is a way to remind ourselves of days of former glory, and certainly with my distinguished colleague, Senator COLEMAN, who was instrumental and probably deserves more credit than any other person in Minnesota for bringing professional hockey back to St. Paul and Minnesota. The Minnesota Wild, which is now in its third year, is performing so well, it is fitting that we can rise together here for the second time this year to pay tribute to a Minnesota team, its collegiate hockey team; in this case, the Golden Gophers of the University of Minnesota, who have repeated now as national champions for the second time, the first time in 31 years that a college team has repeated for the men's championship.

They join the University of Minnesota women's team, the Duluth Bulldogs women's team, who earlier this year won their third consecutive national collegiate hockey championship.

As they were playing the Golden Gophers for the national title, I happened to be flying across the Pacific Ocean on a codel headed by Majority Leader BILL FRIST, and it turns out that his press secretary was a graduate of the University of New Hampshire. So we had a friendly wager on the outcome. I am delighted to soon be the recipient of a quart of maple syrup, which makes it as sweet a victory for me as for the team, and certainly for all the hockey fans throughout Minnesota.

This was supposed to be a rebuilding year for this team. Nobody thought they would make the playoffs, much less win the national championship. They had a new goalie and were the defending national champions. That made them everyone's target. They kept getting better and better as the year went on. When they reached the playoffs, they were unbeatable. They won four straight victories to win the WCHA championship and then four straight victories, over stiff competition—the best in the Nation—in order to win the national championship for the second straight year. Once again, they accomplished this with almost entirely Minnesota talent.

Some people ask why it took 23 years—from 1979 to 1992—for Minnesota, which is the hockey capital of the Nation, to repeat as the national collegiate champion. In 1979, when they won, there were only two Division I college teams in Minnesota. Presently there are five. There is that increase in competition among the Minnesota colleges themselves and for our Minnesota hockey talent. In addition, the other programs—in the West, WCHA, and in the east, the CCHA—recruited extensively in Minnesota, and even eastern hockey spent heavily on Canadian talent. In my days of playing, in the 1960s, for example, in Division I hockey, it used to be said that Canadian boys dreamed of playing in the National Hockey League, and if those hopes and dreams were dashed, they went on to college in the United States.

Despite all that fierce competition for the talent and the pressures on that team, Coach Don Lucia has built, in just 5 years, an extraordinary program, a world class program in Minnesota that has restored collegiate hockey to its rightful place, at the very top in Minnesota. It is a real tribute to Coach Lucia and his entire team, all the players who performed extraordinarily well under the circumstances, and who are now, once again, the national collegiate champions.

It is Senator COLEMAN's and my hope that the President will be gracious enough to invite our two teams, the University of Minnesota Golden Gophers men's team and the University of Minnesota Duluth women's team, to the White House for recognition, as he had in the previous year with both teams, and before that with the women's team.

I went to college with the President. He was a year ahead of me, and he was not a hockey player. He was a rugby player. He was a sports fan. He roomed in college with a college All-American from Minnesota, Jack Morrison. He was a frequent attendee at our hockey games at Yale University. Two years ago, when the UMD women won the first championship, the President was gracious and responded instantaneously and invited the women's team, as he had previously invited the men's championship team from Boston College, to be feted at the White House. It could not have been a more exciting moment for the players, their families, friends, and the coaches at the University of Minnesota Duluth. Last year, we had the good fortune of having both championship teams, and the President was gracious enough to invite them both, along with the families, friends, and coaches, to the White House.

Senator COLEMAN and I have put in our request and soon expect that the President will be gracious enough to once again invite the teams and commend all those who play sports throughout the Nation, such as hockey, as they should be played—with all the enthusiasm and the best of their talent and ability, learning the values of sportsmanship, teamwork, competition. Sometimes they don't come out as well as they would like, but every once in a while they may reach the pinnacle of success of a national championship. I am sure the President would concur with that.

Again, I salute my favorite teams in Minnesota.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

(The remarks of Mr. ENZI, Mr. BAUCUS, and Mr. DORGAN pertaining to the introduction of S. 950 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

BIPARTISAN SENATORIAL TRIP TO JAPAN, TAIWAN, SOUTH KOREA, AND CHINA

Mr. DAYTON. Mr. President, I want to share some of my experiences over the last 2 weeks as part of a bipartisan delegation of Senators who traveled to Japan, Taiwan, South Korea, and China. Upon my return to Minnesota last week, directly from Beijing, I never had so many inquiries from people meeting with me as to my health and well-being. Fortunately, I assured them I was not carrying SARS, which is something to be taken obviously very seriously.

The trip was led by our Senate majority leader BILL FRIST, and was led extraordinarily well by him. I cannot say enough to reflect my respect and admiration for his demeanor, his leadership, his poise, and his presence when facing the heads of state when we had these meetings in China, South Korea, and Taiwan.

We may be Republicans and Democrats, but occasionally we need to be reminded that at our core all of us are Americans. Ultimately, we all succeed or we do not succeed together, and that was certainly the spirit of this bipartisan delegation of five Republican Senators and three Democratic Senators. We got along very well. I do not think there was a cross word among us. We enjoyed very much the privilege of representing the United States of America as we did, and I believe under Senator FRIST's leadership we did so responsibly and hopefully honorably.

After careful consideration, at the end of our trip, the principal reason we decided to go through with our plans to go to China was the opportunity it presented to meet with the new Chinese leadership and particularly to discuss the situation concerning North Korea's nuclear weapons program. We certainly carefully considered and Senator FRIST, of course, being a doctor, was in the forefront of considering very carefully the exposure we would have, the risks that would be entailed in regard to SARS. We took every possible precaution. I washed my hands and face more in 2 and a half days in Beijing than I usually do in about 2 weeks in Minnesota. So far, knock on wood, it seems to have been effective.

As I said, we believed the opportunity to converse directly with the new President of China, President Hu Jintao, as well as the other new Chinese leadership, and to press upon them the urgency we felt about resolving the nuclear situation in North Korea was worth that trip, and it proved to be. I was pleasantly surprised to learn that, in fact, China shares our goal, as their leadership expressed several times, to bring about a nuclear-free Korean peninsula, and that position which was stated by them was corroborated by our Ambassador, Clark T. Randt, Jr., who apparently was a classmate of the President who appointed him, President Bush. Both of them, it turns out, were fraternity brothers of mine back in college.

I had a chance to reminisce with him. He reassured all of us that the Chinese Government had been very influential in bringing North Korea to the negotiating table last week, the trilateral talks that commenced in Beijing. They could have been more timely but at least they are underway. Hopefully, they will continue actively with the top-level attention they certainly need.

It was a signal of a great opportunity to work in partnership with the new Chinese Government to reach the shared objective of ridding North Korea of its nuclear weapons and to create a nuclear-free Korean peninsula. What a great way to build a partnership for the next 10, 20 years, which is what this Government in China now professes it wants with the United States. President Hu said himself their primary objective for the next two decades is to increase and expand the economic progress that has been made in their country, to raise the standard of living of more and more of their citizens through the United States and other foreign investment through additional trade and economic growth there which has been staggering in the last 10 to 15 years. As they pointed out, especially in the middle and western parts of the country, so much more needs to be done to bring those areas up to the eastern seaboard, mainland of China.

That, hopefully, will be their priority and one that will serve to increase the likelihood of peace and economic and international security throughout the world. There would be nothing we could do that would be any more beneficial to our national interests than to encourage their economic progress and to build a relationship that is economic, that is cultural and social after they have resolved their current health crisis, and also provide the strong influence of both countries for peaceful resolution of the situation in North Korea and others that will arise inevitably in that part of the world.

They also stressed, as did the South Korean and Taiwanese Governments, the importance of peacefully resolving the situation in North Korea. Anyone who believes a military resolution would be advisable should go over and meet with the leaders of those three respective countries—South Korea, China, and Taiwan, and even in Japan, as well. From the leadership with whom we met there, there is no one in that part of the world in responsible positions who wants to see a military threat or military action initiated there.

There has been a great deal of economic progress in the areas of South Korea and Taiwan. While claiming to suffer from the worldwide economic slowdown, the rates of economic growth they are realizing in those countries, from 3.5- to 5-percent growth annually, is something that certainly this country and other nations in the world would be delighted to achieve. For them, that is a slowdown, creating unemployment they have not had heretofore and economic and social problems and welfare and safety net problems they have not had to deal with for the last decade.

They also have a vital stake in having North Korea's nuclear program eliminated, as the President has said properly so, but continued so in a way that does not threaten the security and the stability of that region of the world.

We also had the opportunity to travel to the demilitarized zone between North Korea and South Korea and had dinner with the 2nd Army Division—''second to none'' is one of their mottos, and appropriately so. They are second to none in their dedication and courage and commitment for being there. We stood right there on the DMZ and looked, as they do night after night, across the border. Another motto of theirs is ''fight tonight.'' They are in a constant State of readiness and alert, and all Americans should be mindful and respectful and enormously grateful to those brave men and women who put their lives on the line day and night, one after the other, without the kind of recognition their compatriots get in other parts of the globe—just as well trained, just as well prepared, every bit as willing to stand and defend the beacon of freedom in Korea as our forces have done so outstandingly in Iraq and previously in Afghanistan and anywhere else in the world.

That is a reminder, once again, that freedom is priceless, but it is not free. It has to be won and preserved through dedication of the brave men and women in the 2nd Army Division. And to all of them, and their leader, GEN Leon LaPorte, commander of the United States forces in Korea, we all have the utmost respect and admiration.

It reminded me why I introduced, along with Senator SESSIONS last year,

legislation that would provide for financial incentive for troops involved, particularly those who reenlist in areas of the world such as Korea where they are separated from their families for long periods of time. It is one of the most difficult places in the military, we are told by the commanders, in which to recruit and especially re-recruit men and women to serve terms of duty because of the hardships, because of the additional costs that have to be borne because usually their families are left behind and that involves two parallel tracks of expenses—separation and phone bills. Senator SESSIONS and I proposed an income tax exemption for troops who serve in far-flung areas of the world such as Korea. I will renew my efforts this year to see that legislation enacted because it is the least we can do and the least that is deserved by these brave men and women.

The commanders in those areas have asserted it would be invaluable in recruiting efforts.

I see the real leader and the commander of the Senate when it comes to the Armed Services, my very distinguished chairman of the committee on which I am proud to serve, the chairman of the Senate Armed Services Committee, the Senator from Virginia.

I yield the floor.

Mr. WARNER. Before my colleague departs, I commend him for the interest the Senator has taken in the men and women of the Armed Forces, the national security policy of this country as a Member of the Senate Armed Services Committee. Well done, sir.

I have been privileged to be on that committee now, this being my 25th year in the Senate, and the personal rewards from it for the association that the Senator has as a member of the committee with the men and women in uniform is beyond expectation. I thank the Senator for his service.

(The remarks of Mr. WARNER and Mr. DAYTON pertaining to the introduction of S. 951 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WARNER. I thank the Presiding Officer for his courtesies, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DIGITAL AND WIRELESS NETWORK TECHNOLOGY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 196. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 196) to establish a digital and wireless network technology program, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the committee amendments are agreed to.

AMENDMENT NO. 532

Mr. ALLEN. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, Mr. HOLLINGS, and Mr. MCCAIN, proposes an amendment numbered 532.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that the assistance is focused on supporting science, mathematics, engineering, and technology at eligible institutions, and provide for appropriate review of grant proposals)

On page 2, strike lines 2 and 3, and insert the following:

This Act may be cited as the ''Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003''.

On page 2, line 6, insert ''Minority Serving Institution'' before ''Digital''.

On page 2, line 7, strike ''Network''.

On page 3, strike lines 1 through 5, and insert the following:

(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;

On page 3, line 18, after ''development'' insert ''in science, mathematics, engineering, or technology''.

On page 4, line 18, after ''accept'' insert ''and review''.

On page 4, line 24, strike ''section 3.'' and insert section 3, and for reviewing and evaluating proposals submitted to the program.''.

On page 5, line 7, after ''issues.'' insert ''Any panel assembled to review a proposal submitted to the program shall include members from minority serving institutions. Program review criteria shall include consideration of—

(1) demonstrated need for assistance under this Act; and

(2) diversity among the types of institutions receiving assistance under this Act.''.

Mr. ALLEN. Mr. President, I ask unanimous consent that the managers' amendment be agreed to on S. 196.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 532) was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate to be equally divided by the Senator from Virginia, Mr. ALLEN, and the ranking member, with 5 minutes of the time under majority control for the Senator from Arizona, Mr. MCCAIN.

The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, Senator MCCAIN, the chairman of the Commerce Committee, is tied up right now, but I thank him for his thoughtful leadership and his continued effort and dedication on this important bipartisan measure.

I rise today to respectfully urge my colleagues to support S. 196, the minority-serving institution Digital and Wireless Technology Opportunity Act of 2003. This legislation will provide vital resources to address the technology gap that exists at many minority-serving institutions. It establishes a new grant program within the National Science Foundation that provides annually for 5 years up to $250 million to help historically black colleges and universities, Hispanic serving institutions, and tribal colleges to close what is often called the digital divide, when, in fact, what it really is is an ''economic opportunity divide.''

Since the days before I was elected to the Senate, my goal was to look for ways to improve education and empower all our young people, regardless of race, ethnicity, gender, religious beliefs, or their economic background, so that they can compete and succeed in life.

Additionally, I strongly believe we need to embrace the advancements and innovations in technology—especially as a means to provide greater opportunities or security for Americans.

In my view, increasing access to technology provides our young people with an important tool for success, both in the classroom and in the workforce.

We all know that the best jobs in the future will go to those who are the best prepared. However, I am increasingly concerned that when it comes to high-technology jobs, which pay higher wages, this country runs the risk of economically limiting many college students in our society. It is important for all Americans that we close this opportunity gap.

Now, we know the demand for workers with skills in science and technology continues to grow. Unfortunately, since 1996, the number of bachelor degrees awarded in the physical sciences has dropped 29 percent, mathematics is down 19 percent, and engineering is down 21 percent.

We also know that information technology companies are still relying on H–1B visas and using foreign workers to fill important IT jobs and positions. I want to be clear that I am not against legal immigration, but I say let's properly educate and train Americans so they can get those good high-technology jobs.

Now, minority-serving institutions, when one looks at them, still lack desired information and digital technology infrastructure in many cases. I encourage my colleagues to read the Commerce Committee report findings on minority-serving institutions' technology deficiencies.

I will share with you some of the pertinent facts from this report and, in particular, a study completed by the Department of Commerce and the National Association for Equal Opportunity in Higher Education, which indicated, among other facts, that no historically black college or university requires computer ownership for their undergraduate students; 13 HBCUs reported having no students—not one—owning their own personal computer; over 70 percent of the students at historically black colleges and universities rely on the college or the university to provide computers, but only 50 percent of those universities can provide their students with access to computers and computer labs, libraries, classrooms, or other locations; most of these minority-serving colleges do not have the private foundation resources to provide financial support to upgrade their network infrastructure.

So it is not surprising that most HBCUs do not have high-speed Internet access, especially the desired ATM or asynchronous transfer mode technology and that only 3 percent of historically black colleges and universities have financial aid available to help students close the computer ownership gap.

Access to the Internet is no longer a luxury, it is a necessity. Because of the rapid advancement and growing dependence on technology, being technologically proficient has become more essential to educational achievement. The fact is, 60 percent of all jobs require information technology skills. Jobs in information technology pay significantly higher salaries than jobs in the noninformation technology fields. Thus, students who lack access to these information technology tools are at an increasing disadvantage. Consequently, it is vitally important that all institutions of higher education provide their students with access to the most current IT and digital equipment. It would also help those universities to attract professors if they have that equipment to help them impart that knowledge to their students.

This proposed technology program will allow eligible historically black colleges and universities, Hispanic-serving institutions, and tribal institutions the opportunity to acquire equipment, networking capability, hardware and software, digital network technology, and wireless technology and infrastructure, such as wireless fidelity, or Wi-Fi, to develop and provide educational services. Additionally, the funds in this bill could be used to offer students much needed universal access to campus networks, dramatically increasing their connectivity rates or make necessary infrastructure improvements.

At the request of some of my colleagues, we recently added provisions to assure that diversity among these minority serving institutions includes public and private colleges and universities, both 2-year and 4-year institutions, and public and private postsecondary technical institutions.

Under Chairman MCCAIN's leadership, and with the ranking member, Senator HOLLINGS, and colleagues from across the aisle, the Commerce Committee heard testimony from the presidents of various colleges and universities representing each of the major national associations—the Hispanics Association of Colleges and Universities, the American Indian Higher Education Consortium, National Association for Equal Opportunity in Higher Education, the United Negro College Fund, and also we heard specifically from former Congressman Floyd Flake, who is president of Wilberforce University; and Dr. Marie McDemmond, president of Norfolk State University; Dr. William DeLauder, president of Delaware State; Dr. Ricardo Fernandez, president of Herbert Lehman College in New York; and Dr. Cary Monette, president of Turtle Mountain Community College testified in support of S. 196.

In testimony before the committee, it was estimated that in 10 years minorities will comprise nearly 40 percent of all college-age Americans. One-third of all African Americans with undergraduate degrees, earned them from an HBCU. According to the Hispanic Association of Colleges and Universities, their institutions educate two-thirds of the 1.6 million Hispanic Americans enrolled in higher education today.

There are over 200 Hispanic Serving Institutions; over 100 Historically Black Colleges and Universities and 34 tribal colleges throughout our country.

It is clear that minority-serving institutions in the United States are providing a valuable service to the educational strength and future growth of our Nation. And these institutions must upgrade their technology capabilities for their students.

I am proud to say Virginia is home to 5 HBCUs—Norfolk State University, St. Paul's College, Virginia Union University, Hampton University, and Virginia State University.

I will continue to look for ways to improve education, create new jobs, and seek out new opportunities to benefit the people of my Commonwealth and indeed our entire Nation. By improving technology-education programs in minority-serving institutions, we can accomplish all three of these goals for students throughout our Nation.

S. 196 is also supported by the technology industry—The Information Technology Association of America; Computer Associates International; Oracle; Gateway Computers; BearingPoint Technologies; and Motorola all support this measure.

We all recognize the technology requirements on the 21st century workforce call for tangible action, not rhetoric. Our future economic and national security needs depend on and demand that all of our eager young students have the highly technical skills needed to compete and succeed in the workforce.

We must tap the underutilized talent of our minority serving institutions to ensure that America's workforce is prepared to lead the world.

I thank my colleagues for joining me today. I thank the chairman of our committee, Senator MCCAIN, and other sponsors of this measure, including Senators STEVENS, HOLLINGS, MILLER, WARNER, DEWINE, SANTORUM, TALENT, COCHRAN, GRASSLEY, HUTCHISON, SESSIONS, GRAHAM of South Carolina, the occupant of the chair, FITZGERALD, LOTT, DOMENICI, CAMPBELL, KERRY, BINGAMAN, DASCHLE, MURKOWSKI, and JOHNSON.

I also thank our former colleague, Max Cleland, for his work last year on a measure that is similar to what we will soon be voting on. I thank Floyd DesChamps of the Commerce Committee staff, who has done a great job, and my staff, Frank Cavaliere.

Indeed, this legislation is a significant, constructive, and positive action to ensure that many more of our college students are provided access to better technology and education; and most importantly, even greater opportunities in life. And, with the passage of this bill, we will close the opportunity gap. We will leave no college student behind.

I yield the floor.

Mr. WARNER. Mr. President, I wish to applaud my distinguished colleague, Senator ALLEN, for his leadership. We are privileged in Virginia, primarily in the northern area, and then to an extent in the Tidewater and Richmond areas, to have a very heavy concentration of technology firms.

Under the leadership of Senator ALLEN and other Senate colleagues we are addressing the needs of the technology improvements at historically black colleges and universities. Sixty percent of all jobs require information technology skills, and jobs in information technology can pay significantly higher salaries than jobs in other fields.

At the same time, many of our historically black colleges and universities often lack the resources and the capital to offer an educational program and assistance to their students to bridge the digital divide that exists in many places in America.

The bill will establish a grant program for these institutions of higher learning to bring increased access to computer technology and the Internet to their student populations.

In Virginia, there are five historically black colleges and universities that will be given an opportunity for grants and/or matching funds to achieve this most noble goal of bridging the digital divide.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I begin by congratulating Senator ALLEN for his very important work on this legislation. Senator ALLEN has long been an advocate of equal opportunity, but he has also displayed a great deal of expertise and knowledge on a number of

high-tech issues. As a member of the Commerce Committee, he has continuously displayed that leadership and worked actively, particularly on telecommunications and high-tech issues. So I commend him for his leadership and his commitment to this important legislation. He had a lot of help, but the fact is that Senator ALLEN was the leader in this legislation, and I thank him for his outstanding work. This legislation could provide an opportunity for those who would never have an opportunity in America to grow and to prosper and to take advantage of incredible opportunities that this legislation provides.

The Digital and Wireless Network Technology Act of 2003 would establish a $250 million per year program within the National Science Foundation for fiscal years 2004 to 2008. The purpose of the grant program is to help strengthen the ability of minority-serving institutions, which includes Historically Black Colleges and Universities, Hispanic-Serving Institutions, and tribal colleges and universities, to provide educational instructions through digital and wireless network technologies.

As we look at the scenes of the war in Iraq, we are amazed at the technological capabilities of our Armed Forces. They are able to do things that we simply were not available to do just a few years ago. Nevertheless, this superiority must be supplied with a constant supply of new technologies, which are the result of the Nation's investment in a research and development infrastructure.

During these times of economic slowdown and global threat, it is imperative that our Nation's institutions of higher education are prepared to produce a technologically advanced workforce. As the demographics of the Nation become more and more diverse, minority institutions of higher education take on an even greater importance. It is estimated that in 10 years, minorities will comprise 40 percent of the college-age Americans, the pool from which the Nation's future engineers and scientist will emerge.

Rita Colwell, Director of the National Science Foundation, stated in a letter earlier this year to new members of Congress that, ''. . . American science and technology is failing to tap a vast pool of talent among our women and ethnic minorities.'' In an effort to enable the Nation to tap this underutilized pool of future engineers and scientists, it is essentially to provide assistance to minority institutions. The hundreds of MSI's should be provided with the resources to ensure that we are indeed utilizing their large student populations.

The legislation before us is not the result of any special interest groups or highly financed lobbying efforts. It is based upon data provided by 80 of the 118 HBCUs in a study entitled, ''HBCU Technology Assessment Study,'' funded by the U.S. Department of Commerce and conducted by a national black college association and a minority business.

The study assessed the computing resources, networking, and connectivity of HBCUs and other institutions that provide educational services to predominately African-American populations.

The study concluded that [During this era of continuous innovation and change, continual upgrading of networking and connectivity systems is critical if HBCUs are to continue to cross the digital divide and not fall victim to it. Failure to do this may result in what is a manageable digital divide today, evolving into an unmanageable digital gulf tomorrow. Based upon testimony provided during the February hearing held by the Commerce Committee, we concluded that the findings from the study also would apply to Hispanic-serving institutions, and tribal colleges and universities.

This legislation builds upon the work begun by Senator Cleland and many others during the last Congress. In testimony before the Commerce Committee last year, the President of the United Negro College Fund, Congressman William Gray, stated that we can ill afford to promote college graduates who enter the workforce without mastering the basic computer skills and understanding how information technology applies to their work or profession.

This point was further illuminated by the Dr. Marie McDemmond, President of Norfolk State University, when she testified at the Commerce Committee's February hearing that over 175,000 foreign nationals have come to our country in efforts to fill quality, high paying jobs in science and technology, mainly because our own workforce does not possess the skills and training necessary to fill these essential jobs.

At the same hearing, other college presidents from the Nation's HBCU's Hispanic-serving institutions and Native-American schools also testified about the daunting task of building their technology infrastructure. While these problems apply to all of our Nation's universities, they are more severe at many of our minority-serving institutions. Within the State of Arizona, for example, many of the tribal colleges and universities and Hispanic-serving institutions are facing daily technical challenges of the new millennium. They struggle, as do many other institutions, to keep up with an ever-changing networking technology environment.

I again thank Senator ALLEN for his leadership on this important issue. I think he had it right when he said this bill is about closing an economic opportunity divide. In this case, it is a divide that exists primarily because of the difference in the educational base of our citizens which affects economic opportunities.

I especially thank Senator ALLEN for including the Hispanic and tribal institutions in this legislation. I remind my friend from Virginia that in my State of Arizona, one of the poorest areas of our Nation exists in northern Arizona on the Navajo Reservation, the largest Indian reservation by far in America. These Native Americans have been left behind, as well as have African Americans and Hispanics. I thank the Senator for including especially our Native Americans but also our Hispanic populations and institutions in this legislation.

Again, I congratulate him for his commitment in this time of economic difficulties and perhaps less opportunities, and because of that, he is making, I believe, a significant step forward.

I yield the floor.

Mr. HOLLINGS. Mr. President, I would like to thank Senator ALLEN for bringing this legislation, S. 196, to the floor today. As many of you know, this bill had its genesis with our former colleague, Senator Max Cleland.

Senator Cleland knew that access to the Internet is no longer a luxury, but a necessity, and he wanted to make sure that all of our institutions of higher learning could provide their students with access to the most current technologies. That is why he introduced this legislation last Congress and I am glad that Senator ALLEN and I can bring Senator Cleland's vision to fruition today.

After all, according to a 2000 study, African Americans, Hispanics, and Native Americans constitute one-quarter of the total U.S. workforce and 30 percent of the college-age population. Yet, members of these minorities comprise only 7 percent of the U.S. computer and information science labor force; 6 percent of the engineering workforce; and less than 2 percent of the computer science faculty. These statistics are all the more important because 60 percent of all jobs require information technology skills. Furthermore, jobs in information technology pay significantly higher salaries than jobs in non-information technology fields.

So you can see, technology is rapidly advancing and we are increasingly growing dependent on it. Being digitally connected is becoming ever more critical to economic and educational advancement. Now that a multitude of Americans regularly use the Internet to conduct daily activities, people who lack access to these tools are at an increasing disadvantage. Consequently, it is crucial that all institutions of higher education provide their students with access to the most current information technology.

Unfortunately, however, due to economic constraints, many minority-serving institutions are unable to provide adequate access to the Internet and other information technology tools and applications. According to a 2000 study completed by the Department of Commerce and the National Association for Equal Opportunity in Higher Education, while 98 percent of Historically Black Colleges and Universities, HBCUs, have a campus network, half of

those surveyed did not have computers available in the location most accessible to students, their dormitories. Additionally, most HBCUs do not have high-speed connectivity to the Internet, and only 3 percent of these colleges and university indicated that financial aid was available to help their students close the computer ownership gap.

While minority-serving institutions are making progress in upgrading their network capacity, progress is not quick enough. In his testimony before the Commerce Committee on February 13, 2003, Dr. Ricardo Fernandez, president of Herbert H. Lehman College in New York City explained the challenge these institutions face:

> At my own institution . . . we are struggling to provide network access to students and faculty. Providing fiber and copper cabling, switches, and routers to every building and classroom is simply very expensive for us and cost prohibitive. . . . At the pace that we are moving, the technology we are installing may well be obsolete before the project is finished.

S. 196, the Digital and Wireless Technology Program Act of 2003, seeks to help institutions such as Lehman College or the eight eligible South Carolina colleges and universities by authorizing a program at the National Science Foundation to bring digital technologies to minority-serving institutions. These funds could be used for a variety of activities from campus wiring, to equipment upgrades, and to technology training. We need to pass this bill now so these colleges and universities—and their students—don't have to wait until the technology is obsolete before they get it.

Working with Senator ALLEN and Senator MCCAIN, we have made several changes to the bill before we brought it to the floor. At the request of the HELP Committee, we have clarified that training grants under S. 196 would be used for technology-related training and professional development. By narrowing the scope of the training, however, we do not think we would narrow the scope of the bill. Infrastructure projects like wiring classrooms or dorms could still be eligible for funding under this bill if they fit into an overall program to strengthen an institution's technological capacity.

We have also tried to address some concerns about the NSF's peer review process. I have said it before, peer review is all well and good—if you are one of the peers. Too often, the institutions that S. 196 is trying to serve are left out of NSF's peer review process. We hope that NSF, working with the advisory council established under section 4, will develop a fair and equitable process for reviewing these grants. To that end, we have added a requirement that any peer review panel should include members from eligible institutions.

Finally, we have instructed NSF to review the program with an eye toward insuring that grant recipients have demonstrated the need for this assistance so that we can address the most trenchant problems first. In addition, the grants should go to a wide variety of institutions, large and small, throughout the country.

I thank Senator ALLEN and Senator MCCAIN for helping us move this legislation. I thank the staff who worked on this bill, particularly Allison McMahan, Chan Lieu, and Jean Toal Eisen of my Commerce Committee staff and Floyd DesChamps of the majority staff. Moreover, I commend my friend Max Cleland for bringing this issue to the Senate's attention. I look forward to the passage of S. 196.

Mr. REID. Mr. President, the Senator from Iowa is yielded such time as he may consume. Rather, the Senator from Illinois.

Mr. MCCAIN. It is all the same.

Mr. DURBIN. I thank the Senator from Nevada, and I assure the Senator that Iowa and Illinois are not the same, as my colleague said. Iowa does grow more corn, but we grow more soybeans. I make that clear now.

I support this bill. This bill is introduced by Senator ALLEN and cosponsored by many of my colleagues, and I am sure it will pass with flying colors. It is a great bill that seeks to address the technology gap that exists at many minority-serving institutions across America. I commend Senator ALLEN for his leadership on this bill. I am sure that it is going to make a difference.

I also take the floor to acknowledge a man who is not here today. His name is Max Cleland. Max Cleland, during the 107th Congress, introduced S. 414, the Digital Network Technology Program Act. The bill was a work product that Senator Cleland put together with Atlanta University Center, as well as national organizations such as the Historically Black Colleges and Universities, Hispanic-serving institutions, tribal colleges and universities, and other minority-serving institutions.

Senator Cleland pushed for the Commerce Committee to hold a hearing on the bill which he chaired on February 27, 2002. After that, the committee reported the bill favorably. The bill was held on the floor by another Member of the Senate, as Senator Cleland was up for reelection. It is not uncommon when a Senator is up for reelection that people in the Senate want to try to hold back passage of legislation so that it does not create an advantage for them in the campaign. So Senator Cleland fell victim to that particular strategy. He was not a vengeful or spiteful man. I am sure he understands it, but this concept underlying this bill meant a lot to him personally.

I stand here today to make sure, as Senator ALLEN has mentioned, Senator MCCAIN mentioned, that Max Cleland's name be part of this debate. I think it should be much more than just an acknowledgment in the CONGRESSIONAL RECORD that Max Cleland worked so hard for this concept. Max Cleland, former colleague of ours, a Senator from Georgia, used to have his chair right behind me. Max became one of our favorites in the Senate over a period of 6 years. We came to know and love Max Cleland.

This is a man who was a triple amputee, a Vietnam veteran, with a disability that might have stopped the lives of so many but never stopped his will and determination. He came out of a veterans hospital with extensive rehabilitation, dealt with his disability, and became a leader in so many different areas. He, of course, was the head of the Veterans' Administration under President Carter, Secretary of State in the State of Georgia, and then ran successfully for the Senate. He came here and was one of the hardest working Members.

Those who got up this morning and felt a little tired should stop and think about what every morning was like for Max Cleland, getting out of bed and facing the reality of being a triple amputee as a Vietnam veteran. But he came to his job with joy and determination, identified causes that made a difference, and dedicated his career to pursuing them. This bill was one of them.

I am sorry that Max Cleland's name is not included within the bill. It should be. But I stand here today and say to those who follow these debates that many times those who have been the precursors and the early pioneers on ideas may not be in the Senate when the day comes for their final passage. I have seen that happen time and again in the history of this body. But I know Max Cleland can take pride, as we all do, that Senator ALLEN has picked up this torch and ran with it. He has taken the original Cleland bill, made improvements to it, changes to it, and now we have a bill which carried on in Max Cleland's tradition and I hope will serve this Nation well. I am certain that it will.

I commend Senator ALLEN and want to pay special recognition to Max Cleland for initiating conversations which led to this moment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. TALENT. I thank my friend from Virginia for yielding, and I congratulate him for his great work in getting this bill together. It is very much needed.

We cannot operate a modern college or university today without being up to date with information technology. The range of uses and needs for that kind of technology are almost unlimited. They cover everything from long distance learning to access to research for students to the ability to teach your students about information technology. Of course, most jobs include a requirement that you be up to date in that kind of technology.

Another important use for universities is helping the communities around them. I will talk about an example of that in just a few minutes. Most modern colleges and universities,

whatever their background, are networking very close to the communities which they serve. As centers of excellence in information technology there is a wide variety of ways to make a difference. That is an important contribution that historically black universities and minority institutions make.

It is important to understand these institutions are not just important for the students who attend. That is their primary function, but they are very important centers of achievement and community activities in the communities of which they are a part. That is the reason this bill is so important and why I am pleased to cosponsor it and pleased to speak for just a few minutes today on its behalf.

Most of the background has been given here and I appreciate very much the work of the chairman and Senator ALLEN in supporting this bill and assembling this information. They had a great hearing.

Let me talk about a couple of historically black colleges in Missouri that would benefit from this bill. One is Lincoln University in Jefferson City. Lincoln was founded in 1866 by former officers and soldiers of the Union Army. It has 2,500 undergraduates, 200 graduate students. David Henson, the president of Lincoln University, told us that the passage of the bill would give Lincoln the opportunity to acquire equipment, networking capability, digital network technology, wireless technology, and infrastructure to develop and provide educational services to its students, its faculties, and its staff, and also give Lincoln students universal access to campus networks around the country.

Another historically black college is Harris-Stowe State College with a rich tradition in the St. Louis area. Henry Givens, Jr., the president of Harris-Stowe State College, said this would enable their students and faculty to take advantage of a variety of sources, such as distance learning, online services, and continuing education.

I mentioned before that the colleges are very important parts of the communities they serve. Harris-Stowe helps educate young kids from the community. This kind of a grant would benefit the local public elementary school. It sends its children ranging from first to fifth grade to learn at the Southwestern Bell Library and Technology Resource Center at Harris-Stowe College. Harris-Stowe got a grant to build the center, but the technology is now very much out of date. This is another aspect that this bill will help address, and I think it is important.

Of course, most historically black colleges and minority-serving institutions have not had a lot of money and do not have access to a lot of money to build these kinds of information technology centers in the first place. But even when they can get the money to do that, it is extremely difficult for them to maintain and upgrade and update that technology. There is no area where it is more important to be up to date than the area of information technology. That is the situation with Harris-Stowe. Their resource center is 5 years old. It is greatly in need of a technology upgrade. Without Federal legislation of this type, as a practical matter that is simply not going to be possible on an ongoing basis.

But with this support it will be possible, not only because of the Federal dollars we can help provide but also because the Federal dollars will be leveraged by these institutions with foundations, with State money, and will be an important way for them to gather resources from around the community and help serve their students and their communities with information technology.

I am grateful the Senator from Virginia has taken up this legislation and pushed it. A lot of what we do here is an attempt to directly fund or subsidize what some people are doing. It works so much better when we work through institutions that already have strong records of performance and strong records of service to constituencies around the country. That is what this bill does. I am very pleased to support it.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Mr. President, I want to take this opportunity to rise in support of what I consider to be very significant legislation, S. 196, the Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003.

We have a very important opportunity in this country to make sure our universities and colleges not only do a good job in education in general, but in particular in addressing the technology gap. We know in our Historically Black Colleges and Universities and Hispanic-serving Institutions and Tribal Colleges, our Native-Hawaiian-serving Institutions and Alaska-Native-serving Institutions, there is a digital divide. This legislation would create a new grant program within the National Science Foundation that provides up to $250 million to help these colleges and universities.

In my own State of Mississippi I decided a few years ago we were trying to shoot at too many targets and we were not hitting many of them. We were missing them or we were not doing enough to make a difference. So I concluded the best thing to do was try to get a targeted focus on where we were going to put our efforts and where we were going to put our money. Those areas have been education, transportation—which can also be referred to as infrastructure, and jobs. It is not just about highways and bridges, it is also about ports and harbors and railroads and aviation, the whole package, as well as industrial sites where you can have the physical and technological infrastructure and roads that lead to jobs.

So education, transportation, and jobs are critical all over this country and in my own State, which has been one that has struggled for years to have advancement in education and economic opportunity.

I think this legislation is really important in helping to provide the up-to-date technological education that today's society demands. As we focus on education, not only at the higher education level where the Federal Government plays a critical role, but also when you look at what we need to do in kindergarten, and elementary, and secondary education—if you are going to have the whole package, you have to make sure our young people have access to a good education that allows them to read and write and do basic arithmetic. Furthermore, they must be able to perform these basic skills at the fifth grade level, at the eighth grade level, and in high school, but then be able to get into a community college, some sort of a vocational training program, or our colleges and universities, and when they get there that they will have the tools and resources that they need.

It is fair to say I am from the generation that has been struggling with technology and computers. We are sort of computer illiterates. Yet we see our children who are able to do astonishing things because they have had the exposure to the new technology.

We have to make sure that the Nation's focus applies not only to our major colleges and universities in America that primarily get the students who make very high scores on the SATs, but we also have to make sure all students—whether they attend a private university or college or a State university or our historically Black or other minority institutions—have access to good education and what is needed in the technology field. Not just computers, but the whole high-tech area.

My own State of Mississippi is home to roughly 9 percent of the Nation's Historically Black Colleges and Universities. I am pleased to be able to recognize these great eight schools in Mississippi: Alcorn State University, Coahoma Community College, Hinds Community College—Utica, Jackson State University, Mary Holmes College, Mississippi Valley State University, Rust College and Tougaloo College.

I am happy to be a cosponsor of the minority serving institution Digital and Wireless Technology Opportunity Act of 2003, because it provides another opportunity to help expand the digital and telecommunications infrastructure at the Historically Black Colleges and Universities in Mississippi. I always pay careful attention to legislation that could be beneficial for higher education institutions in my state. In fact, earlier this year, I cosponsored an amendment to the omnibus appropriations bill for fiscal year 2003 that authorizes additional funding for grants to preserve and restore historic buildings at Historically Black Colleges and Universities.

Additionally, I would like to note an example of my ongoing commitment to assist Mississippi's Historically Black Colleges and Universities in bridging the technology gap. In 2001, I worked with Allstate Insurance in their $17 million donation of a facility to establish the Mississippi e-Center at Jackson State. The e-Center is an impressive state-of-the-art complex with advanced computing and network infrastructure, and information technology faculty and support staff. Through the e-Center, Jackson State is able to fulfill its educational mission and leverage its unique strengths in the areas of remote sensing, engineering, and science and technology. I am also pleased to report that Jackson State is the only Historically Black College or University in the Nation with three supercomputers. We are making strides in Mississippi to provide all our students with access to information technology, but the Nation still has much progress to make when it comes to providing these opportunities to our minority serving institutions of higher learning and all Americans.

It is clear that while our minority serving institutions of higher learning stand ready to drive from the ''on ramp'' onto the Information Superhighway, they still lag far behind other universities in America when adjusting to the new technological innovations and changes on the forefront, such as third generation technology. I urge the passage of this legislation today so that we can hand some of America's best institutions of higher learning the technology keys they need to compete with their peers.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI.) Who yields time?

Mr. ALLEN. Madam President, we were supposed to vote on this measure at noon. There is a question of whether or not we will be voting at noon. There is a Holocaust Memorial Service at noon. At this moment, until we determine how we are going to correlate all of that, 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. ALLEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I rise today in support of S. 196, the Digital and Wireless Technology Program Act, which will provide $250 million annually for the next 5 years to address the technology needs of Historically Black Colleges and Universities, as well as colleges and universities that serve substantial numbers of Hispanic and Native American students. The ''digital divide'' has been the subject of much discussion in both the public and private sectors, and this bipartisan bill, introduced by Senators ALLEN and HOLLINGS, will help to bridge that divide.

Internet access is an increasingly critical part of the educational process. The Internet provides a critical research tool, especially for students at institutions that cannot afford to offer world-class libraries and other facilities. Indeed, internet access can be a great democratizing force if we can make it universal.

Although almost all Historically Black Colleges and Universities have a campus network in place, only about half have computers available to students in their dormitories, and only 3 percent offer financial aid to students looking to buy a computer. In addition, a majority of these schools do not use high-speed connections, even when those connections are available in their areas. Additional funding for these colleges should make a difference.

The schools struggling most mightily are those that serve Native American students. Nearly 85 percent of students at tribal colleges live at or below the poverty level, so few if any students can afford their own computers. But at Dull Knife Memorial College in Montana, 240 students must share two computers with internet access. Fewer than half of the 32 tribal colleges have access to a T–1 line. There are some success stories, however, and with additional Federal assistance we can create more.

While I am concerned about the lack of internet access among minority students, I do hope that these colleges and universities will work closely with their local communities in siting wireless facilities. The 1996 Telecommunications Act regrettably cut out local communities in deciding where new towers for wireless devices are located. The new grant program created by this bill should not be used to exacerbate this problem.

This issue is not new to the Senate. Senator Cleland introduced very similar legislation in the last Congress, and his bill was reported by the Commerce committee. Regrettably, it was held up by the Republican leadership in the Senate, presumably in order to deny Senator Cleland any victory as he sought re-election. Given the dire state of many of the schools this bill seeks to help, it is quite frustrating that Senator Cleland's bill fell victim to political machinations. It is doubly unfortunate that suggestions to name this program after Senator Cleland were rebuffed by the Republican side. It would have been a fitting tribute to the Senator who brought this and many other issues to the Senate's attention.

Despite my disappointment about that issue, however, I still believe that this is a good bill that deserves every Senator's support. It will help institutions around our Nation provide the education that their students need and deserve.

Mr. ALLEN. Madam President, I ask unanimous consent that all time be yielded back on S. 196. I believe all Senators—and I thank those who have spoken in favor of this legislation: Senators MCCAIN, TALENT, DURBIN, and LOTT, as well as myself—who wanted to speak on the legislation have.

Madam President, I yield back all time on S. 196. I also ask unanimous consent that the vote occur on passage at 1:30 p.m. today.

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is my understanding the distinguished Senator from Virginia has spoken with the majority leader, and the majority leader is going to let this vote go for some time. It is my understanding there are people on both sides who are doing other things—early and late—and this vote may have to be dragged for some time.

Is that right?

Mr. ALLEN. I say to the Senator from Nevada, that is correct. Due to the Holocaust Memorial and a variety of other things that have arisen at noon, the vote will be at 1:30. But it will be held open. It will not be a 15-minute vote. The vote will undoubtedly stay open for at least a half an hour. And at 2 o'clock there is the top-secret briefing with those officials from Defense.

Mr. REID. Madam President, further reserving the right to object, as I indicated early today, I certainly think we should be in recess during the Wolfowitz briefing, but there is a ranking member's meeting, for example, that does not end until 2 o'clock. So I ask that there be some consideration given to extending the vote for 5 or 10 minutes past 2 o'clock.

Mr. ALLEN. Madam President, I think that would be the intention. It is not just a Republican or Democrat scheduling conflict, and it will not be a 15-minute vote as such. It will be held open until all Members who are going to be here have an opportunity to vote on this measure.

Mr. REID. Madam President, I am wondering if my friend would also allow me to modify the unanimous consent request, that following the closure of the vote the Senate stand in recess until 3 o'clock.

Mr. ALLEN. Madam President, I say to the Senator from Nevada, that is under consideration. I do not have the authority to make that decision. I suspect there will not be many people here. There are a variety of things people need to do. And I certainly want to listen to Secretary Wolfowitz, but at this point I do not have the authority to make that decision. All I can say is, being patron of this measure, I want to make sure everyone is allowed to vote on it, and the vote will be held open.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Madam President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

MORNING BUSINESS

Mr. ALLEN. Madam President, I ask unanimous consent that there now be a period of morning business until 1:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. KYL are printed in today's RECORD under ''Morning Business.'')

Mr. KYL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. 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.

DIGITAL AND WIRELESS NETWORK TECHNOLOGY ACT OF 2003—Continued

Mr. ALLEN. Mr. President, I ask unanimous consent we now proceed to the vote on S. 196.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—97

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inouye	Smith
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Coleman	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lincoln	

NOT VOTING—3

Graham (FL)	Inhofe	Sarbanes

The bill (S. 196), as amended, was passed, as follows:

S. 196

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 ''Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003''.

SEC. 2. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—There is established within the National Science Foundation an Office of Minority Serving Institution Digital and Wireless Technology to carry out the provisions of this Act.

(b) PURPOSE.—The Office shall—

(1) strengthen the ability of eligible institutions to provide capacity for instruction in digital and wireless network technologies by providing grants to, or executing contracts or cooperative agreements with, those institutions to provide such instruction; and

(2) strengthen the national digital and wireless infrastructure by increasing national investment in telecommunications and technology infrastructure at eligible institutions.

SEC. 3. ACTIVITIES SUPPORTED.

An eligible institution shall use a grant, contract, or cooperative agreement awarded under this Act—

(1) to acquire the equipment, instrumentation, networking capability, hardware and software, digital network technology, wireless technology, and infrastructure;

(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;

(3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;

(4) to implement joint projects and consortia to provide education regarding technology in the classroom with a State or State education agency, local education agency, community-based organization, national non-profit organization, or business, including minority businesses;

(5) to provide professional development in science, mathematics, engineering, or technology to administrators and faculty of eligible institutions with institutional responsibility for technology education;

(6) to provide capacity-building technical assistance to eligible institutions through remote technical support, technical assistance workshops, distance learning, new technologies, and other technological applications;

(7) to foster the use of information communications technology to increase scientific, mathematical, engineering, and technology instruction and research; and

(8) to develop proposals to be submitted under this Act and to develop strategic plans for information technology investments.

SEC. 4. APPLICATION AND REVIEW PROCEDURE.

(a) IN GENERAL.—To be eligible to receive a grant, contract, or cooperative agreement under this Act, an eligible institution shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. The Director, in consultation with the advisory council established under subsection (b), shall establish a procedure by which to accept and review such applications and publish an announcement of such procedure, including a statement regarding the availability of funds, in the Federal Register.

(b) ADVISORY COUNCIL.—The Director shall establish an advisory council to advise the Director on the best approaches for involving eligible institutions in the activities described in section 3, and for reviewing and evaluating proposals submitted to the program. In selecting the members of the advisory council, the Director may consult with representatives of appropriate organizations, including representatives of eligible institutions, to ensure that the membership of the advisory council reflects participation by technology and telecommunications institutions, minority businesses, eligible institution communities, Federal agency personnel, and other individuals who are knowledgeable about eligible institutions and technology issues. Any panel assembled to review a proposal submitted to the program shall include members from minority serving institutions. Program review criteria shall include consideration of—

(1) demonstrated need for assistance under this Act; and

(2) diversity among the types of institutions receiving assistance under this Act.

(c) DATA COLLECTION.—An eligible institution that receives a grant, contract, or cooperative agreement under section 2 shall provide the Office with any relevant institutional statistical or demographic data requested by the Office.

(d) INFORMATION DISSEMINATION.—The Director shall convene an annual meeting of eligible institutions receiving grants, contracts, or cooperative agreements under section 2 for the purposes of—

(1) fostering collaboration and capacity-building activities among eligible institutions; and

(2) disseminating information and ideas generated by such meetings.

SEC. 5. MATCHING REQUIREMENT.

The Director may not award a grant, contract, or cooperative agreement to an eligible institution under this Act unless such institution agrees that, with respect to the costs to be incurred by the institution in carrying out the program for which the grant, contract, or cooperative agreement was awarded, such institution will make available (directly or through donations from public or private entities) non-Federal contributions in an amount equal to ¼ of the

amount of the grant, contract, or cooperative agreement awarded by the Director, or $500,000, whichever is the lesser amount. The Director shall waive the matching requirement for any institution or consortium with no endowment, or an endowment that has a current dollar value lower than $50,000,000.

SEC. 6. LIMITATIONS.

(a) IN GENERAL.—An eligible institution that receives a grant, contract, or cooperative agreement under this Act that exceeds $2,500,000, shall not be eligible to receive another grant, contract, or cooperative agreement under this Act until every other eligible institution that has applied for a grant, contract, or cooperative agreement under this Act has received such a grant, contract, or cooperative.

(b) AWARDS ADMINISTERED BY ELIGIBLE INSTITUTION.—Each grant, contract, or cooperative agreement awarded under this Act shall be made to, and administered by, an eligible institution, even when it is awarded for the implementation of a consortium or joint project.

SEC. 7. ANNUAL REPORT AND EVALUATION.

(a) ANNUAL REPORT REQUIRED FROM RECIPIENTS.—Each institution that receives a grant, contract, or cooperative agreement under this Act shall provide an annual report to the Director on its use of the grant, contract, or cooperative agreement.

(b) EVALUATION BY DIRECTOR.—The Director, in consultation with the Secretary of Education, shall—

(1) review the reports provided under subsection (a) each year; and

(2) evaluate the program authorized by section 3 on the basis of those reports every 2 years.

(c) CONTENTS OF EVALUATION.—The Director, in the evaluation, shall describe the activities undertaken by those institutions and shall assess the short-range and long-range impact of activities carried out under the grant, contract, or cooperative agreement on the students, faculty, and staff of the institutions.

(d) REPORT TO CONGRESS.—The Director shall submit a report to the Congress based on the evaluation. In the report, the Director shall include such recommendations, including recommendations concerning the continuing need for Federal support of the program, as may be appropriate.

SEC. 8. DEFINITIONS.

In this Act:

(1) ELIGIBLE INSTITUTION.—The term ''eligible institution'' means an institution that is—

(A) a historically Black college or university that is a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)), an institution described in section 326(e)(1)(A), (B), or (C) of that Act (20 U.S.C. 1063b(e)(1)(A), (B), or (C)), or a consortium of institutions described in this subparagraph;

(B) a Hispanic-serving institution, as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

(C) a tribally controlled college or university, as defined in section 316(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(3));

(D) an Alaska Native-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b));

(E) a Native Hawaiian-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)); or

(F) an institution determined by the Director, in consultation with the Secretary of Education, to have enrolled a substantial number of minority, low-income students during the previous academic year who received assistance under subpart I of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) for that year.

(2) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(3) MINORITY BUSINESS.—The term ''minority business'' includes HUBZone small business concerns (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p)).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the National Science Foundation $250,000,000 for each of the fiscal years 2004 through 2008 to carry out this Act.

The PRESIDING OFFICER. The majority leader.

RECESS

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now stand in recess until 3 p.m. today.

There being no objection, the Senate, at 2:11 p.m., recessed until 3 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive Calendar No. 86, which the clerk will report.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I wish to speak about the nomination of Priscilla Owen. I thank the Senator from North Dakota for allowing me to go first.

I rise in opposition to the nomination of Priscilla Owen to the U.S. Court of appeals for the Fifth Circuit. I know the President has the constitutional responsibility to appoint Federal judges. I respect that right. In fact, I have voted for President Bush's judicial nominations 97 percent of the time. Yet the Senate also has the constitutional responsibility to advise and consent. We cannot rubberstamp nominations. Our courts are charged with safeguarding the very principles on which our country was built: justice, equality, individual liberty, and the basic implicit right of privacy.

When I look at a nominee, I have three criteria: judicial competence, personal integrity, and a commitment to core constitutional principles.

I carefully reviewed Judge Owen's rulings and opinions. I read the dissenting opinions of other judges and the views of legal scholars. I have concluded that Judge Owen does not meet my criteria. Her decisions appear to be driven by ideology—not by law. She appears to be far outside the mainstream of judicial thinking, and her extreme and ideological agenda would make her unsuitable to sit on the Court of Appeals for the Fifth Circuit.

What we are considering with an appellate nomination is a lifetime appointment for a court that is only one step below the Supreme Court. The decisions made by this court have a lasting impact on the lives of all Americans for generations to come. This court's decisions will affect America's fundamental protections involving civil rights, individual liberty, health, and safety, and the implicit right of privacy. We need to be very careful about what we do.

That is why President Bush and all Presidents should nominate competent, moderate judges who reflect broad American values. No President should try to place ideologues on the court. If they do, I am concerned that it will slow the pace of confirmations, backlog our courts, and deny justice for too many Americans. Yet in nominating Judge Owen, the President has chosen someone with an extreme ideological agenda on civil rights, individual rights, and the rights of privacy.

Judge Owen has pursued an extreme activist agenda. Can anyone be surprised that this nomination has so many flashing yellow lights?

When President Bush discussed what would be his criteria for nominating judges, he said his standard for judicial nominees would be that they ''share a commitment to follow and apply the law, not to make law from the bench.''

We applaud that criteria from the President. But I must say when we look at Priscilla Owen, that is exactly what she does. She makes law and does not limit herself to interpreting law, and, therefore, fails the President's own criteria.

The Texas court-watching journal, Juris Publici, said that Owen is a ''conservative judicial activist.'' That means she has a consistent pattern of putting her ideology above the law and ignoring statutory language and substituting her own views.

She has offered over 16 significant activist opinions and joined 15 others. Even White House counsel Judge Alberto Gonzales, who served with Judge Owen on the Texas Supreme Court, once called her dissent in the case ''unconscionable . . . judicial activist.''

In a different case, Judge Gonzales called a dissent by Judge Owen an attempt to ''judicially amend'' a Texas statute. A number of dissents she wrote or joined in would have effectively rewritten or disregarded the law usually to the detriment of ordinary citizens.

An example: Quantum Chemical Corp v. Toennies was a case concerning age discrimination based on a civil rights statute. The majority of the Texas Supreme Court found for the plaintiff. Owen's dissent stated that the plaintiff needed to show that discrimination was a motivating factor. Her dissent would have changed Texas law and

weakened Texas civil rights protections.

On the issue of individual rights to seek justice, I think we all believe the courthouse door must always be open. When you walk through that door, you must find an independent judiciary. Yet Owen's rulings show a bias against the rights of consumers, victims, and individuals. She has consistently ruled against workers, accident victims, and victims of discrimination. These decisions would impair the rights of ordinary people from having access to the courts to obtain justice.

In Montgomery Independent School District v. Davis, a case concerning a teacher whose contract was not renewed, the teacher requested a hearing, which is allowed under the Texas Education Code. The hearing examiner found that the school district didn't have a justification to fire the teacher and said her contract should be renewed. The school board fired her.

The majority of the Texas Supreme Court found the school board went over its legal authority, and Judge Owen's dissent ignored the language and it would have weakened the rights of this teacher and all of those before the court. The majority of the court found that Owen's dissent showed ''disregard of the procedural elements the legislation established to ensure the hearing examiner's process is fair and efficient for both teachers and school boards.''

On the right to privacy, zealous opposition to women's rights to choose is a hallmark of Judge Owen's legal rulings. She used her position on the Texas Supreme Court to restrict women's rights to choose by ignoring the statute to create additional barriers for women seeking an abortion. Her opinions have been biased and unfair.

An example: Texas law requires that a minor's parent be notified before she can obtain an abortion. Many of us agree with that. But we also agree with the fact that there is a judicial bypass enabling a mature, well-informed minor to obtain a court order permitting abortion without parental notification, which in several cases Judge Owen dissented vigorously from the majority of the court. That would have resulted in the rewriting of Texas law to place more hurdles in front of minors.

In Jane Doe, the majority actually included an extremely unusual section explaining the proper role of judges admonishing the dissent, including Owen's duty to interpret the law and not attempt to create policy. Judge Owen has ignored the law, seeking to impose new and impossibly high standards for minors who seek abortions.

Based on her rulings and written arguments, I can only conclude that Judge Owen would use her position to undermine existing laws and the constitutional protection of a woman's right to choose. When you do that, you undermine the principles related to the implicit right of privacy.

Also very troubling to me is that in her opinions Judge Owen has often substituted her authority for that of civil juries. She has a consistent and persistent pattern of overriding juries' decisions. When the jury has taken a position of awarding claims to accident victims and victims of discrimination, Judge Owen has tried to undermine them.

In Uniroyal Goodrich Tire Company v. Martinez, in a product liability suit brought by a man who was severely injured when a tire he was working on exploded, a jury found in favor of the plaintiff. A key issue was whether the manufacturer could be held liable because it knew of a safer alternative product design.

The majority of the Texas Supreme Court sided with the jury's verdict. But Owen dissented. Had her opinion prevailed, it would have overturned a jury verdict.

I could give example after example after example. I am not going to go on just for the sake of going on. There are others who wish to speak. I believe we should have full debate on the Owen nomination.

Let me conclude by saying that the President does have the right to nominate judges, but I cannot consent to the nomination of Judge Owen. My advice to the President is to give us moderate judges. We have approved of many of them. We want to be supportive. But in this instance, she is so far outside the mainstream of judicial thinking.

My advice to the President is to withdraw the nomination and appoint a nominee who will fairly interpret the law for all Americans, and follow the Bush test of interpreting the law and not making the law.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I listened to my colleague from Maryland and appreciate her comments. Let me make a couple of additional comments with respect to this issue of judgeships.

I have spoken previously on the floor of the Senate about the Estrada nomination. What I indicated then was that Mr. Estrada, who aspires to have a lifetime seat on the second highest court in the country, the DC Circuit Court, did not answer basic questions put to him by the Judiciary Committee at his hearing.

The administration has not released the information that has been requested by Members of the Senate with respect to Mr. Estrada's work at the Solicitor General's Office. That is information that has been requested of him and the administration so we might understand a bit more about Mr. Estrada and his qualifications. Despite the fact that Mr. Estrada did not answer the basic questions at his hearing, the administration has not released the information that has been requested of his nomination.

There are some in the Senate—and perhaps some in the country—who believe there is a requirement for the Senate to proceed in any event to give Mr. Estrada his vote. There is no such requirement.

The Constitution provides the mechanism by which we give citizens of this country lifetime appointments to the judiciary on the Federal bench. And that Constitution provides two steps: One, the President shall propose, by sending a nomination to the Senate; and, second, the Senate shall advise and consent, by deciding whether they wish this candidate to have a lifetime appointment on the Federal bench. It is not some entitlement that any President—Republican or Democratic—has to be able to send a nomination to the Senate and have that nomination automatically considered. In fact, in recent years, this particular circuit court, the DC Circuit Court, has had a number of nominations sent to the Senate from another President of a different party, and the Senate not only did not bring it to the floor, the candidates did not even get a hearing—not a 5-minute hearing—let alone a hearing and a vote in the committee and then going to the floor and having a vote.

Those candidates never even got a hearing. Mr. Estrada got a hearing. He received the hearing I think he should have received, but he did not answer the questions at the hearing. And the administration and Mr. Estrada have not provided information requested of him. Therefore, Mr. Estrada's nomination is not proceeding.

The Members of the Senate have the right, and perhaps the obligation, if they choose, to stop a nomination they think represents a nomination offered by a President trying to stack the judiciary or pack the judiciary with those of a certain extreme philosophy. It is not out of bounds for any group of Senators to decide to say to the President: This is a partnership. You propose; we dispose. You nominate; we provide advice and consent.

In order to have candidates on the Federal bench, they have to be candidates who are going to be approved by the Senate. I expect a Republican President will nominate Republican judges. In North Dakota, we have had two recent open judgeships—one in Bismarck, one in Fargo. Both judgeships have now been filled by Republican judges. I am a Democrat. I supported both candidates. Both are exceptionally well qualified. I am proud of both of them. They have both assumed their duties. I voted for both. I told the President I fully supported both. That is the way this process should work.

Regrettably, it is not working that way with respect to some nominations. The White House, instead, is saying: We intend to strain candidates through a philosophical filter, and notwithstanding what we think might or might not happen in the Senate, we are going to send people to the Senate who are to the far edge of the philosophical spectrum. If the Senate does not like it, tough luck; we are somehow going

to auger up a lot of noise around the country that says the Senate has an obligation to proceed. We have no such obligation. The President and the Senate have an obligation in this partnership to make sure we get good judges on the Federal bench.

I just want everyone to be clear, I have voted for almost all of the nominations for Federal judges sent to us by the President. I voted, I believe, for 112 of them. I have only voted against a very few. I intend to support most of the President's nominees.

But when the President sends us the nomination of a candidate whose positions are well off the norm, way off to the side of the philosophical chart, we have every right—in fact, an obligation—to make our judgment known in the Senate. That is what is going to happen if Mr. Gonzales and President Bush decide they are going to try to stack or pack, as it were, circuit judgeships with candidates for those judgeships who philosophically are not anywhere near the center of Republican and Democratic philosophies in this country.

In any event, I just wanted to make that point. I think the comments made by the Senator from Maryland are right on point, and I hope at some point we are able to move ahead.

We have another Hispanic judge who has been waiting who has been cleared on the Judiciary Committee. We are wondering why that judge is not on the floor. He should be on the floor. Perhaps his nomination is coming to the floor, but we have been calling for that. I believe the minority leader yesterday asked unanimous consent to bring that judgeship to the floor. He has the support of most everyone.

FREE TRADE AGREEMENT WITH SINGAPORE

Mr. DORGAN. Madam President, on Thursday of next week, U.S. officials will sign a trade agreement with Singapore. It will be the first free trade agreement that is negotiated under so-called fast track. Fast track, incidentally, is a procedure that the Senate adopted in a Byzantine way. They did it without my vote, but enough Senators did it so that we have a fast-track procedure, which is a guarantee that your trade negotiators can go overseas, go in a closed room, close the door, keep the public out, and then you reach a negotiation with another country.

When you bring it back to the Senate, we will agree that none of us will be able to offer any amendment at any time. What we have said is, bring us a straitjacket so we can put it on and we can all grin.

It makes no sense. That is what the Senate has done. So now we will have a free trade agreement coming back to the Senate, the first one under the so-called fast-track procedure, and it is done with the country of Singapore.

Let me read what is in the trade agreement, just one piece. There are many, and I will talk about them in future days. All of this is cloaked in language that is hard to understand, but the implications are not hard to understand because it is related to American jobs. It all relates to waving goodbye to American manufacturing jobs. Article 32, treatment of certain products, under chapter 3: A party shall consider a good listed in annex 2 when imported into its territory from the territory of another port to be an originating good. Within 6 months after entry into force of the agreement, the parties shall meet to explore the expansion of the product coverage of annex 2.

This sounds like six or eight people sitting around drinking, but these are pretty smart people who have reached a trade agreement. This is the way they write it: A party shall consider a good listed in annex 2 when imported into its territory from the territory of another party to be an originating good.

What does that mean? What that means is that, in the circumstances of a free trade agreement with Singapore, products such as electronics, semiconductors, computers, telecommunications equipment, cell phones, fiber cables, optical cables, photocopy equipment, medical instruments, appliances, a wide range of high-tech products can come in through the free trade agreement with Singapore, even if they are not produced there. If they are produced elsewhere, they come through Singapore and come into this country under a free trade agreement.

It is fascinating to me that in the last 12 years we have lost 2 million jobs. I am not talking about decreasing the rate of growth of jobs. This country has lost over 2 million jobs. We are off negotiating new trade agreements—and, incidentally, proposing new fiscal policies that will exacerbate the loss of jobs with huge Federal deficits—and we say to other countries, by the way, we will give you a special deal. We don't care much about providing basic protection of fair competition for America's domestic manufacturers. We will give you a special deal.

The special deal is this, Singapore: You can move goods through Singapore, high-tech goods, the product of high-skilled labor, good jobs. You can move them through Singapore through a free trade agreement into the United States and displace American jobs. That is what this says.

In every single circumstance we have negotiated trade agreements—United States-Canada, NAFTA, the WTO—in agreement after agreement, we have said to American workers and companies producing goods, we want you to compete with others overseas that don't have to meet any basic standards. It doesn't matter if the country will not allow them to organize as workers, if they don't have worker rights, if they hire kids, work them 16 hours a day, pay them 16 cents an hour. That doesn't matter. They should be able to produce those products, these agreements say, and run them through Singapore, some other country, run them through Mexico, for that matter, and move them into Toledo and Pittsburgh and Bismarck and Los Angeles and Pierre, and then have American workers and businesses compete with that labor.

What does it mean? It means we can't compete. Is there an American worker who decides they can compete against 16-cents-an-hour labor performed by a 14-year-old who works 16 hours a day in a plant where they don't have basic safety standards, where they can pump pollution into the air and water; is there anybody who can compete with that? The answer is no. And they should not be expected to.

This Singapore free trade agreement is coming here under fast track. We cannot offer amendments. There isn't one single parliamentary step that will be missed as we move to try to consider this. When they sign this next Thursday—and they certainly should not sign it with this provision in it; this is a loophole big enough to drive a semi truck through—let them understand that there will be no unanimous consent agreement for anything under any circumstance at any step of the way to get this considered by the Senate.

They will get it considered, no doubt, and no doubt those Senators who decided they would like to put themselves in the straitjacket and prevent themselves from offering an amendment—God forbid they should try to correct this—they will vote for it. And no doubt the Senate will ratify this free trade agreement. I am just serving notice that it is going to take some time. We will have some lengthy discussion about it.

There is no justification, in my judgment, for this kind of nonsense. I will come to the floor in a day or so to also talk about China. We did a bilateral trade agreement with them 2 years ago that has not meant a thing. It is like spitting in a high wind. They agreed to everything so they could join the World Trade Organization. We have a $103 billion trade deficit with China. Our jobs have been exported.

The fact is, China has not done what they said they would do in the bilateral agreement. And nobody seems to care. We have all these bureaucrats running around, most of them negotiating incompetent trade agreements. We have a few of them down at the Department of Commerce who are supposed to enforce the trade agreements.

Take a look at what we have. We have this miserable skeleton of an enforcement unit. We have no more than a dozen people who are supposed to enforce the trade agreements in China. If you gave them a pop quiz, they would not have the foggiest idea of what is in the agreements, let alone enforce them. I think we have a growing scandal with the imbalance in Chinese trade, especially since we had a bilateral agreement 2 years ago with them and they have complied with none of it.

Madam President, I want to serve notice on the Singapore free trade agreement that there is a lot to fix in this agreement. It doesn't mean a thing when people such as I talk about this because our trade negotiators don't care; they don't see; they are in their little cocoon, and they will negotiate, and the success of their life is reaching an agreement—even if it is bad. They did a bad agreement with Canada, with NAFTA, and with the WTO, and a bad agreement with Singapore. Apparently, they have not done a bad one with Chile yet because we didn't know where they stood on Iraq. The fact is, it is time for them to stop doing bad agreements and time for them, on behalf of American workers and companies, to say we demand and insist on fair trade. That certainly will not be the case with respect to the agreements we expect in future free trade deals, with respect to labor protections and a whole range of issues in the Singapore agreement.

THE SIZE OF THE TAX CUT

Madam President, I want to talk for a moment about the front-page issue every day these days, and that is how big will be the tax cut. That misses the point. Our press almost always reports all this as a horserace. It is never much about the horse or jockey; it is about who is ahead down the stretch. Does he or doesn't he have the support to get 350, 550, or 750? What would be much more important would be to have a report that talked about: What does this really mean for our country? What are the experts really saying? What are the consequences? Where will this come from? Now, a tax cut.

Well, we have lost slightly more than 2.6 million jobs in the last nearly 2 ½ years, and that is unusual because in the last 50 years every single administration has seen a growth in jobs—some less than others; nonetheless, a growth. We have, in this circumstance, lost jobs—2.6 million in 2 ½ years.

You can make a case—and I think part of it is valid—that we had 9/11, the war on terror, the war in Iraq, the technology bubble bust, the collapse of the stock market, the bursting of the tech bubble, and we had the largest corporate scandals in the history of the country. So you can make a pretty good case that all of these things intersecting at the same time have caused a lot of havoc with this country and our economy.

But it is the easiest lifting in American politics for any politician at any time to say: Do you know what I stand for? I stand perpetually for reducing taxes and tax cuts.

If, in fact, cutting taxes always creates jobs, sign me up for $2 trillion in tax cuts. Just sign me up. Then I think the President's $700 billion proposal of permanent tax cuts is way too short. If this in fact creates jobs, let's do $4 trillion in tax cuts. But we know what is happening here. We know that 2 years ago we were told if we had very large tax cuts, and Congress voted for them, what we would be doing was giving back surpluses that would exist in our budget as long as 10 years down the line, as far as the eye could see. So the Congress supported very large permanent tax cuts. I did not, because I said at the time I thought we should do them on a temporary basis, in order to be a business conservative, and then figure out what is going to happen in the future.

What if something happens? It did. We found ourselves in a recession, a war, the bubble burst, and corporate scandals. Congress said: The heck with that; we see surpluses forever. Two years later, we have projections by all economists that we are going to have deficits forever. Even the President's budget has deficits predicted for 10 straight years. The President's budget—which was on our desks right here, and the Senate voted for it—said let's increase the Federal indebtedness from $6 trillion to $12 trillion in 10 years.

I am not making that up. It is on page 6 of the Budget Act that the Senate voted for and the President supported. It is what he wanted. Let's double the Federal debt. Now they say let's have very large tax cuts. Where do they come from? Every single dollar of the tax cut is to be borrowed. So we send our sons and daughters to war; and then we say: By the way, when you come back, you are going to pay the bill because we are not paying for that.

Just yesterday, the Wall Street Journal pointed out that the Federal Government will need to borrow $79 billion in this quarter. That is a reversal of the more than $100 billion that was estimated for this quarter. So we missed the economic results by $100 billion in this quarter. I think the Government spends too much in a range of areas. I think we ought to cut spending. I think we ought to make sure that those things that improve the lives of people in this country are the things in which we invest. I think we ought to make sure we deal with education, health care, roads, and the kinds of things that represent infrastructure that make this a great country.

But having said all that, I think to borrow $6 trillion more in 10 years in order to provide tax cuts, the bulk of which will go to the largest income earners in the country—if you do that, look at the economic data. They say if you earn $1 million a year, good, you are lucky because you are going to get an $80,000-a-year tax cut with the President's plan, on average. At this point, when we are choking on red ink and proposing to double the Federal debt from $6 trillion to $12 trillion, do we think those who earn a million dollars a year, on average, should receive an $80,000 a year tax cut? I don't think so. That ought not be the priority.

The very first priority might be to reduce the Federal debt and get our fiscal house in order; second, to invest in those things that make life worthwhile, improve our schools, do a range of things like that. In addition to that, we should, as many colleagues say, cut spending in areas where we spend too much—and there are plenty of them.

I find it bizarre that we are having a national discussion about this without any requirement for their being specific. If you want, at a time when we have very large budget deficits, to reduce the tax revenue by $550 billion or $750 billion over 10 years, then what don't you want to do? Do you want to increase defense spending? That is going to happen. Increase homeland security spending? That is going to happen. Have very large tax cuts? That is going to happen. So what don't you want to do? What is it in domestic discretionary spending? Educating our kids? Making sure grandma and grandpa have access to adequate health care? Having safe neighborhoods? What is it you don't want to do in that batch? How about building roads and bridges to make sure we have a good infrastructure? What is it you don't want to do? I think that is a question that needs to be answered.

Madam President, it is not answered by anybody. All the reporting is on the horserace—who is ahead coming around the turn? Does the President have the vote or not? Is this Senator or that Senator finally going to turn or relent? That is not the issue.

Take a look at the best economic thinkers in this country, 10 Nobel laureates, and ask them what they think of this country's economic future if we don't have some basic fiscal responsibility. I come from a small town, with 380 people or so. It has shrunk a bit since then. But most people in America's towns and cities think about all this in practical, candid terms, making sure it adds up. They say let's handle this as a business or a family.

Well, let's do that then. If you are short of revenue, do you want to cut your revenue further and increase spending? How does that add up? I didn't take higher math, but I learned that 1 plus 1 equals 2 in Kansas, in North Dakota, in New York, and all over the country—except in fiscal policy in Washington, DC, where 1 plus 1 equals 3, and apparently $12 trillion in additional debt. That is not a fiscal policy, in my judgment, that is good for my kids, your kids, or America's kids.

I am not saying one party is all right or wrong. I am saying this: There isn't any way we can reconcile this with what is happening in the country today. We have turned the largest surplus in American history into the largest deficits. Yes, you can make a case that a lot of things have happened that have intervened to make that happen that are outside of the control of the Congress and the President; yes, that is true. But if that is the case, then should we not recognize that? If 9/11 says we need more spending for homeland security, we just charge it to the future and say, well, we need to do that, but let's have tax cuts, too. If 9/11 says and Iraq means we need more

money for defense spending, we say, let's just charge that and we will have tax cuts, too. One way or another this has to be reconciled.

I am in favor of some tax cuts. I would like to see some tax cuts. I think the American people would like tax cuts. But when someone says let's have the American people keep more of their own money, the answer to that on the reverse side of the same coin is let's charge more to the American people because they are going to have to pay for it. One can argue trade deficits are going to have to be paid by a lower standard of living in this country, but our kids and grandkids are going to pay for a fiscal policy deficit. It is a selfish fiscal policy, in my judgment, and one we ought to reverse.

We ought to try to call on the best of what both parties have to offer this country, not the worst of each. In my judgment, the best both parties have to offer this country is some basic conservative values of saying let's do what is right to invest in what makes this a good country and at the same time let's pay for that which we want to consume. Let's have a fiscal policy that says to every American, this adds up. Let's say to our kids we are not going to have them shoulder the burden of what we are doing today. That is what our fiscal policy ought to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I will speak to the pending business, which is the nomination of Priscilla Owen to the circuit court of appeals. She is a highly qualified person who really needs to be recognized. We need to move through this rapidly.

The last 2 years, I was honored to be able to serve on the Judiciary Committee. We held extensive hearings on Priscilla Owen to be a circuit court judge. She went through those hearings in an extraordinary fashion. It was a learning experience. It was as if a professor was there teaching and going through with us, here is how I decided this case, here is hornbook law on this, here is how this should be decided, here is how I viewed the issue. She really has a fine-tuned legal mind. I was impressed by the legal mind she has.

I was impressed by the common sense she had with it as well. It was as if this was a highly trained legal mind well adapted to being able to judge, but also with a sense of values of the people, which is as one would expect because she was elected to the Texas Supreme Court. She has been around the public. She knows how people think.

When a lot of people look at the judiciary in the United States, they do not feel like they get a sensible approach to judging a fair amount of time. She is an extraordinary person to have both that depth of mental training and ability and a sensible touch that the people really desire and want to have in somebody on the judiciary.

What I am most distressed about is it appears as if now we are going to get our second filibuster of a circuit court judge from the Democratic Party. In the past, we have not had filibusters of judges. We have had them at a Supreme Court level but not the circuit or district court level. Now it appears as if we are going to get our second filibuster of a judge in a matter of a couple of months. This, of course, is to raise the vote standard so she does not have to get 51 votes, she has to get 60 votes to be able to go on the circuit court of appeals.

This is not advice and consent of the Senate, which is what our standard is held to. We are to give advice and consent on judges. They should be appointed by the administration and then there should be advice and consent. That should be a 51-vote margin. It should not be a 60-vote margin that now the other side is attempting to establish. This is a very distressing situation we are getting into.

How many more judges are we going to see like that who are nominated for the circuit court? Are we going to continue to put them forward and the other side will say we are going to filibuster for whatever reason? How many of these is it to be?

I recognize what the strategy is. It is to keep the circuit court reduced of judges, not to allow this President to appoint his judges, not to allow him to put his print upon the judiciary. I recognize that is what is happening on the other side of the aisle, but when they do that, one needs to recognize the long-term policy implications of so doing. Now they are saying a President cannot appoint his or her judges to the bench; that when they were elected and selected by the people of the United States, now they cannot appoint people to the court; that the other party, if they can control 51 votes, can block the President. This is not about advice and consent. It is about blocking a President from appointing his judges to the Federal bench.

We have not seen this strategy before. It was always the President puts forward his nominees, we hold hearings, and then if they can be blocked with 51 votes, they are blocked, but not filibustering of circuit court judges. This is a dangerous area.

On the other hand, we could say the other party is looking at this saying this represents a two-fer for us: We cannot only block the President from getting his judges on the bench, we can block the Senate from doing other business.

We do not normally take weeks on end to do a Federal circuit court nominee, but that is what we are ending up doing with Miguel Estrada and now with Priscilla Owen. We are spending weeks on end of Senate floor time on a circuit court judge. That is not how the system is set up.

These nominations should be taking a couple of hours, at most, for debate and voting, and then we should be moving on and debating fiscal stimulus, how do we get this economy growing, how do we create more jobs. We have a number of issues in regard to rural development. How do we get more people to move out into rural areas of Kansas. We have plenty of issues on foreign policy to debate. What about the new Iraqi leadership? What about the relationship of the United States to the U.N.? There is a whole litany of issues we could be taking floor time up with, but instead we are on circuit court judges that should be debated in an hour or two, voted up or down by advice and consent of the Senate, as it says in the Constitution, and moving forward. We are taking up valuable time instead, weeks on end, with circuit court judges that should have a clear vote up or down.

This hurts the country on two fronts. It hurts on the judiciary, on not having the people appointed to the bench that we need to have, and it hurts us by not being able to do other business we should be focused on in the Senate. That is not a useful way for us to conduct business in the Senate.

I urge the other side of the aisle to please step forward and stop the filibuster of circuit court judges. That is not the way we need to operate to be able to get the business done.

On top of that, we have circuit courts around the country that in some cases have only half of the judges that are necessary. The other half have resigned or left office and so we have enormous vacancies. Some people would say they like it that way because then two circuit court judges can pick a third one—maybe it is two liberal circuit court judges can pick a district court judge, bring them up to a three-judge panel to have a liberal-leaning panel and we can set policy and set law that way. But that is not the way the system is set to operate, even though it does operate that way. We really need to move forward in this area.

I do not normally come to the floor to harangue about what is taking place in the judiciary, but in this case this is beyond the pale. This is not what should be taking place. It is hurting us and it is hurting the country.

GROWING THE ECONOMY

I will take a minute or two to address some of the topics that came up about the economy. We need to get this economy growing and going. I will make a couple of brief observations.

At the Federal level, we have two major tools to grow the economy. We have monetary policy and we have fiscal policy. Monetary policy is set by the Fed, not by the Congress but by the Fed. The Fed can set interest rates high or low, control the supply of money. The Fed is doing the exact right thing to grow the economy today with low interest rates. That is as it should be.

On the other side of that is fiscal policy, and that is what the Congress does. We have tools at our disposal to try to grow the economy. One of the major tools is tax policy. Do we increase taxes, do we decrease taxes, in a way to stimulate the economy?

The most stimulative tool that is available to us is to lower tax rates. That grows the economy. It grew the economy when President Reagan cut taxes. It grew the economy when President Kennedy cut taxes. That is the way the economy grows.

Some people would say, look at the deficit we are in now; we cannot afford to reduce the taxes at this point in time. I would answer, we cannot afford not to reduce taxes to stimulate the economy. In the last 2 years, we have seen a reduction in Federal receipts of 9 percent, and an increase of Federal expenditures of around 12 percent. Quick math tells us we are going to be in a real problem when we have those two trend lines.

The Federal receipts have gone down 9 percent. That is not as a result of changes of tax policy. That is a result of the economy being soft and not producing the economic lift and push we need. And, frankly, the rest of the world needs a strong and robust U.S. economy as well.

How do we get the economy going again? We need to stimulate growth with tax cuts. I will give one quick fact. Last year we saw a reduction in capital gains tax receipts of about $80 billion. There has been $80 billion in loss in capital gains tax receipts. That is not the result of a tax policy shift. That is primarily the result of the stock market falling dramatically the last couple of years, the tech boom going bust, problems and fears of what has taken place around the world, 9/11, a series of things where people pulled funds out of the market; instead of having capital gains, they had capital losses.

Some say the stock market does not affect most people. Yet half of Americans have some investment or retirement tied into the stock market. What can we do there? We can do away with that double taxation of corporate dividends as a way to stimulate investment and stimulate growth in the stock market. Plus, it is just good tax policy to not tax something twice.

What about balancing the budget? I have been a part of a Congress that has balanced the budget. I came to the House of Representatives in 1994. One of our major pushes was to balance the budget, which had not been done since 1969, and then it was actually an accounting move that allowed us to balance the budget in 1969. It had not been done for 20 years prior to that, but from 1969 until we balanced it about 5 years ago, the budget had not been balanced.

One of our key pushes was to balance the budget. So I have been a part of a Congress that has actually balanced the budget. It is the Congress that balances the budget. We are the ones who write the checks. The administration, the Presidency, spends the money. They can spend less if they choose in some situations, but we are the ones who actually authorize and appropriate.

How do we balance the budget? I think we have found the formula for doing it. We grow the economy and we restrain your growth in Federal spending until the lines intersect and you get the economy growing strong, and then you restrain your growth in Federal spending until those intersect. That is how we balance the budget. We had a growing economy, but instead of spending this increase in Federal receipts, we restrained the growth of Federal spending and those intersected and we got 3 years of significantly balanced budgets, done by a Republican Congress. That is how you get it done.

What is our key now? Our key now is to get the economy growing, cut taxes to stimulate the growth, and restrain the growth of Federal spending. I put forward a bill with several people as one way of restraining Federal spending, to create a domestic program equivalent to the Base Closure Commission. We have a Base Closure Commission that has been very successful saying we have too many military bases; we need to eliminate some of those, consolidate them in fewer areas. To remove one or two at a time is an impossible task. So we have a commission that recommends 50 closures taking place and gives Congress one vote up or down whether to eliminate the bases altogether. It has been very successful in consolidating resources.

What about doing that in domestic discretionary programs where we have thousands of domestic discretionary programs? Have a commission to say these 100 were good when they started, but the reason for their creation has gone. They are effective but not yielding as much as they should. These 100 should be eliminated. The commission reports to Congress and requires Congress to vote up or down whether they agree or disagree, eliminate all 100 or keep all 100. It is a domestic Base Closure Commission equivalent type of program, so we can try to restrain some of the growth in Federal spending, consolidate it in fewer areas. Those are the sorts of things we need to do to balance the budget and get our spending under control.

We also need trade agreements to take place. I point out that Presidents of both parties have requested trade promotion authority and trade agreements. You cannot negotiate with another country and say, OK, give us your best offer and then do that; and then say, OK, we have to take it to the Congress, which may agree or disagree, and they will amend it and we will come back to you again. That sort of trade agreement does not work. The other country says: We want to wait and see your final offer. That is why the trade promotion authority is in place.

Trade has been good for this country and has expanded jobs and economic opportunities in the United States. It has been the right thing for us to do.

WAR IN IRAQ

I end with a personal comment about how the Bush administration has conducted the war in Iraq and the followon. I think one has to compliment this administration and the soldiers in the field for the way they have conducted this activity. Agree or disagree with going to Iraq, in the first place, we have liberated the people, the face of liberty of Baghdad looks the same as the face of liberty in Berlin when they see liberty. It has a beautiful face, to see liberty and see them kissing and hugging our soldiers developing liberty and finding a treasure trove of information of terroristic activities to make the world a freer place.

We have to compliment and say God bless the soldiers who have been over there, and we say thank you to them and to this administration for taking so bold a step forward for liberty in a tough region of the world, in Iraq.

I hope they continue to press for liberty in places such as North Korea against Kim Jong Il and his regime—this is the 50th year of the armistice we signed with North Korea—which has oppressed its own people. In North Korea you have a regime that exports missiles, technology around the world, that has a third of its people living on international food donations, many of them starving, walking out of the country. We think somewhere between 20,000 and 300,000 have walked from North Korea into China. We have a regime that operates a gulag system in North Korea, continues to operate a Soviet-style gulag. We have a regime there that imports millions of dollars a year in luxury cars and alcohol and tobacco. So while their own people by the millions starve, the regime that sits on top drives around in a Mercedes Benz, drinks fine wines, and smokes fine tobaccos.

When you turn the rock over in North Korea you will see the same, if not worse, type of deplorable living conditions for the people, and extraordinary situations of high-life living for the elite. I have no doubt from what we know already what has taken place in that regime. We will see a level of depravity from liberty and from the basics of human life from the North Korean people that would rival any on the planet. I hope the administration keeps the pressure on Kim Jong Il and his decrepit Stalinist regime so that the 22 million people of North Korea can one day be free.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF EDWARD C. PRADO

Mr. LEAHY. Mr. President, I begin by thanking the Democratic leader and assistant Democratic leader for going to bat for Judge Edward Prado. They

apparently are now working on an arrangement, that I understand is close to being worked out with the Republican leadership, so this nomination can be considered without further delay. I appreciate the fact that the majority leader and the deputy majority leader, Senator MCCONNELL, are going to work with us to do that.

As I have noted on the floor before, basically before the recess, and since, we had checked on our side of the aisle and knew that nobody objected to going forward with a vote on Judge Prado. In fact, I suspect most are going to vote for him. I was not quite able to figure out why there was objection on the Republican side to going forward with his nomination. So I thank the leaders for now getting together so he will be allowed to go forward.

I also thank the Congressional Hispanic Caucus for its support for this nomination, working with the Senate to go forward.

I noted on the floor on Monday that Judge Edward Prado, being nominated to the United States Court of Appeals for the Fifth Circuit, was cleared by all of us on this side; all Democratic Senators serving on the Judiciary Committee had voted to report the nomination favorably. That is why we were concerned when it was held up on the other side.

We have worked hard to find judges who might be consensus judges, as he is. Interestingly enough, Judge Prado was originally appointed by Ronald Reagan. He is not a Democrat. He is a Republican. He considers himself a conservative Republican, but has a judicial record where he fits the test that I and many of us on both sides of the aisle certainly thought a judge should meet: When you walk into a courtroom, you should be able to look at that judge and say, Whether I am a Republican or a Democrat, rich or poor, White or Black, plaintiff or defendant, whatever, that judge is going to give me a fair hearing.

The current occupant of the chair has served as attorney general and justice of the Texas Supreme Court and he knows whereof I speak. Anyone who spends time in a court knows, looking at a judge, if they are going to get a fair shake with the judge or not. We all know there are some judges you want to avoid, other judges about whom you say, fine, I have to prove my case, but I feel I have a fair chance. I think that is the kind of judge Judge Prado will be.

When the Democrats took over the majority of the Senate in the summer of 2001, we inherited 110 judicial vacancies, primarily because during the last few years of President Clinton's term Republicans had blocked an unprecedented number of judges from going forward. But during the next 17 months, we confirmed 100 of President Bush's nominees, including some who had been rated as not qualified by the ABA, several who were divisive and controversial.

Forty new vacancies occurred during the normal course of deaths and resignations at that time. We still took the 110 vacancies we inherited and brought that down to 60, which is considerably less than what the Republicans have always referred to as being full employment.

On the Senate executive calendar, we also have the nomination of Cecilia M. Altonaga, of Florida, to be a Federal judge in Florida. She will be the first Cuban-American to be confirmed to the Federal bench—expedited at the request of Senator GRAHAM of Florida. I might say this is another case where we are ready to go forward any time he wants. The decision has not been made to go forward yet on the Republican side of the aisle. We hope to go forward soon. We have cleared that. We have cleared her and are happy to go forward.

Mr. President, we have another nomination before us—again from the State of Texas, the State represented ably by the distinguished Presiding Officer. We have had really unprecedented debate. We are asked to reconsider the nomination of Priscilla Owen to the United States Court of Appeals for the Fifth Circuit.

We have never had a case where President resubmitted a circuit court nominee that had already been rejected by the Senate Judiciary Committee for the same vacancy. Until a few weeks ago, never before had the Judiciary Committee proceeded for a second time on a nominee.

I have spoken about my concerns relating to Priscilla Owen. I have detailed some of the cases in which Judge Owen's views were sharply criticized by her colleagues on the Texas Supreme Court. I explained why I believe she should not be confirmed to the seat on the Fifth Circuit. Today I would like to talk about some more of the cases, involving a variety of legal issues, which show Priscilla Owen to be a judicial activist, willing to make law from the bench rather than follow the language and intent of the legislature.

I heard Senator CORNYN say the other day that just because you disagree with the outcome of a particular case does not give you the right to call the judge who wrote it an activist. I agree. I wish more Republicans had followed that rule when President Clinton was nominating qualified people to the Federal bench and a Republican majority was holding them up anonymously and voting against them. There are many cases before the courts of this Nation where reasonable people, reasonable lawyers and judges, could disagree on the outcome, could have a difference of opinion about interpreting a statute. There are many times when a statute is ambiguous, or a legal precedent unclear, and there is no right or wrong result. I could not agree more with the junior Senator from Texas on this fundamental point. I wish more Republicans had followed that rule when President Clinton nominated qualified people to the Federal bench and anonymous hold after anonymous hold was made on the Republican side. They were not allowed to go forward.

It is interesting when we talk about political background of judges. Vermont is allowed one seat by tradition on the Second Circuit Court of Appeals. New York and Connecticut have the rest of the seats.

I went to President Clinton when there was a vacancy and recommended a sitting Federal judge in our State. He had been a Republican Deputy Attorney General—a conservative. I disagreed with some of his decisions. I disagreed with his legal reasoning. I thought he did a careful and reasoned job. I went to President Clinton knowing that there were a number of people who might be considered for that position—a number of them leading Democrats in our State. I told the President I thought this would make a good person, and it involved the nomination which he could rest easy on and not have to worry about. Shortly before he was about to make his decision, the Federal judge ruled strongly against a position of President Clinton. And when the President asked me about that, I said he could have made the ruling a week after you sent his nomination up, but that I thought he was honest. The President admired his courage, honesty and ability, and he nominated him. And this Senate voted as I recall unanimously to put him on the Second Circuit Court of Appeals where he does very, very well.

I voted on hundreds of hundreds of Republicans nominated by Republican Presidents. But just as I voted against those nominated by Democratic Presidents, I will vote against those nominated by Republican Presidents when they show that they are going to be activist judges who are not going to follow the law but rather follow the dictates of their own philosophy.

That is why I will continue to oppose Priscilla Owen. I did do as the President asked when I was chairman. I held a hearing for her. We had a very fair hearing, according to her, and actually put her on the agenda for markup on the day the President of the United States requested that she be put on. She was put over at a Republican request, but then she was voted down by the committee.

When I look at Justice Owen's record, I am not looking at the outcome of the cases in which Justice Owen ruled, and criticizing her as an activist just because I do not agree with a ruling or even a couple of rulings. I am looking at the substance of a number of her decisions, how she approached those cases and the propriety of her legal analysis. The conservative justices on the other sides of these cases, in many, many of those cases, are themselves extremely critical of her approach, her reasoning, her judging—in short, her activism. They have called her an activist, said one of her opinions was just ''inflammatory rhetoric,'' noted in other cases that she

went beyond the language of the law, ignored legislative intent, and gutted laws passed by the people's elected representatives. Like them, I disagree with Priscilla Owen's methods and activist judging.

In my last statement, I touched on some of the criticism received from the majority in the series of parental notification cases. In addition to cases dealing with parental notification, Justice Owen's activism and extremism is noteworthy in a variety of other cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she rules against individual plaintiffs time and time again.

In one case that is perhaps the exception that proves the rule, Justice Owen wrote a majority opinion that was bitterly criticized by the dissent for its activism. In In re City of Georgetown, 53 S.W. 3d 328, Tex. 2001, Justice Owen wrote a majority opinion finding that the city did not have to give the Austin American-Statesman a report prepared by a consulting expert in connection with pending and anticipated litigation. The dissent is extremely critical of Justice Owen's opinion, citing the Texas law's strong preference for disclosure and liberal construction. Accusing her of activism, Justice Abbott, joined by Chief Justice Phillips and Justice Baker, noted that the legislature, ''expressly identified eighteen categories of information that are 'public information' and that must be disclosed upon request . . . [sec. (a)] The Legislature attempted to safeguard its policy of open records by adding subsection (b), which limits courts' encroachment on its legislatively established policy decisions.'' The dissent further protests:

> But if this Court has the power to broaden by judicial rule the categories of information that are ''confidential under other law,'' then subsection (b) is eviscerated from the statute. By determining what information falls outside subsection (a)'s scope, this Court may evade the mandates of subsection (b) and order information withheld whenever it sees fit. This not only contradicts the spirit and language of subsection (b), it guts it. Id.

Finally, the opinion concluded by asserting that Justice Owen's interpretation, ''abandons strict construction and rewrites the statute to eliminate subsection (b)'s restrictions.''

These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views.

I am also greatly concerned about Justice Owen's record of ends-oriented decision making as a Justice on the Texas Supreme Court. As one reads case after case, particularly those in which she was the sole dissenter or dissented with the extreme right wing of the court, her pattern of activism becomes clear. Her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation, leading to the conclusion that she sets out to justify some preconceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions. This is a judge whose record reflects that she is willing and sometimes eager to make law from the bench.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and time again, in seeming contradiction of the law as written.

One of the cases where this trend is evident is FM Properties v. City of Austin, 22 S.W. 3d 868, Tex. 1998. I asked Justice Owen about this 1998 environmental case at her hearing last July. In her dissent from a 6–3 ruling, in which Justice Alberto Gonzales was among the majority, Justice Owen showed her willingness to rule in favor of large private landowners against the clear public interest in maintaining a fair regulatory process and clean water. Her dissent, which the majority characterized as, ''nothing more than inflammatory rhetoric,'' was an attempt to favor big landowners.

In this case, the Texas Supreme Court found that a section of the Texas Water Code allowing certain private owners of large tracts of land to create ''water quality zones,'' and write their own water quality regulations and plans, violated the Texas Constitution because it improperly delegated legislative power to private entities. The Court found that the Water Code section gave the private landowners, ''legislative duties and powers, the exercise of which may adversely affect public interests, including the constitutionally-protected public interest in water quality.'' The Court also found that certain aspects of the Code and the factors surrounding its implementation weighed against the delegation of power, including the lack of meaningful government review, the lack of adequate representation of citizens affected by the private owners' actions, the breadth of the delegation, and the big landowners' obvious interest in maximizing their own profits and minimizing their own costs.

The majority offered a strong opinion, detailing its legal reasoning and explaining the dangers of offering too much legislative power to private entities. By contrast, in her dissent, Justice Owen argued that, ''[w]hile the Constitution certainly permits the Legislature to enact laws that preserve and conserve the State's natural resources, there is nothing in the Constitution that requires the Legislature to exercise that power in any particular manner,'' ignoring entirely the possibility of an unconstitutional delegation of power. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the Court.

When I asked her about this case at her hearing in July, I found her answer perplexing. In a way that she did not argue in her written dissent, at her hearing Justice Owen attempted to cast the F.M. case not as, ''a fight between and City of Austin and big business, but in all honesty, . . . really a fight about . . . the State of Texas versus the City of Austin.'' In the written dissent however, she began by stating the, ''importance of this case to private property rights and the separation of powers between the judicial and legislative branches. . .'', and went on to decry the Court's decision as one that, ''will impair all manner of property rights.'' That is 22 S.W. 3d at 889. At the time she wrote her dissent, Justice Owen was certainly clear about property rights for corporations.

At her second hearing, I know that Chairman HATCH tried to recharacterize the F.M. Properties v. City of Austin case in an effort to make it sound innocuous, just a struggle between two jurisdictions over some unimportant regulations. I know how, through a choreography of leading questions and short answers, they tried to respond to my question from last July, which was never really answered, about why Justice Owen thought it was proper for the legislature to grant large corporate landowners the power to regulate themselves. Again, I am unconvinced. The majority in this case, which invalidated a state statute favoring corporations, does not describe the case or the issues as the chairman and the nominee have. A fair reading of the case shows no evidence of a struggle between governments. This is all an attempt at after-the-fact justification where there really is none to be found.

Justice Owen and Chairman HATCH's explanation of the case also lacked even the weakest effort at rebutting the criticism of her by the F.M. Properties majority. As I mentioned, the six justice majority said that Justice Owen's dissent was, ''nothing more than inflammatory rhetoric.'' They explained why her legal objections were mistaken, saying that no matter what the state legislature had the power to do on its own, it was simply unconstitutional to give the big landowners the power they were given.

Another case that concerned me is the case of GTE Southwest, Inc. v. Bruce, 990 S.W.2d 605, where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. The rest of the Court held that three employees subjected to what the majority characterized as ''constant humiliating and abusive behavior of their supervisor'' were entitled to the jury verdict in

their favor. Despite the Court's recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain her difference of opinion on the key legal issue in the case—whether the behavior in evidence met the legal standard for intentional infliction of emotional distress.

Justice Owen contended that the conduct was not, as the standard requires, ''so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency. . .'' The majority opinion shows Justice Owen's concurrence advocating an inexplicable point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation's favor.

At her first hearing, in answer to Senator EDWARDS' questions about this case, Justice Owen again gave an explanation not to be found in her written views. She told him that she agreed with the majority's holding, and wrote separately only to make sure that future litigants would not be confused and think that out of context, any one of the outrages suffered by the plaintiffs would not support a judgment. Looking again at her dissent, I do not see why, if that was what she truly intended, she did not say so in language plain enough to be understood, or why she thought it necessary to write and say it in the first place. It is a somewhat curious distinction to make—to advocate that in a tort case a judge should write a separate concurrence to explain which part of the plaintiff's case, standing alone, would not support a finding of liability. Neither her written concurrence, nor her answers in explanation after the fact, is satisfactory explanation of her position in this case.

In City of Garland v. Dallas Morning News, 22 S.W. 3d 351, Tex. 2000, Justice Owen dissented from a majority opinion and, again, it is difficult to justify her views other than as based on a desire to reach a particular outcome. The majority upheld a decision giving the newspaper access to a document outlining the reasons why the city's finance director was going to be fired. Justice Owen made two arguments: that because the document was considered a draft it was not subject to disclosure, and that the document was exempt from disclosure because it was part of policy making. Both of these exceptions were so large as to swallow the rule requiring disclosure. The majority rightly points out that if Justice Owen's views prevailed, almost any document could be labeled draft to shield it from public view. Moreover, to call a personnel decision a part of policy making is such an expansive interpretation it would leave little that would not be ''policy.''

Quantum Chemical v. Toennies, 47 S.W. 3d 473, Tex. 2001, is another troubling case where Justice Owen joined a dissent advocating an activist interpretation of a clearly written statute. In this age discrimination suit brought under the Texas civil rights statute, the relevant parts of which were modeled on Title VII of the federal Civil Rights Act, and its amendments, the appeal to the Texas Supreme Court centered on the standard of causation necessary for a finding for the plaintiff. The plaintiff argued, and the five justices in the majority agreed, that the plain meaning of the statute must be followed, and that the plaintiff could prove an unlawful employment practice by showing that discrimination was ''a motivating factor.'' The employer corporation argued, and Justices Hecht and Owen agreed, that the plain meaning could be discarded in favor of a more tortured and unnecessary reading of the statute, and that the plaintiff must show that discrimination was ''the motivating factor,'' in order to recover damages.

The portion of Title VII on which the majority relies for its interpretation was part of Congress's 1991 fix to the United States Supreme Court's opinion in the Price Waterhouse case, which held that an employer could avoid liability if the plaintiff could not show discrimination was ''the'' motivating factor. Congress's fix, in Section 107 of the Civil Rights Act of 1991, does not specify whether the motivating factor standard applies to both sorts of discrimination cases, the so-called ''mixed motive'' cases as well as the ''pretext'' cases.

The Texas majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be ''a'' motivating factor. Justice Owen joined Justice Hecht in claiming that federal case law is clear—in favor of their view—and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen's desire to change the law from the bench, instead of interpret it, fits President Bush's definition of activism to a ''T.''

Justice Owen has also demonstrated her tendency toward ends-oriented decision making quite clearly in a series of dissents and concurrences in cases involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortions.

The most striking example is Justice Owen's expression of disagreement with the majority's decision on key legal issues in Doe 1. She strongly disagreed with the majority's holding on what a minor would have to show in order to establish that she was, as the statute requires, ''sufficiently well informed'' to make the decision on her own. While the conservative Republican majority laid out a well-reasoned test for this element of the law, based on the plain meaning of the statute and well-cited case law, Justice Owen inserted elements found in neither authority.

Specifically, Justice Owen insisted that the majority's requirement that the minor be ''aware of the emotional and psychological aspects of undergoing an abortion'' was not sufficient and that among other requirements with no basis in the law, she, ''would require . . . [that the minor] should . . . indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion.'' That is In re Doe 1, 19 S.W.3d 249, 256, Tex. 2000.

In her written concurrence, Justice Owen indicated, through legal citation, that support for this proposition could be found in a particular page of the Supreme Court's opinion in Planned Parenthood v. Casey. However, when one looks at that portion of the Casey decision, one finds no mention of requiring a minor to acknowledge religious or moral arguments. The passage talks instead about the ability of a State to ''enact rules and regulations designed to encourage her to know that there are philosophic and social arguments of great weight that can be brought to bear.'' That is Casey at 872. Justice Owen's reliance on this portion of a United States Supreme Court opinion to rewrite Texas law was simply wrong.

As she did in answer to questions about a couple of other cases at her July hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator CANTWELL that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in, ''Matheson they talk about that for some people it raises profound moral and religious concerns, and they're talking about the desirability or the State's interest in these kinds of considerations in making an informed decision.'' But again, on reading Matheson, one sees that the only mention of religion comes in a quotation meant to explain why the parents of the minor are due notification, not about the contours of what the government may require someone to prove to show she was fully well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply tries a little bit of legal smoke and mirrors to make it appear as if they did. This is the sort of ends-oriented decision making that destroys the belief of a citizen in a fair legal system. And most troubling of all was her indicating to Senator FEINSTEIN that she still views her dissents in the Doe cases as the proper reading and construction of the Texas statute.

I have read her written answers to questions from Senators after her second hearing, many newly formulated, that attempt to explain away her very disturbing opinions in the Texas parental notification cases. Her record is still her record, and the record is clear.

She still does not satisfactorily explain why she infuses the words of the Texas legislature with so much more meaning than she can be sure they intended. She adequately describes the precedents of the Supreme Court of the United States, to be sure, but she simply does not justify the leaps in logic and plain meaning she attempted in those decisions.

As I have mentioned with regard to some specific cases, Justice Owen's responses at her second hearing failed to alleviate these serious concerns nor did Senator HATCH's ''testimony'' at her second hearing, where he attempted to explain away cases about which I had expressed concern.

The few explanations offered for the many other examples of the times her Republican colleagues criticized her were unavailing. The tortured reading of Justice Gonzales' remarks in the Doe case were unconvincing. He clearly said that to construe the law in the way that Justice Owen's dissent construed the law would be activism. Any other interpretation is just not credible.

Or why in Montgomery Independent School District v. Davis, the majority criticized her for her disregard for legislative language, saying that, ''the dissenting opinion misconceives the hearing examiner's role in the . . . process,'' which it said stemmed from ''its disregard of the procedural elements the Legislature established . . . to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards.'' Or why, in Collins v. Ison-Newsome, a dissent joined by Justice Owen was so roundly criticized by the Republican majority, which said the dissent agrees with one proposition but then ''argues for the exact opposite proposition . . . [defying] the Legislature's clear and express limits on our jurisdiction.''

I have said it before, but I am forced to say it again. These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views. No good explanation was offered for these critical statements last year, and no good explanation was offered two weeks ago. Politically motivated rationalizations do not negate the plain language used to describe her activism at the time.

I would like to explain again that Justice Owen has been nominated to fill a vacancy that has existed since January, 1997. In the intervening 5 years, President Clinton nominated Judge Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. Despite his qualifications, and his rating of well qualified by the ABA, Judge Rangel never received a hearing from the committee, and his nomination was returned to the President without Senate action at the end of 1998, after a fruitless wait of 15 months.

On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill that same vacancy. This Harvard educated attorney, who received a unanimous well qualified from the ABA, did not receive a hearing on his nomination either—for more than 17 months. President Bush withdrew the nomination of Enrique Moreno to the Fifth Circuit and later sent Justice Owen's name in its place. It was not until May of last year, at a hearing chaired by Senator SCHUMER, that the Judiciary Committee heard from any of President Clinton's three unsuccessful nominees to the 5th Circuit. Last May, Mr. Moreno and Mr. Rangel testified along with a number of other Clinton nominees about their treatment by the Republican majority. Thus, Justice Owen was the third nominee to this vacancy but the first to be accorded a hearing before the committee.

In fact, when the committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit in 2001, it was the first hearing on a Fifth Circuit nominee in seven years. By contrast, Justice Owen was the third nomination to the Fifth Circuit on which the Judiciary Committee, under my chairmanship, held a hearing in less than one year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of the previous President, we proceeded last July with a hearing on Justice Owen and, for that matter, with hearings for Judge Charles Pickering. We proceeded with committee debate and votes on all three of President Bush's Fifth Circuit nominees despite the treatment of President Clinton's nominees by the Republican majority.

President Bush has said on several occasions that his standard for judging judicial nominees would be that they ''share a commitment to follow and apply the law, not to make law from the bench.'' Priscilla Owen's record, as I have described it today, and as we described it a few weeks ago in committee and last September, does not qualify her for a lifetime appointment to the Federal bench.

As I have demonstrated many times, I am ready to consent to the confirmation of consensus, mainstream judges, and I have on hundreds of occasions. But the President has resent the Senate a nominee who raises serious and significant concerns. I oppose this nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I come to the floor today to join my colleagues to discuss the nomination of Priscilla Owen to the Fifth Circuit Court.

Mr. President, someone watching this debate on C–SPAN today might wonder why the Senate is spending so much time on a judicial nomination. They may watch all our discussions about circuit courts and wonder, how does this affect me? Well, the truth is that it affects all of us. Our Federal courts impact the opportunities, rights, and lives of every citizen, and that is why the appointments to our courts must be made with great care.

Since the founding of our Nation, our courts have changed our history, helping us to live up to our ideals as a society by protecting our rights and defending our freedoms. Our courts affect us at the broadest level, from interpreting environmental standards of clean air and water, to guarding important safety and consumer protections.

Our courts have changed millions of lives at the individual level by knocking down barriers. The courts have helped end the segregation of our schools, worked to stop discrimination, and protected the voting rights of our citizens.

Mr. President, these decisions don't just happen. They are made by people. According to our Constitution, those people are appointed by the President and confirmed by the Senate. Today, we are at an important step in that constitutional process. I care about our judges because I was elected to ensure that the people of my State have opportunities and to protect their rights. That is why I work on issues such as health care, education, economic development, to give Washingtonians opportunities. But those opportunities would mean nothing if the basic rights and freedoms of our citizens were undermined by judicial decisions.

This debate is also about the legacy that we leave. As Senators, our legacy is not just in the bills we pass or the laws we change, it is in the people we approve to interpret those laws. Those judges serve lifetime appointments. The precedents they set or break will impact the opportunities of American citizens long after all of us are gone.

So the debate we are having today is part of a process that impacts the rights and freedoms of every American, and we have a responsibility under the Constitution to carry out our role in this critical process. Now, some in the majority may suggest this filibuster is somehow new or unique. It is neither. Every Senator is familiar with the filibuster process. It is one of the many tools available to every Senator. It has been used for decades. It has been used on judicial nominations, and even on Supreme Court nominees.

In fact, a filibuster has been used on judicial nominees by members of the current majority party. This is nothing

new. At the same time, a filibuster is not a step we take often or lightly, especially on judicial nominations, but I believe in this case it is clearly warranted.

As I look at what Americans expect from our judges, I see that this particular nominee falls far short. Not only that, but this nominee's confirmation poses such a risk that the Senate must send a signal we will not confirm judges who represent an attack on the basic rights and freedoms which the courts themselves must safeguard.

What are those qualities we look for in those who serve on the Federal bench? Qualities such as fairness, trust, experience, temperament, and the ability to represent all Americans, and safeguard their rights. It is our duty in the Senate to defend these principles. We are setting no new precedent with this debate. We are simply exercising our right as Senators to defend the principles we believe we must defend.

Why do we feel so strongly about the nomination of Priscilla Owen? Justice Owen's record clearly illustrates she fails the test of meeting the requirements that she be fair, that she engender trust, that she has the proper experience and temperament, or that she has the ability to represent all Americans, and safeguard their rights. Justice Owen has frequently ignored current Supreme Court precedent and State law in favor of imposing her own personal moral and religious beliefs from the bench.

Do not just take my word for it. Let's examine what others, including White House counsel Alberto Gonzales, have said about some of Justice Owen's decisions. Justice Owen is a vigorous dissenter, and her colleagues, including Justice Gonzales, have had a lot to say about her opinions. In one, her colleagues described her dissent as ''nothing more than inflammatory rhetoric.'' In another instance, Justice Gonzales wrote that Owen's dissenting opinion, if enacted, ''would be an unconscionable act of judicial activism.''

Those are pretty strong statements and they provide a window into what kind of judge Priscilla Owen would be on the Fifth Circuit.

It is the judgment of this Senator that Priscilla Owen cannot render impartial justice to the people who appear before her court, that she will not seek to safeguard individual rights, and that her temperament is incompatible with serving on the Fifth Circuit.

This is not an easy decision for me. Thus far, the Senate has confirmed, if my math is correct, 119 of President Bush's judicial nominees. By any standard, that is a notable record. We have tried hard to work with the administration to fill court vacancies in a fair and thoughtful manner. Unfortunately, by every measure, this nomination fails the test. If I agreed to put this judge on the Fifth Circuit Court, I would not be doing my job of protecting the citizens I am here to represent.

This is a critical debate. It is worth the time it takes because the judges we appoint will affect the lives of millions of Americans. We have a special responsibility. Let us carry out that responsibility well, because our legacy is not just in the laws we pass. It is also in the people we appoint who will interpret those laws over a lifetime. The precedents they will set or break will live on longer than any of us.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Madam President, I rise to speak on the pending business.

The PRESIDING OFFICER. The Senator may proceed.

Ms. CANTWELL. Madam President, I rise as a former member of the Senate Judiciary Committee to discuss something that is very important to all of us: How we should proceed on nominees for our Federal court system. And how we make sure we confirm nominees who will enforce the law and not nominees who might seek to bend the law or interpret it to their own desires. The American people deserve judges who hold the mainstream values of our country and our legal system. They deserve a Federal judiciary willing to interpret the laws as they are, rather than as the judges might want them to be.

The American people believe that the Senate needs to do our job. Not to be a rubberstamp on nominees, but to thoroughly evaluate judicial nominees and determine whether they will continue the tradition of the Federal judiciary by being balanced and impartial, and serving as a countercheck for the executive branch and for us, the legislative branch. That was the role the Founding Fathers gave to the Senate, and I believe that is a role the American people think we should play.

That is why I don't think it is surprising, that 74 percent of the public believes that the question of judicial views and judicial philosophy should be something we consider in the Senate confirmation process, and that we should get answers to questions about judicial philosophy from nominees.

More importantly, a majority of Americans also believe we should not vote to confirm a nominee who might otherwise be qualified if we don't think their views on these important issues reflect mainstream American viewpoint. I believe that the nominee we are debating, Justice Priscilla Owen, fails to meet this test.

As a former member of the Judiciary Committee, I attended a hearing on Priscilla Owen that lasted a full day. During that hearing, Owen's record showed a particular disregard for precedent and the plain meaning of the law.

Anyone who walks into a courtroom as a plaintiff or a defendant in this country should do so having the full confidence that there is impartiality on the part of the judge on the bench. They should have total confidence that the rule of law will be followed, and believe the issues will be judged on their merits rather than viewed through the prism of an individual judge's personal values or beliefs.

There is reason to be concerned about the record of Priscilla Owen. Time after time, even her own Republican colleagues, on a predominantly Republican Texas Supreme Court bench, criticized her for failing to follow precedent or interpreting statutes in ways that ignore the clear intent of the law. Just yesterday a key newspaper in her State, the Austin American Statesman, wrote:

Owen is so conservative that she places herself out of the broad mainstream of jurisprudence. She seems all too willing to bend the law to fit her views.

I ask unanimous consent to have that editorial printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From American-Stateman, Apr. 29, 2003]

OWEN DESERVES A NOTE BUT NOT A CONFIRMATION

The U.S. Senate is expected to resume debate soon over President Bush's nomination of Texas Supreme Court Justice Priscilla Owen to the 5th U.S. Circuit Court of Appeals, which hears federal appeals from Texas, Louisiana and Mississippi. We have argued before that she deserved a hearing, and she finally got one from the Senate Judiciary Committee. That said, however, she should not be confirmed.

There's no question that Owen is qualified for the 5th Circuit by her legal training and experience. She was a standout at the top of her Baylor University Law School class; she became a partner at a major Houston law firm, Andrews & Kurth, where she practiced commercial litigation for 17 years; and she was elected in 1994 to the Texas Supreme Court, and re-elected in 2000. She received the highest rating, ''well-qualified,'' from an American Bar Association committee that reviews judicial nominations.

But Owen is so conservative that she places herself out of the broad mainstream of jurisprudence. She seems all too willing to bend the law to fit her views, rather than the reverse.

One example was the state Supreme Court's interpretation of the then-new Parental Notification Act regarding abortions sought by minors. In early 2000, the nine justices, all Republicans, took up a series of ''Jane Doe'' cases to determine under what circumstances a girl could get a court order to avoid telling a parent that she intended to get an abortion.

Owen and Justice Nathan Hecht consistently argued for interpretations of the law that would make it virtually impossible for a girl to get such an order.

Finally, in one Jane Doe case, another justice complained that ''to construe the Parental Notification Act so narrowly as to eliminate bypasses, or to create hurdles that simply are not to be found in the words of the statute, would be an unconscionable act of judicial activism.''

The justice who wrote that was Alberto Gonzales, who is now Bush's general counsel.

Owen also could usually be counted upon in any important case that pitted an individual or group of individuals against business interests to side with business.

Owen is being appointed to a lifetime position in the judicial branch of government, not to a post in which her duty is to carry out the will of the president. And given the narrowness of his 2000 election victory, Bush is not in a position to argue that the public has said it wants ultra-conservative judges.

If the Senate Democrats invoke their power to filibuster, Owen would be the second judge nominated by Bush to be blocked in such a way. The other is Miguel Estrada, who was nominated to the U.S. Circuit Court of Appeals for the District of Columbia, and who Democrats suspect is a radical, ideological conservative.

Democrats are not blindly opposing all of the president's judicial nominees. Many have been confirmed by the Senate, and others have won committee approval without controversy, including Edward Prado of San Antonio, a federal district judge who was nominated to the 5th Circuit.

But Owen should not be confirmed.

Ms. CANTWELL. What some of Owen's colleagues on the bench have said about her opinions I think is important. In a case dealing with a developer seeking to evade Austin's clean water laws, her dissent was called ''nothing more than inflammatory rhetoric.''

In another case, her statutory interpretation was called ''unworkable.'' In yet another case, the dissent she joined was called ''an unconscionable act of judicial activism.''

Some of our other colleagues have already mentioned that particular quote. One of the reasons we all find it somewhat unbelievable is the fact that it was made by her then-colleague on the Texas Supreme Court, now the White House General Counsel Alberto Gonzales, who is in charge of pushing her nomination.

But the criticism of Owen comes not only from her colleagues but from across the country. The San Antonio Express calls her nomination misguided. The Atlanta Journal called the Judiciary Committee's original objection to her nomination ''the right decision for the American people.'' The New York Times wrote last week that it was abundantly clear at her hearing that her ideology drives her decisions. The Kansas City Star even said there are better nominees and better ways for the executive branch to spend its time than re-fighting these battles.

There is another reason this nomination is so important. I believe this is critical to all the nominees we are considering for appointment to the Federal bench. That is, what is the judicial philosophy and commitment to upholding current law as it relates to a citizen's right to privacy. I asked Justice Owen at her hearing about her beliefs on the right to privacy. I asked her if she believed there was a constitutional right to privacy and where she found that right in the Constitution.

She declined at the time to answer that question without the relevant case information and precedents before her. When Senator FEINSTEIN followed up with a similar question, Owen again would not answer whether she believes a right to privacy does exist within the Constitution.

The question of whether a nominee believes that the right to privacy exists with regard to the ability to make decisions about one's own body is only the tip of the privacy iceberg. I believe that we are in an information age that poses new challenges in protecting the right to privacy. We are facing difficult issues including whether U.S. citizens have been treated as enemy combatants in a prison without access to counsel or trial by jury, whether businesses have access to some of your most personal information, whether the Government has established a process for eavesdropping or tracking U.S. citizens without probable cause, and whether the Government has the ability to develop new software that might track the use of your own computer and places where you might go on the Internet without your consent or knowledge. There are a variety of issues that are before us on an individual's right to privacy and how that right to privacy is going to be interpreted. A clear understanding of a nominee's willingness to follow precedent on protecting privacy is a very important criteria for me, and it should be a concern for all Members.

Of course, some of my concern and skepticism about Justice Owen's views on privacy results from the opinions she wrote in a series of cases interpreting the Texas law on parental notification. In 2000 the State of Texas passed a law requiring parental notification. But they also included a bypass system for extreme cases.

Eleven out of 12 times Owen analyzed whether a minor should be entitled to bypass the notice requirement, she voted either to deny the bypass or to create greater obstacles to the bypass.

Owen wrote in dissent that she would require a minor to demonstrate that she had considered religious issues surrounding the decision and that she had received specific counseling from someone other than a physician, her friend, or her family. Requirements, I believe, that go far beyond what the Texas law requires.

In interpreting the ''best interest'' arm of the statute, Owen held that a minor should be required to demonstrate that the abortion itself—not avoiding notification—was in the individual's best interests. In this particular case, I think she went far beyond what the statute required.

Where does that put us? Women in this country rely on the right to choose. It is an issue on which we have had 30 years of settled law and case precedent. In the Fifth Circuit, there are three States that continue to have unconstitutional laws on the books, and legislatures that are hostile to that right to choose. The Federal courts are the sole protector of women's right to privacy in these states. I do not believe that the rights of the women of the Fifth Circuit can be trusted to Justice Priscilla Owen.

Owen's rulings on privacy and not following precedent raise grave concerns. But this is not the only area where Justice Owen has been criticized. She also has been criticized in areas of consumer rights and environmental law.

The Los Angeles Times singles her out as a nominee who disdains workers' rights, civil liberties and abortion rights. And even a predominantly Republican court—one considered by legal observers and scholars to be one of the most conservative in this country—Justice Owen still seems to go further than a majority on that court. Time after time, Justice Owen has ruled in favor of business interests over working people, against women, against victims of crime and negligence, and against the environment. Over a career a judge can have many controversial cases. But, as the Austin Statesman points out, Justice Owen is widely known as a nominee that ''could usually be counted on to side in any important case that pitted an individual against business interests to side with business.''

I don't think that is the type of representation that we want to have on our courts. Her controversial rulings include an opinion that a distributor who failed to conduct a background check on a salesman was not liable for the rape of a woman by that salesman.

In a case challenging the ability of Texas cities to impose basic clean water control, she held the legislature had the power to exempt a single developer from city water pollution controls by allowing the developer to write their own water pollution plan. The majority called her dissent ''nothing more than inflammatory rhetoric.''

There are other cases dealing with Texas public information law which I think are important for all of us, for all of our citizens to have access to public information.

She wrote that a memo prepared by a city agency about an employee should not be subject to disclosure under the Texas Public Information Law because it discussed ''policy,'' an exemption that a majority of others on the board said would be ''the same as holding there is no disclosure requirement at all.''

In another similar case about public information laws, she held that a report prepared by the city of Houston and financed by taxpayers could not be disclosed under the Texas Public Information Act. Again, her colleagues criticized her decision not only as ''contradicting the spirit and language of the statute, but gutting it.''

It is possible to find cases or points to argue in the record of almost any judge, but because of the reaction of her own colleagues to her decisions. I find the constant criticism and rebukes that run through the opinions of

Owen's colleagues surprising. They consistently indicate that they think she has overstepped or misinterpreted the law to such a degree that they have used the words ''gutting'' or ''judicial activism'' or ''overreaching.''

As do many of my colleagues, I believe that we should move off this nomination and on to more important matters. We in the Northwest have an economy that has failed to recover. We in America are looking for an economic plan to move our country forward. There are many issues of national security that we must continue to debate.

I think that we could do better than renominating Priscilla Owen, and others who have already been rejected by a previous Senate Judiciary Committee. The fact that we are even debating this nominee is unprecedented. While I respect the President's right to renominate her, I find his decision to do so given the breadth of opposition and genuine questions that have been raised by her troubling.

The American public cares about us doing our job on nominees. It cares about us asking the right questions. It cares about us making sure that judicial nominees are following important laws that are already on the books. I believe the majority of Americans are becoming more and more concerned about their right to privacy and how it might be protected in the future.

With all the issues that we are facing on our judicial nominees, I say to my colleagues that it is time to move off this nominee—not to move forward on it and instead to the important business that needs to be done for this country and specifically for the Northwest.

I ask my colleagues to oppose the motion to proceed to a vote on this nomination and turn instead to the business that the people of America want us to address: our economic livelihood and how we can all work together to provide better opportunities for Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Thank you, Madam President.

I think it was a young kid who turned to ''Shoeless Joe'' Jackson when members of the Chicago White Sox were charged with corruption in baseball and said, ''Say it ain't so, Joe.''

Tell me that we are not back again in these hallowed halls visiting the issue of a nomination of a circuit court judge, trying to do what the Constitution has given us the authority to do since the birth of this magnificent country, the right to advise and consent but ultimately to choose, to advise and consent and cast your vote up or down for a judicial nomination.

I am here to talk about the nomination of Texas Supreme Court Justice Priscilla Owen to sit on the U.S. Court of Appeals for the Fifth Circuit in support of that nomination.

The American public is going to hear these facts again and again. They are going to hear about Judge Owen, who has been unanimously rated well qualified by the American Bar Association, which my colleagues on the other side have called the gold standard in the past; the way you want to measure; you don't want to measure them by political affiliation, you don't want to measure them by what an interest group thinks.

The American Bar Association, certainly not a bastion of conservative American values, unanimously has rated Justice Owen as well qualified. She comes before us with a history of serving presently as a justice on the Texas Supreme Court. She has been partner at a law firm and has handled a broad range of legal matters. She has been admitted to practice at various State and Federal trial courts.

She is a leader in her community. I understand she teaches Sunday school. She serves as the head of an altar guild. She is a great American. She is well qualified. She has an opportunity now to serve on the Federal bench. And all that is being sought is for this Senate to do its constitutional duty.

I have made some of these remarks in regard to the Estrada nomination, and we may well be getting back to that. I fear we are getting back to another filibuster, with my colleagues on the other side not allowing the Senate to do its business.

We have a lot of business to do in America. These are difficult times and challenging times. We have just seen the miracle of the American military do great things in Iraq. But there is work to be done, and our citizens at home are worried about jobs and worried about health care, worried about the future. We need to get to those issues. We can get to those issues if we simply do our business and move on.

If you do not support Priscilla Owen, if you do not think she has the qualifications, if you do not agree with her principles, vote against her, but give us a chance to have a vote. That is my concern.

What we are doing here, and what we saw first happen with the Estrada nomination—and I fear we are stepping into the same swampland—is we are undermining the Constitution of this great country. The Constitution is one of those certifiable miracles of the modern age. It has flourished and survived for 214 years. And I think providence has inspired it. When you think how delicate and finely balanced the document is, it has survived a Civil War, and several wise and unwise attempts to amend it, and many constitutional crises. That is our strength. I think our adversaries do not understand the strength of this country lies in this remarkable document and the care of our leaders to live within its boundaries.

That is why an attempt to tamper with this delicate balance of power must be met with suspicion, and repelled with conviction. I said that in regard to Miguel Estrada. I say that in regard to Priscilla Owen: An attempt to tamper with the delicate balance of the Constitution must be met with suspicion and repelled with conviction.

We have the opportunity to have endless debate in this body, but, in the end, in the history of this country, we have had circuit court nominees getting a chance to be voted on. The Estrada nomination set a terrible new trend, one I hope we overcome. Never before have we had a partisan filibuster of a circuit court nominee, and now it appears we have not one but two. Say it ain't so. Say it ain't so.

I told a story in regard to the Estrada nomination. I want to repeat that story. It is a true story. A friend of mine who worked here for many years gave it to me. He told me, many years ago, when the Senate was the Supreme Court's upstairs neighbor in this building, a significant event took place which provides us with a further warning. A young architect of the Capitol wanted to improve the sight lines in the Supreme Court Chamber on the first floor.

Calculating that one of the supporting pillars was unnecessary, he brought in a crew to remove it from that Supreme Court Chamber. Halfway through the project, the ceiling fell in on the Supreme Court Chamber, which was also the floor of the Senate above, destroying both Chambers for a while.

The lesson is when you tamper with one branch of Government, it can affect the others in ways you cannot anticipate. That is what is really going on here.

The Constitution of the United States gives this Senate the important authority to advise and consent, and we do it by a majority vote. Treaties, on the other hand, require a supermajority. But when you have a filibuster, as we have seen with Estrada, and we now, I fear, will see with Priscilla Owen—and I hope not and again say: Say it ain't so—what happens is we are changing the constitutional standard.

You have to think about some of the consequences. Some of the obvious ones. There may be some we do not see today. One of them is if this is now the standard, that you need 60 votes, we are not going to get qualified and talented people to serve on our highest courts in the land. They are not going to make it through. I dare say, Justice Scalia would probably not make it through. Ruth Bader Ginsburg, a liberal Supreme Court Justice, who graduated from the same high school I graduated from in Brooklyn, New York, James Madison High School, may not have made it through. Anybody who has been out there articulating a particular position, a perspective, would not make it through.

Here is the fallacy of the argument of my distinguished colleagues on the other side. They want fealty to their judicial philosophy. They want the candidate to say: Here is a principle in

which I believe, and you have to tell me you believe in that. But that is not what our system is supposed to be. What judges are supposed to do is not to say this is their own vision and their own view and their own philosophy, and regardless of what the constitution says, that is what they are going to apply. What the Constitution requires, what rules of court require, what we as Americans should require is that judges simply uphold the Constitution and to say they will follow established case law, that they will follow established precedence, by the way, even if they do not agree with it.

That is what we require of judges. It is not about taking your own judicial philosophy and kind of driving it forward, come heck or high water. It is about a willingness and a commitment to uphold judicial precedent. That is what Justice Owen understands. That is what she represents. That is what Miguel Estrada represents.

We have business to pursue, important business. But of all the things we do, if we take this Constitution and we disregard it, if we, in the halls of this Senate Chamber, in the year 2003 simply say we are going to cast the Constitution aside, we are going to set a new standard—not a majority but a supermajority, 60 votes—that we on one side—and this time it is my distinguished colleagues across the aisle; they are going to turn down folks because they are not pledging abeyance, not giving fealty to their philosophy; and down the road, if there is a Democrat President who puts forth candidates, if the folks on our side say, hey, the rules have been changed, the Constitution, we are no longer listening to it, it is now 60 votes, and we are not going to approve anybody who is a Democrat who has some philosophies different than our own—our country is going to be in deep trouble.

I hope I get to serve in this institution a long time. The people of the State of Minnesota have given me an opportunity to serve. They have given me at least 6 years. But I will tell you, I will try to conduct myself in a way that when a candidate comes forward, I apply the same standard, whether that candidate is being put forth by a Republican President or a Democratic President. That standard is pretty simple: Are they willing to commit themselves to follow established case law. Do they have the right kind of judicial temperament. And—again, we have the American Bar Association giving the gold standard—then we should not be having these debates right now. Again, let us be very wary of efforts to change the constitutional standards.

Let us discuss the merits of these nominees, their qualifications, judicial temperament, but then let us follow the constitutional process we have followed for two centuries and vote yes or no on our advice and consent to the President's nominee to the court of appeals.

I hope, Madam President, we give Justice Owen that right. I am going to be voting yea. My colleagues on the other side may disagree and vote nay, but let's make sure we get a vote, that we do not change the constitutional standard.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to discuss the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals. I begin by saying, as have others, that the Senate has a constitutional obligation to advice and consent on a Federal judicial nominee. This is a responsibility I take seriously, as do my Senate colleagues from both sides of the aisle. Unlike other nominations that come before the Senate such as ambassadorships or executive nominees, Federal judicial nominations are lifetime appointments. These are not decisions that will affect our courts for 3 years or 4 years but, rather, 30 years or 40 years, making it even more important that the Senate not act as a rubberstamp.

Having said that, to review the record of where we are under this President and his judicial nominations, to date the Senate has confirmed 119 Federal justices and rejected two—not exactly a partisan example of how we are moving forward on judgeships: 119 approved; two rejected. Ironically, one of those already rejected is the person now in front of the Senate again.

As a part of the important responsibility we have, I have examined Justice Owen's record. I am concerned that this is a nominee who has repeatedly disregarded the language of the law and has instead substituted her own political and personal views. This is a nominee who has been criticized by her own Republican colleagues on the bench for being a judicial activist. She is one who has consistently overreached in her decisions to justify her extreme personal positions.

I begin by talking briefly about the Texas Supreme Court. In Texas, Supreme Court judges are elected for 6-year terms. They run as party candidates, as they do in many States, as Republicans or Democrats. This is a conservative court and currently an all-Republican court. This is important because when one reads Texas Supreme Court opinions, Justice Owen is outside of the mainstream even among those of her own party who have been recognized as serving on a conservative court.

In fact, a review of the court's opinions shows that since Justice Owen joined the court in January of 1995 through June of 2002, just prior to her July 2002 judicial committee hearing, she was the second most frequent dissenter among the justices then serving on the court. The content of these dissents also shows that she is often out of touch with the law and significantly more extreme than her Republican colleagues on the court.

For example, in the 12 cases before her involving minors seeking judicial bypass to obtain an abortion under Texas parental notification laws, Owen joined the majority in granting a bypass only once. That was a case which was decided after her nomination to the Fifth Circuit.

In re Jane Doe 1, where a bypass was granted, the Republican majority opinion sharply rebuked Owen and the other dissenter's attempts to substitute their own personal views for the law instead of interpreting the law itself. They stated:

> We recognize that judges' personal views may inspire inflammatory and irresponsible rhetoric. Nonetheless, the issue's highly charged nature does not excuse judges who impose their own personal convictions into what must be a strictly legal inquiry.

Those are harsh words.

> As judges, we cannot ignore the statute or the record before us. Whatever our personal feelings may be, we must respect the rule of law.

How many times have we heard colleagues speak about respecting the rule of law? Here was someone rebuked by her own Republican colleagues for not respecting the rule of law.

In a concurring opinion on the same case, then Justice Alberto Gonzales, the Bush administration's current White House counsel, described the dissenters, including Justice Owen, as attempting to engage in ''an unconscionable act of judicial activism.'' These are the words of the current White House counsel when he was serving with her, that she attempted to engage in ''an unconscionable act of judicial activism.'' Those are very powerful words.

This criticism is very serious. It does not come from Senators. It comes from Justice Owen's own Republican colleagues. That is significant.

In another parental notification case, In re Jane Doe 3, the minor testified that her father was an alcoholic who would take out his anger toward his children by beating the mother. Justice Owen once again substituted her own personal views for the law and would have required a higher evidentiary standard for showing the possibility of abuse under the law. Republican Justice Enoch wrote, specifically to rebuke Justice Owen and her fellow dissenters for misconstruing the definition of the sort of abuse that may occur under the bypass law—a Republican colleague on the bench—''Abuse is abuse. It is neither to be trifled with nor its severity to be second-guessed.''

Justice Owen's judicial activism extends way beyond these cases. Justice Owen has been out of step with Republican justices of the Texas Supreme Court on everything from environmental cases to consumer protection to workplace discrimination cases. In Read v. Scott Fetzer, Kristi Read was raped in her home by a door-to-door salesman hired by the Kirby vacuum distributor. If the distributor had conducted a background check or even checked the salesman's employment references, they would have learned

that women at his previous places of employment had complained about his sexually inappropriate behavior and that he had pled guilty to a charge of sexual indecency with a child and was fired as a result of that incident.

The Republican majority in this case ruled that the victim was entitled to damages from the distributor that hired the salesman. Justice Owen, however, joined a dissenting opinion saying the victim was not entitled to any damages from the distributor, arguing that since the salesman was considered an independent contractor, the distributor had no duty to perform any background checks. This is yet another example where Priscilla Owen is out of step with even her colleagues on the Texas Supreme Court, much less mainstream America.

President Bush has said he wants judges who are not judicial activists and who will interpret the law, not make the law. Justice Owen fails this test by any measure. When one examines Justice Owen's record, her pattern of judicial activism becomes clear.

During her tenure on this conservative Republican court—and I say that only to say that these were Republican colleagues on the court who were making the statements about the inappropriate judicial activism—Justice Owen has dissented in 66 cases and has been criticized by her colleagues, including White House Counsel Alberto Gonzales, on the bench for her judicial overreaching.

This is a nominee who has been divisive not only on the Texas Supreme Court but in the U.S. Senate. I have received over 2,500 letters and e-mails from my constituents in Michigan opposing Priscilla Owen's nomination. I have received letters from over 60 different organizations, including civil rights groups, advocacy groups, women's groups, environmental groups, and other citizens opposing this nomination.

In addition, Justice Owen's nomination was rejected last year by the Senate Judiciary Committee, and her reconsideration is unprecedented. Never before has a nominee been voted on and rejected by the committee or the Senate and subsequently renominated for the same seat.

Mr. President, I urge my colleagues to say yes to a balanced Federal judiciary that will interpret and not make the law, and to say no to the Owen nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I want to share some comments about Priscilla Owen. I could not disagree with my distinguished colleague more. Priscilla Owen, I believe, is one of the great justices in America. She has served on the Texas Supreme Court with distinction. She has received support from all the Texas Supreme Court judges. They like and admire her. She has an extraordinary record—a record of public service and private litigation.

Her background and study capabilities have been reviewed by the American Bar Association—the gold standard, the Democrats tell us, for whether or not a person should be confirmed. They have—15 lawyers—reviewed her record. I think it is normally 15. They are lawyers in the community and others who review the record. They interviewed litigants who come before Judge Owen. They interviewed her law partners in the firm where she worked as a private attorney. They interviewed opposing lawyers in cases she was on, judges in the community who know her, leaders of the bar association and presidents of the bar association. They evaluate whether or not a judge is a fair and objective judge. After a complete evaluation of this excellent jurist's career, they have unanimously voted that she is ''well qualified,'' which is the highest rating they can give.

So to come in here and say she is an ''extremist'' who will not follow the law and abuses the law is simply not correct. To just say that she dissents on cases is not fair. Great judges who love the law and care about the law tend to dissent more. It is easy just to sign on to majority opinions. Judges who really care and are really concerned tend to review opinions and offer either concurring opinions or objections. Oftentimes, that is a great compliment—that the jurist is concerned about the law and wants to do it right.

Prior to her election in 1994 to the Supreme Court of Texas, she was with the Houston law firm of Andrews and Kurth, where she practiced commercial litigation for 17 years. In private practice, she handled a broad range of civil matters at both the trial and appellate levels. She was admitted to practice before various State and Federal courts, as well as U.S. courts of appeals—Federal courts—for the Fourth, Fifth, Eighth, and Eleventh Circuits. She is nominated to be a member of what I call the old Fifth Circuit. Alabama and Georgia used to be in the Fifth and they split.

Priscilla Owen is a member of the American Law Institute, American Judicature Society, American Bar Association, and a Fellow of the American and Houston Bar Foundations. She was elected to the Supreme Court of Texas in 2000, garnering 84 percent of the vote, having been endorsed by every major newspaper in Texas. A pretty good record. Is this the record of some sort of extremist? No, it is not.

She served as a liaison to the Supreme Court of Texas's Court-Annexed Mediation Task Force, and that is a good thing. We need to have more mediation and conciliation and less litigation, frankly. I am glad to see she is concerned with that. She has been on statewide committees on providing legal services to the poor and pro bono legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars a year in additional funds for providers of legal services to the poor.

Priscilla Owen also served as a member of the board of the A.A. White Dispute Resolution Institute. Additionally, Judge Owen was instrumental in organizing a group known as Family Law 2000—an interesting group. It seeks to find ways to educate parents about the effects a dissolution of a marriage can have on children, and to lessen the adversarial nature of legal proceedings while a marriage is being dissolved. This is a lady who cares about children, who cares about families, and wants to do the right thing for them.

Among her community activities, Justice Owen served on the Board of Texas Hearing and Service Dogs for the Disabled. She is a member of the St. Barnabas Episcopal Mission in Austin, TX, where she teaches Sunday school and serves as head of the altar guild. I guess some might think that maybe she is too religious. We are hearing complaints about that today. I, frankly, think that being a member of the Episcopal mission, serving on the altar guild, and being a Sunday school teacher is an honorable thing to be recognized and is a positive contribution to the community. I suggest it demonstrates certain values.

She has a tremendous academic record. She earned her bachelor's degree cum laude from Baylor University, where she also graduated from law school, in 1977, cum laude with honors. She was a member of the Baylor Law Review, for graduating seniors or juniors to participating in the school's law review, is the highest honor a good law student can receive. It goes beyond grades, but grades are an important part of it. She was honored as the Baylor Young Lawyer of the Year and received the Baylor University Outstanding Young Alumna award.

If anybody has any doubts about her abilities—and you cannot always tell from grades—she made the highest score in the State of Texas on the bar exam. I am telling you, they have people from Harvard, Yale, the University of Texas, and all of those schools taking this exam. She made the highest score on the Texas bar exam. I suggest to you there were some talented people taking that exam. She made the highest possible score. She has the intellectual capabilities that everybody who knows her says she has.

So what does this boil down to? It boils down to a complaint about her interpretation of a poorly written—because I was at the committee hearing—Texas statute dealing with parental notification. The Supreme Court of the United States and 80 percent of the American people believe that if a young minor, a child, is contemplating an abortion, she ought not to be able to go to the abortion doctor and have that done without at least notifying her parents.

Parents love children. I know there are some parents who are abusive and there are difficult circumstances, but most parents are not that way. Most parents love their children. Most parents would be helpful to a child who has difficulties and most parents would be able to discuss that with them in a rational way.

The Texas law was attempting to provide that. It was not a bad law, but it was not written with sufficient clarity that a group of judges could get together and always agree on exactly what it meant. Anybody here knows if someone practices law that those circumstances happen. So this is basically what the complaint about her is, over this one subject.

A parental notification law says a parent of a young minor girl seeking an abortion should be notified if the teenager is going to have the abortion. Notification does not mean a parent has to agree to the abortion, or to even say it is okay. That would be a consent requirement. Parental notification laws do not require consent. Notification is simply telling a parent a child is about to undergo a major medical procedure.

School teachers will not allow a child to take an aspirin without calling the parent, and yet the pro-abortionists think it is perfectly all right for a 13, 14 or 15-year-old, who has gotten themselves in trouble, gotten themselves pregnant, that they should not even tell their parents and go off with some older man perhaps and conduct this procedure. That is the sad reality of it.

So even if a parent were to object to this abortion, the teenager could still go forward with it. It would not stand in the way of them going to an abortion clinic.

Eighty percent of Americans believe that it is appropriate that parents should get notification. Let me explain how these laws work in Texas. If a teenage girl becomes pregnant and does not want to follow the notification law to give her parents an FYI, she is allowed to petition the court for a waiver. In other words, she can go to the court and say, judge, I do not want to have to tell my parents I am pregnant and I am contemplating an abortion. Tell me I do not have to do so. Give me authority not to do so.

She might want the waiver for several reasons. She might be afraid to tell her parents because she is afraid they would become angry or because there might be violence.

A teenage girl is given an opportunity to explain to a trial judge what her problem with notification is and to demonstrate to the judge she is mature enough to make a decision on her own. That is what the Texas law provides. A trial court hears that and he observes the teenager. The trial judge sees the teenager personally and is able to enter into a discussion and colloquy with her. After discussing the steps she has taken to become informed, such as talking to a counselor or considering alternatives to an abortion, the judge makes a decision on whether or not the waiver should be granted and whether the girl should be allowed to have an abortion without the knowledge of a parent.

Because some of my colleagues seem to be so determined about their support of abortion on demand, I assume they consider this as a right of privacy or something, they insist that no one, for any reason, can even be advised that a minor child would have an abortion. They are not happy with these laws and object to these laws. The National Abortion Rights League and that type of group have opposed these laws, but these laws have been supported by the American people consistently and they have passed.

But I guess they would want the judge to grant a waiver in every single case. Well, I do not think anyone would say the court should grant a waiver in every case. Every case is different. So each case should be evaluated and be ruled on on the merits. It is the court's duty to examine the facts in each waiver case to determine if the waiver is suitable. That is what a judge does.

If the teenager goes before the trial court and the trial court grants her waiver and says you do not have to notify your parents, she can get an abortion without notifying either one of her parents. If the trial court denies that waiver after a hearing and says she should tell the parents, the teenager can either notify one of the parents or can appeal to the court of civil appeals.

At the court of civil appeals level, a minimum of at least three judges review the record of the trial judge to determine whether or not the judge made an error and whether or not the teenager should be able to have an abortion without notifying either parent. The judges look again at the reason behind the waiver request, the maturity of the teenager and her decision-making process. After a complete review of the trial judge's decision, the appeals court either grants the waiver and allows the abortion to go forward without notification or affirms the trial court's denial.

If the court of appeals denies the waiver, the girl either notifies one of her parents or can appeal to the state supreme court, such as the Texas Supreme Court where Justice Owen sits.

So by the time this case reaches the supreme court where Justice Owen sits, at least four judges will have either seen the teenager or reviewed the record carefully and ruled a notification should be made to at least one parent before an abortion takes place. So that is how the system works. By the time the case reaches the Texas Supreme Court, two other lower courts will have already said the girl should provide the parents the courtesy of telling them their daughter is about to undergo such a major operation.

So this is what the issue is all about. This is what the opponents are unhappy about, and they talk about it aggressively.

Justice Owen has never made an initial decision to deny a waiver. Her position on the Texas Supreme Court does not permit that. Her position only allows her to review denials of waivers already made by lower courts. In upholding the lower court's denial of a waiver, Justice Owen is only agreeing with the trial judge, the judge who had the opportunity to visualize and see the teenager and to observe her, and also the judges on the court of appeals, the intermediate level court. Justice Owen simply did what appellate judges do. Appellate judges allow the trial court to be the trier of fact and in most instances only review their decisions on abuse of discretion grounds.

So to break it down, Justice Owen merely ruled in a few parental notification cases that a trial judge and at least three judges on the court of civil appeals did not abuse their discretion by having a teenage girl notify her parents she intended to have an abortion. That is, I submit, far from being some sort of judicial activist, rogue judge who does not adhere to the law.

An FYI to a parent before a major surgery, that is what this filibuster is all about. Some of my colleagues are really strongly committed to an almost absolutist position on abortion. They oppose limiting partial-birth abortion. They oppose any limitation whatever.

Now we are at the point of seeing this sterling nominee, so well qualified, subjected to a filibuster because she did her best to evaluate and interpret the Texas law. In each case, her decision was in conjunction with and to affirm the decision of a trial judge and a three-judge civil appeals panel below her.

When my colleagues talk about being out of the mainstream, I suggest they should look at themselves. This accusation against Justice Owen is the only thing that is out of the mainstream. We are not talking about requiring parental consent for abortions. We are only talking about notice. If a parent objects, a doctor is still required to perform the abortion and allowed to perform the abortion if the child wants. In Justice Owen's State of Texas, the law does not allow a teenager to get an aspirin in school without parental consent. If a teenager wants to get a tattoo, the law requires parental consent. If a teenage girl wants to get her ear pierced, parental consent is required. So if a girl wants to take an aspirin in school, get a tattoo or have her ear pierced, her parents not only have to have notification, they have to consent. They have to sign off on it. That is not the case with abortion. In my view, giving a parent notice about an abortion for a teenage girl is nowhere outside the mainstream of American policy or American law.

Justice Owen is one of the finest nominees this Senate has ever had the opportunity to consider. For her nomination to be filibustered is an atrocity

of the confirmation process and to the tradition of this Senate. I strongly support her confirmation. I believe if logic and reason prevail, we will confirm her instead of filibustering this nomination.

This nominee is sterling. She has the highest possible rating of her peers. She has performed as one of Texas's finest litigators and has won election to the Supreme Court of Texas with 80 percent of the vote, having the support of every major newspaper in her State. I find it difficult to see how we now are not even allowing her to have a vote in this body.

They say she was rejected once. I was on the committee. That was when the Democrats were in the majority. They voted a straight party line in committee after I thought she testified brilliantly in examination. That never happened in the 8 years President Clinton was President.

Never did we vote down a nominee in committee on a party-line vote. They say, well, only two of them have been blocked here. In 8 years, there were 377 confirmations of President Clinton's judges. One was voted down. None were voted down in committee. She was voted down on a party-line vote in the Senate Judiciary Committee, but she had not been rejected by the full committee.

If they think she is going to be rejected again, why don't they let us have a vote? Let's vote on it. I suggest this nominee is going to win a majority of the votes in this Senate.

The Constitution makes clear that the Senate has an advice and consent power. It notes, with regard to treaties, that the Senate shall advise and consent provided two-thirds agree. Then with regard to the confirmation of all other offices, it just says the Senate shall advise and consent.

Since the founding of this country, we have understood that to mean the Senate will have a majority vote on the confirmation. There is no other logical thing it could mean. So now we have ratcheted up the game.

I recall distinctly a little over 2 years ago when my Democrat colleagues went to a private retreat. A number of law professors, Lawrence Tribe, Cass Sunstein, and Marsha Greenberg went there, professors all who advised them to change the ground rules on the judicial nominations. It is written in the New York Times. Since then, there has been a systematic change in the ground rules of judicial confirmations. When they had the majority, they attempted to kill nominees in committee on a party-line vote, which had never been done before. And now, amazingly, they are going to the filibuster.

The American people need to understand something important. In the history of this country, there has never been a filibuster of a circuit or district judge. Never. It has always been an up-or-down vote.

I remember when some did not like some of President Clinton's judges and they said we should filibuster; Chairman HATCH said, No, we do not filibuster judges.

When holds went on too long—the way you defeat a hold is to file a motion for cloture—and a cloture vote was moved for by Republican leader TRENT LOTT to bring up Democratic Bill Clinton's judges. I voted for cloture on each one of them. Sometimes I voted against the judge, but I voted for cloture to bring the vote up because I did not want to participate in a filibuster.

We have a big deal here. Why someone would seek out this magnificent nominee, this person who is not only qualified for the Fifth Circuit Court of Appeals but qualified to sit on the U.S. Supreme Court, and filibuster their nomination, is beyond me. It is just beyond me.

I conclude by saying I spent over 15 years of my professional career trying cases in Federal court as a U.S. attorney and assistant U.S. attorney. I appeared before courts of appeal. I wrote briefs to courts of appeal. I appeared before Federal judges. I think I have looked at her record carefully. I have heard the explanations she has made in committee. I think they are imminently sound and reasonable. I think President Bush could not have found a finer nominee. I have every confidence that she would be a superior judge on the court of appeals, and I am absolutely confident, were she given an up-or-down vote, she would be confirmed.

We need to take seriously our responsibilities here. Let's have an up-or-down vote. Let's confirm this fine nominee. She will serve us and America well.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, for the past 2 days, we have been working on an agreement looking for an orderly, systematic process by which we could consider some of the pending judicial nominations. It had been our hope we could reach an agreement to consider these nominations this week and early next week. Unfortunately, after a lot of discussions—and we worked on both sides of the aisle in good faith—but after a lot of discussions, it does not appear we will be able to reach the consent agreement.

On our side, we have been prepared to consider and vote on all of the circuit court nominations that are on the calendar now. I believe my Democratic colleagues, at this point, are prepared to vote on just one of these judges. Therefore, unless we can reach a consent agreement tomorrow, following the cloture vote in the morning on the pending Owen nomination, it will be my intention to proceed to the Prado nomination. And following disposition of the Prado nomination, it would be my expectation to proceed to the Cook nomination. I hope both of these nominations, which have received, by the way, bipartisan support, will be considered and confirmed this week.

I think at this point I will go ahead and put forth the unanimous consent request. And then we will have some comment and discussion about where we are.

Mr. President, I ask unanimous consent that on Thursday, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session and the consideration of calendar No. 105, the nomination of Edward Prado, of Texas, for the Fifth Circuit; further, that there be 3 hours for debate, equally divided between the chairman and ranking member or their designees; I further ask consent that following the use or yielding back of time, the Senate vote, without intervening action, on the confirmation of calendar No. 105; I further ask consent that following the vote, the President be immediately notified of the Senate's action.

I further ask unanimous consent that on Monday, May 5, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of calendar No. 34, the nomination of Deborah Cook, of Ohio, to be a U.S. circuit judge for the Sixth Circuit; provided further, that there be 4 hours for debate, equally divided between the chairman and ranking member or their designees; further, I ask consent that following the use or yielding back of that time, the Senate proceed to a vote on the confirmation of the nomination, again, with no intervening action or debate.

Finally, I ask unanimous consent that when the Judiciary Committee reports the Roberts nomination, it be in order for the majority leader to proceed to its consideration, and it be considered under a 2-hour time limitation, and that following that time, the Senate proceed to a vote on the confirmation, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, reserving the right to object, I have, along with Senator DASCHLE, worked very hard on this request the majority leader has read into the RECORD. Senator MCCONNELL and the majority leader have also worked very hard. Over the years I have been involved in other matters where we have had very complicated, substantive issues we have been able to work out. I am very disappointed we

cannot work this out because this really does not compare to some of the difficult issues we have been able to resolve previously. But we have not been able to resolve this.

I am really disappointed for a number of reasons. It involves individual Senators who have also devoted a lot of time on this issue, both Democrats and Republicans. But if there were ever an effort in good faith by the two sides, this has been it.

I hope my objection, which I will enter in just a few moments, will not be the end of this. I hope we can, with a night's rest, work something out. For the last two nights we have come within a whisker of an agreement on these three judges. But in the Senate sometimes a whisker stops us, and it has done that.

So I reluctantly object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, I share his frustration. These are three nominations that are going to be approved, one of them probably unanimously. The assistant Democratic leader and I have wrestled around with this now for the last 2 days, and we find ourselves still not in a position to lock in a vote on Cook and Roberts.

So tomorrow is another day, and we will try again. But it is sort of an indication of where the Senate stands these days, that even in a situation where you have three judges we know are going to be confirmed, we have not been able to reach an agreement after 2 days' work to conclude the inevitable, which is confirmation of these three judges.

Hopefully tomorrow will bring better results.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I am very hopeful we will be able to make progress. Again, the three Senators who are speaking now, with Senator DASCHLE, have been working very hard with our colleagues to try to reach an agreement. But we have been unsuccessful. We will keep moving ahead, and I am optimistic these three nominees will be confirmed shortly.

I do want to add, really for the benefit of my colleagues, that progress is being made. As my colleagues know, one of the nominees, Roberts, went back to committee, and the understanding was that with him going back to committee, we would have votes, up-or-down votes, on both Roberts and Cook. That is the background. We have been working on that for actually several weeks, and that process is underway. So we look forward to having that become a reality.

That first step, with Roberts going back to committee, was taken. And now the expectation is, and the general agreement is, we are moving in the direction that we will, at some point in time—we have not been able to lock in the time—have votes on both Roberts and Cook.

Mr. REID. Mr. President, if the majority leader will yield, I know the hour is late. I don't want to talk longer than necessary. I just want the record to be spread with the fact that we have a couple of Senators who have a different understanding as to what the majority leader and the minority leader and Senator MCCONNELL and I thought had been agreed to. Senator MCCONNELL was not on the floor; just the three of us thought it had been agreed to. There is an honest dispute as to a fact or two. This is just me speaking personally, not for my colleagues. I really think we should be able to work our way through this. It should not be as difficult as it is.

The Democratic leader and I acknowledge that the majority leader intervened right before the recess to get Roberts back for a hearing. We know that wasn't easy for him to do. We acknowledge that. We appreciate that. And we hope we can resolve this procedural quagmire. There certainly has been no bad faith by the leadership on the Republican side or the Democratic side.

Mr. FRIST. Mr. President, let me say, once again, that we will have a cloture vote on Owen tomorrow. And if cloture fails, we will go to Prado and, once Prado is completed, go to the Cook nomination. That will be the general plan.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF PRISCILLA OWEN

Mr. KYL. Mr. President, I rise in morning business for a moment to speak about the nomination of Priscilla Owen of Texas to the Federal bench.

This is really an extraordinary nomination. It is very troubling to me that it appears most of our colleagues on the other side of the aisle are willing to keep Justice Owen from getting a vote. In the past, even with very controversial votes on Justices to the Supreme Court—and I have, for example, Justice Clarence Thomas in mind, and there was significant opposition to the confirming of Justice Thomas, primarily by Members of the other side of the aisle—the leaders of the Democratic Party understood that tradition called for a vote—probably knowing they would lose the vote. They, nevertheless, refused to support any kind of filibuster and they voted against Justice Thomas's confirmation. But he was confirmed 52–48.

I always respected the things they said at or about the time of that confirmation—that they would not ever support a filibuster, regardless of their particular feelings about the nominee. I thought that took courage, and I respected it, coming, as it did, from some of the key leaders of the Democratic side of the Senate. It confirmed to me that the tradition of the Senate relationship of comity we have with the President in dealing with his nominees, and the importance of our responsibilities with respect to confirming Justices of the Supreme Court and members of the Federal bench generally, is such that partisanship and tactical advantage could be laid to the side for the good of the country and these nominations could be voted on.

Now, there have been votes—sometimes—where the nominee lost. Most of the time, when votes are allowed to happen, the nominees prevail. But the new situation we have in this body, starting out with the President's nomination of Miguel Estrada—and now sadly, it seems, with the nomination of Priscilla Owen—we are going to require that unless 60 Members of the Senate agree to allow a vote, we don't get a vote. A filibuster, in other words, becomes the benchmark, the standard for confirmation of judges.

It has never been that way. There has only been one successful filibuster, and that was a very strange situation. There has never been a partisan filibuster in this body until now. It is especially remarkable because, in the case of Justice Owen, for example, one cannot claim, as has been claimed with regard to Miguel Estrada, that her record is unknown or unclear, or that there is more information that needs to be gleaned. She appeared not once but twice before the Judiciary Committee. The reason I wanted to take the floor briefly today is to say to my friends I don't think I have ever seen a nominee who handled herself or himself better than Justice Owen did at those hearings. She was forthcoming, brilliant in her exposition of the law, measured, and she clearly has the temperament to be a good judge.

She has been serving as a justice of the State Supreme Court of Texas. She has the support of another former justice of that court, Judge Gonzales, who obviously is now acting as the President's counsel, and the support of Democrats and Republicans alike.

The American Bar Association, as with Miguel Estrada, has recommended her for confirmation. She stayed at the hearing for as long as Members wanted her to stay. She answered all of the questions. So the same argument cannot be made that has been made about Miguel Estrada.

In fact, one of my colleagues on the other side of the aisle made it clear, in discussing the nomination of Miguel Estrada, that the only thing standing in the way of a vote—they would not necessarily commit to voting for him but at least allowing a vote on him—was producing this information which they say they want from the Justice

Department about his prior employment. But for that, that vote could occur, seeming to suggest that the same thing would be the case with any other nominee—that as long as the information was forthcoming and they knew about the individual, that therefore they could vote.

In fact, the last line, after this colleague talked to others in the Democratic Party, states: Look, if we can just get this information, do you think we can vote? And the answer was: Affirmative, to a person, because, frankly, then we would know for whom we were voting.

There was no commitment to vote for Miguel Estrada but at least they would allow the vote to go forward because they would then know ''for whom we are voting.''

Well, we do know who we are voting for in the case of Justice Owen. Her record is out there for everyone to see. There has never been a suggestion by anybody that she needs to produce more in the way of a record. It is there to be evaluated.

I suspect the reason Members on the other side of the aisle will not allow her to come to a vote is because they fear she will be more conservative as a justice than they would like to see. Let's be honest about it.

I voted for numerous circuit court nominees of President Clinton knowing they were far more liberal than I am. On my own circuit, the Ninth Circuit Court of Appeals, I voted for several who I knew were more liberal, and their voting record subsequently has borne that. They were confirmed. I voted for them. I felt President Clinton was the President; he was elected by all of the people. He had the right to nominate his own people, and if they were otherwise qualified, then I ought to vote for them. That has always been the tradition, that has always been the standard, by which we have judged these candidates for circuit court. So it is very troubling now to have a new standard imposed on us.

I come this morning to note that we are soon going to go back to the nomination of Priscilla Owen. I implore my colleagues to think about what they are doing by creating the 60-vote standard. There is no way that can be the standard only for Republican Presidents and not Democratic Presidents. It is either going to be the standard or it is not. If it becomes the standard for all Presidents, then I believe it is only a very short period of time before the confirmation process is going to grind to a halt because there will always be political differences.

By and large, that is what divides the Democrat and Republican Parties. We view life a little bit differently. We are all great Americans. We all support the troops and all want the judiciary to succeed, but we have some philosophical differences. That is fine, but they should not be the basis for not confirming judges or, more importantly, for requiring 60 votes to confirm because it is a very rare Senate in which one party has more than 60 votes in controlling the Senate. So it is basically going to grind the confirmation process to a halt.

That is a breach of our comity to the judicial branch; it is a breach of our obligations to the American people, to ensure justice is done. We know that justice delayed is justice denied. We have already heard from the Supreme Court Chief Justice about the emergencies that exist because we cannot fill these vacancies.

We have a crisis. We have to find a way to resolve this crisis. I suggest that the simplest way to do this, that is fair to everybody, is the way we have always done it: Express yourself, allow the vote to occur, vote your conscience and then move on. But do not hold up the votes simply because you have a philosophical disagreement with the President who nominates these candidates.

I urge my colleagues to think carefully because in the case of Priscilla Owen, as the bar association found, as the Judiciary Committee concluded in its most recent action by passing her out on the Executive Calendar, she is a fine justice. She would make a fine member of the Federal bench. There is no legitimate reason to oppose her.

I urge my colleagues to think about this as we focus on her qualifications, on the relationship between the Senate and the House, and on the obligation we have to the courts and to the American people. This is serious and we ought to be acting in a serious way. I urge my colleagues to support the nomination of Justice Priscilla Owen.

TRIBUTE TO EMILIE WANDERER

Mr. REID. Mr. President, I would like to pay tribute to Emilie Wanderer, of Henderson, NV, on the occasion of her 101st birthday, which she celebrated earlier this month.

Emilie Wanderer is the oldest member of the Nevada bar, but her significance goes well beyond her longevity. She both contributed to, and exemplifies, the progress our society has made in terms of quality. She broke down barriers for herself and for others. During a time when many women were discouraged from pursuing higher education and many were excluded from professional opportunities, Emilie Wanderer embarked on a legal career in addition to raising her children.

Her noteworthy accomplishments include becoming the first woman to practice law in Las Vegas, being the first woman to run for district judge in Nevada, and joining with her son John Wanderer in the first mother-son legal practice in the State. She has been an inspiration and a role model for Nevadans, especially for women pursuing careers in fields traditionally dominated by men.

Through her legal work and through her life, she has made our State a better, kinder, fairer, and more just place.

Emilie Wanderer is considered a legend in the southern Nevada civil rights community. Several decades ago, racism and segregation plagued Las Vegas like so many places throughout America. Earlier this year when we celebrated African American History Month we rightfully recalled the role that Black leaders played in the civil rights movement, but I think it is important also to recognize that some whites—not only famous and prominent people but also those who never received much attention or credit—were committed to the pursuit of justice and fairness.

Emilie Wanderer is one such person who helped bring about progress in race relations in Nevada. Early in her career, she served as legal counsel for the Nevada chapter of the National Association for the Advancement of Colored People, and she held NAACP meetings within her own home, even at the risk of harassment, threats and intimidation. She believed it was the right thing to do, and she had the courage of her convictions.

Emilie Wanderer's commitment to, and contributions to, promoting social justice and securing equal rights for all the people of Nevada deserve to be recognized and praised. On behalf of our State, I thank her and send my best wishes.

COMMEMORATING THE 35TH ANNIVERSARY OF THE DEATH OF MARTIN LUTHER KING, JR.

Mr. DURBIN. Mr. President, 35 years ago on April 4, 1968, Martin Luther King, Jr.'s life was tragically cut short by an assassin's bullet. Dr. King was just 39 years old. In 1963, Dr. King delivered a funeral eulogy for the children who were killed by a firebomb at the 16th Street Baptist Church in Birmingham, Alabama. Dr. King said: ''Your children did not live long, but they lived well. The quantity of their lives was disturbingly small, but the quality of their lives was magnificently big.'' Dr. King's own words could be said about himself.

Only three Americans have ever had a Federal holiday named for them by Congress. Two were presidents George Washington helped create our Nation and Abraham Lincoln helped preserve it. The third, Martin Luther King, Jr., never held an elected office but he redeemed the moral purpose of the United States. He reminded us that since we are all created equal, all of us are equally entitled to be treated with dignity, fairness, and humanity.

Last month I had an opportunity to visit the State of Alabama for the first time. I went there with Democratic and Republican Members of Congress, on a delegation led by Republican John Lewis from Atlanta, GA. We paid a visit to some of the most important spots in American civil rights history. Dr. King's fingerprints are on these and countless other watershed events in American civil rights history.

We went to Montgomery and stood on the street corner where Rosa Parks boarded the bus in 1955 and refused to give up her seat to a white rider, as was required by city law. After Rosa Parks was arrested, Dr. King led a bus boycott in Montgomery, where he had just moved for his first pastorate.

We went to Birmingham and visited the 16th Street Baptist Church. Before the tragic bombing in 1963, the church had been used for civil rights rallies and desegregation protests, and Dr. King had spoken there and throughout Birmingham on many occasions. He wrote his famous ''Letter from a Birmingham Jail'' 40 years ago after being arrested for leading a protest in April 1963. We went to Selma and stood at the spot on the Edmund Pettus Bridge where, in 1965, a young John Lewis was beaten unconscious by Alabama State troopers, at the time the 52-mile voting rights march from Selma to Montgomery was turned back. In response, Dr. King led a second march, and these brave actions led to Congressional passage of the Voting Rights Act of 1965. Dr. King is the pre-eminent civil rights figure in our Nation's history, but he would not have been as successful had it not been for a handful of courageous federal judges who despite death threats to themselves and family members used the judiciary to help dismantle the legacy of Jim Crow. For example, Alabama Judge Frank Johnson was part of a three-judge panel that struck down Montgomery's bus-segregation law, holding that separate but equal facilities were violations of the due process and equal protection clauses of the Fourteenth Amendment. And after Governor George Wallace banned the Selma-to-Montgomery march, Judge Johnson issued the order that allowed Dr. King and Rep. Lewis to conduct the march, calling the right to march ''commensurate with the enormity of the wrongs that are being protested.'' Dr. King called Judge Johnson a jurist who had ''given true meaning to the word 'justice.'''

Dr. King was keenly aware of the importance of the federal judiciary to ensure equality and justice in our society. In a 1958 speech at Beth Emet synagogue in Evanston, Illinois, Dr. King said: ''As we look to Washington, so often it seems that the judicial branch of the Government is fighting the battle alone. The executive and legislative branches of the Government have been all too slow and stagnant and silent, and even apathetic, at points. The hour has come now for the federal government to use its power, its constitutional power, to enforce the law of the land.''

Regrettably, President George W. Bush has been appointing Federal judges who have tried to limit the ability of the federal government to use its constitutional power to enforce the law of the land. Many of his judicial nominees are conservative ideologues who believe that the Federal Government lacks the constitutional power to provide meaningful remedies and access to the courts for victims of discrimination. In the name of States rights, these nominees have urged federal courts to strip Congress of its powers and citizens of their remedies. I question whether the President is appointing men and women to the federal judiciary who will make courageous decisions and, in the words of Dr. King, give true meaning to the word justice.

Despite this unfortunate trend, I think Dr. King would have remained optimistic. In a 1965 speech of Dr. King's entitled ''A Long, Long Way to Go''—published for the first time this month in a new book called ''Ripples of Hope: Great American Civil Rights Speeches''—Dr. King said:

> There are dark moments in this struggle, but I want to tell you that I've seen it over and over again, that so often the darkest hour is that hour that just appears before the dawn of a new fulfillment.

Dr. King's optimism in the face of dark moments is one of his enduring legacies. On this 35th anniversary of his death, I pay tribute to his optimism, courage, and heroism that transformed our Nation.

LETTER FROM A CONNECTICUT SAILOR

Mr. LIEBERMAN. Mr. President, we are all so proud of the American men and women in uniform who risked and gave their lives to liberate the Iraqi people. They performed bravely and brilliantly, proving once again that there has never been a fighting force in the history of the world as well trained, well equipped, and well motivated as the United States of America's.

Of course, their work is not done. Far from it: serious danger remains. Winning the peace will take a sustained commitment. But we can already look back with so much gratitude at the sacrifices the men and women of our Army, Navy, Air Force, Marines, and Coast Guard have made for our security and the security of the world.

In my service in the Senate and on the Senate Armed Services Committee, I have heard countless stories of the heroism of those who protect us. But just when you think nothing can deepen your conviction about the extraordinary character of these men and women, something does. Two proud parents from Bristol, CT, passed on to me a letter written on February 15, 2003, by their daughter, Barbara. She is an Operations Specialist Second Class in the U.S. Navy she was Third Class when she wrote it—serving aboard the U.S.S. *Pearl Harbor*, which was then on deployment to the Middle East. The letter was sent to a newspaper in reaction to some coverage that Barbara had read about war protests here at home. In it, Barbara explains, more eloquently than I ever could, what drives those who risk their lives for our freedom, and she reminds us of the unbreakable bonds between those serving half a world away and our communities here at home.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR EDITOR,

I currently serve as an Operations Specialist 3rd class in the United States Navy, and there are a few things I would like to clear up for you and for everyone. I serve my country for many reasons, some of which include: pride, love and responsibility. Let me explain

I am proud to be an American. It may sound cliché, but it's true. I am proud to be a part of the greatest and strongest nation in the world, and I am proud to serve her. It is my duty and my privilege to serve in the United States Military, and I am thankful for the chance to do so. I am by no means an exemplary sailor; by anyone's standards I'm mediocre at best. However, I do what I can. I was raised to be thankful for the freedoms that we, as Americans, take for granted on a daily basis: the freedom of speech, the freedom of religion, the freedom to bear arms and many more. Many countries around the world laugh at our government for allowing us these 'privileges' that we take for granted. After all, they ask, how can you maintain authority when dissent is allowed? But we say, how can you not? And that is what makes our country great.

I am not a warmonger, nor a dissenter. I do not carry guns or cry 'fire' in a crowded theater. I am simply someone who realizes that these freedoms that we cherish are not free of cost. I am aware that the cost these freedoms is human lives. A familiar saying, often attributed to Voltaire, captures the spirit of the American military perfectly: ''I [may] disapprove of what you say, but I will defend to the death your right to say it.''

Every day we hear reports of people speaking out against the U.S. military, saying that we spend too much, waste too much, and are an archaic set of muscles our government flexes to tell the world that we are still pertinent. I disagree wholeheartedly for one reason: If I were not here spending too much, wasting too much, and flexing my protective muscles, then they would not be able to say that. If they lived in a country like Iraq, they and their families could be put to death for saying that. Think about that before you say that we should do nothing. Think also that the man who runs that country, Saddam Hussein, is building long-range weapons and weapons of mass destruction, intending to aim them at us.

I love my country, and I love my family and friends. I would rather die than see either of them hurt. I would rather put my life on the line so that they don't have to. That is why I am here on a ship, ready to go to into danger. I'm not saying I'm not scared; I'm terrified. However, I'm more scared of inaction. More scared that if I don't do this, then this man will reach out his hand from his palace and try to hurt the ones I love. I will not allow that to happen. I am on my way, right now, to stand ready to remove this man from power before he can hurt the people I hold dear. Right now, the man I love is over there getting ready to stand against those who wish to hurt the people we love. I pray every day that this does not come to war. I do not want to fight, and I do not want my love to be in harm's way. However, we have already made our decisions. We have realized that inaction now will lead to greater bloodshed farther down the road, and we will

do anything to protect the lives of our fellow countrymen. This is our mission.

I believe every American has a responsibility to America. I don't mean that everyone should join the military. The military life is a hard one, and not a path easily trod. Once my four years are completed, I will more than likely rejoin the ranks of civilians that I work so hard to protect now. However, I have fulfilled at least a part of what I owe America. Everyone has a part to play, be it military, politics, being an activist, or even just helping an elderly neighbor rake their lawn. Each American has a responsibility to every other person in our country. Each of us has a responsibility to every other person in this world. Ani DiFranco wrote '' the world owes me nothing, but we owe each other the world '' I believe this to be one of the most true statements I've ever heard. We, as a species, could not survive without each other, even though it seems at times that we are hell-bent on destroying ourselves.

I want every person in America to know this: I stand for you. I will take your place in line when the final bell tolls, and I will do it gladly, for I believe that your life is worth it. You are worth every hardship, every effort, and every last breath in my body. I love you. Even if I do not know you, have never seen your face, have never heard your voice, I love you. I do this today and every day for you. So please, do not wave off my gift to you. Don't say you don't want it, just accept that I love you, and will defend you, even if it means my life.

May your life be blessed,

BARBARA MARIE O'REILLY,
0S3 USN.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 9, 2001 in Los Angeles, CA. While a Sikh in traditional clothing was out on an evening walk close to his home, four men attacked, beat, and punched him. The attackers yelled ''terrorist'' as they beat him.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act 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.

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, I unfortunately had to miss the vote yesterday on the nomination of Jeffrey Sutton to serve on the U.S. Court of Appeals for the Sixth Circuit, but I would like to explain why, had I been here, I would have voted against the nomination.

I take very seriously the Senate's constitutional duty to review Presidential nominees, especially those to the Federal bench. Once confirmed by the Senate, judges have lifetime tenure, meaning that there is no real opportunity to correct poor choices for judicial positions. Given the nature of a judge's job—they hold power not only over the liberty, but in many cases, the lives of those before them—Members of the Senate must be convinced that the nominee is right for the job before offering our consent to their nominations.

This does not mean that we should confirm only those whose views comport precisely or even largely with their own; indeed, the President must be given broad leeway to nominate those who he believes are right for the job, which is why I have supported most of this President's nominees, to the bench or otherwise, regardless of whether I would consider them the best candidates for the job. But the Senate has a constitutional obligation to review, and, when necessary, serve as a check on the President's choices, and when a nominee's views and positions lie far from the mainstream or are so at odds with what I consider to be needed for the job, I must respectfully withhold my consent from their nomination, especially when the stakes are as high as they are for the bench.

After reviewing Mr. Sutton's record, I have concluded that I cannot support his nomination. Although his professional credentials are impressive and I have little doubt that he is a good lawyer, I believe that his legal views lie far out of the mainstream and that his presence on the Federal bench could do serious harm to the values about which our Nation cares deeply, particularly when it comes to our national desire to fight discrimination and protect individual rights. Mr. Sutton has devoted a significant part of his legal career to advancing an extreme vision of federalism that restricts both the power of Congress to pass civil rights laws and the ability of individuals who have been harmed by discriminatory acts of State governments to seek redress. He has used that vision of federalism to convince activist judges to restrict congressional enactments. He has argued against the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Violence Against Women Act. These were laws with strong, mainstream support, and the records justifying them were strong. I have deep concern that when future civil rights and similar laws come before him, he will argue against them on federalism grounds as well. I cannot in good conscience support putting him in a position where he will be able to further restrict these good laws.

VA FINDS FLU SHOTS PROTECT ELDERLY

Mr. GRAHAM of Florida. Mr. President, throughout its history, the Department of Veterans Affairs, VA, has made great strides in medical research. At a time when VA's medical and prosthetic research program is being starved of vital funding, as ranking member of the Committee on Veterans' Affairs, I would like to draw attention to a significant discovery the program recently has made.

As highlighted in an April 22, 2003, article in The Washington Post, researchers at the Minneapolis VA Medical Center found that not only do seniors who get vaccinated against the flu gain protection from the disease, but they also reduce their risk of hospitalization from pneumonia, cardiac disease and stroke. The VA study, published in the April 3, 2003, issue of The New England Journal of Medicine, also found that during a given flu season, vaccinated elderly patients were half as likely to die as their unvaccinated peers.

Since its inception, the VA research program has made landmark contributions to the well-being of veterans and the Nation as a whole. Past VA research projects have resulted in the first successful kidney transplant performed in the U.S., as well as the development of the cardiac pacemaker, a vaccine for hepatitis, and the CAT and MRI scans. This new discovery is yet another example of the crucial research work done by the VA, and of why we must keep the research program sufficiently funded.

I ask unanimous consent that the article from The Washington Post highlighting the VA research study on the benefits of the flu vaccine be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 22, 2003]

FLU SHOTS SAVE LIVES

(By Jennifer Huget and Associated Press)

Seniors who get vaccinated against the flu not only protect themselves from that deadly disease but also reduce their risk of hospitalization for pneumonia, cardiac disease and stroke. Plus, a study in the April 3 issue of the New England Journal of Medicine shows, vaccinated elderly patients were half as likely to die as their unvaccinated peers during a given flu season.

The study, conducted by the Department of Veterans Affairs at the Minneapolis VA Medical Center, tracked 286,000 men and women age 65 and over through two flu seasons. Although the vaccinated folks were on average older and in worse overall health than the unvaccinated, they were about a third less likely to have pneumonia and about a fifth less likely to be hospitalized for cardiac care of suffer a stroke during the flu season.

Influenza kills about 36,000 people of all ages each year, according to the Centers for Disease Control and Prevention (CDC); about 90 percent of those deaths are among the elderly. Yet the CDC says that only 63 percent of those over age 65 got flu shots in 2001. Flu shots confer benefits for one flu season only. Since this year's flu season is now winding down, experts suggest that seniors start seeking new shots in October.

IDEA FULL FUNDING

Mr. ROBERTS. Mr. President, today I am proud to cosponsor the Hagel

IDEA bill, S. 939, which will finally make Congress pay its promised share of special education funding. I have long been a supporter of fully funding IDEA and I am pleased today to support this important piece of legislation.

Nearly 30 years ago, Congress made a promise to our schools to share the cost of special education. The promise was simple—the Federal Government pays 40 percent of the excess cost of educating a special needs child. Sadly, we have yet to fulfill that promise and I believe it is well beyond time that Congress relieves our State and local governments of the financial burden they have been forced to shoulder. This bill will fully fund IDEA in 8 years by increasing funding by $2 billion annually for 7 years and $1.8 billion in 2011. This funding will have a tremendous impact in my home State of Kansas. The Kansas Department of Education estimates that this legislation will provide the State an increase of $19 million in overall funding for IDEA each year. Kansas schools may then spend these newly freed-up dollars in areas where they need it the most, such as professional development, title I programs, or technology.

In the State of Kansas, special education costs have skyrocketed to over $530 million for 2002. Unfortunately, the Federal Government only picks up about 16 percent of that figure, leaving 84 percent of the funding to State and local governments. In dollar amounts, the State of Kansas pays over $251 million in special education costs, while local schools must fork out an additional $200 million to cover the costs of special education. This is unacceptable. IDEA is the ''granddaddy'' of all unfunded mandates and I can assure my colleagues that funding IDEA at the promised level of 40 percent would not only relieve schools in my home State of Kansas, but would also relieve schools in each and every State in our great Nation. I stress to my colleagues that there is no better time than now to help our local schools by fully funding IDEA.

I would like to share with my colleagues the current budget situation in Kansas. Like many other States, Kansas is facing ominous cuts in the State budget, and schools across the State are worried about shortfalls in their own budgets. Rural schools all over Kansas are considering consolidation to alleviate budget woes. Schools in western Kansas are cutting the school week to 4 days in order to save money. Schools in eastern Kansas are cutting academic programs in order to cut costs. If Congress would pay its promised share of special education funding, then our schools would be able to use those freed-up dollars for other educational needs. We are talking about real dollars for real people. Fully funding IDEA is not just something that Congress should do, it is something we promised to do.

I would like to thank my colleagues for the commitment to education funding. I do believe that Congress is on the right path to fully funding IDEA, and I am pleased that education funding has been a top priority over the last few years. Since 2000, Federal special education funding has increased by approximately 58 percent and title I funding has increased by nearly 45 percent.

I am proud of this support for education funding, and I urge my colleagues to continue on the course to fully funding IDEA. It is our duty to once and for all meet the promise we made nearly 30 years ago.

MORATORIUM ON EXECUTIONS IN ILLINOIS

Mr. FEINGOLD. Mr. President, I want to take a moment to comment on Governor Rod Blagojevich's recent decision to continue the moratorium on executions in Illinois initiated by former Governor George Ryan. The leadership we have now seen from two successive Illinois Governors—one Republican and one Democrat—sends the right message for the Nation. This is not a partisan issue. All Americans who value fairness and justice can agree that executions should not take place—in Illinois or elsewhere in the Nation—under a flawed death penalty system, a system that risks executing the innocent.

Three years ago, Governor Ryan, a death penalty supporter, made national headlines when he was the first Governor in the Nation to place a moratorium on executions. He did so after considering irrefutable evidence that the system in Illinois risks executing the innocent. Since the death penalty was reinstated in Illinois in 1977, Illinois had executed 12 people. But, during this same time, another 13 death row inmates were found to be innocent and to have been wrongfully sentenced to death.

Governor Ryan did not stop there. He created an independent, blue ribbon commission, including former U.S. Attorney Thomas Sullivan, one of our former colleagues, Senator Paul Simon, and lawyer and novelist Scott Turow. He instructed the commission, composed of death penalty proponents and opponents, to review the State's death penalty system and to advise him on how to reduce the risk of executing the innocent and to ensure fairness in the system.

After an exhaustive 2-year study, the commission issued a comprehensive report and set forth 85 recommendations for reform of the Illinois death penalty system. These recommendations address difficult issues like inadequate defense counsel, executions of the mentally retarded, coerced confessions, and the problem of wrongful convictions based solely on the testimony of a jailhouse snitch or a single eyewitness. The commission's work is the first and, so far, only comprehensive review of a death penalty system undertaken by a State or Federal Government in the modern death penalty era.

Earlier this year, the Illinois legislature responded with a bill that included some of the recommendations of the commission. Governor Blagojevich, however, rightly reviewed the legislation and determined that the bill did not go far enough. And last week, he concluded that executions should not resume.

But, the series of mistakes that led to a moratorium are not unique to Illinois. Death penalty systems across the country are fraught with errors and the risk that an innocent person may be condemned to die. There have been over 800 executions in the United States in the modern death penalty era. During that same period, 107 people who were sentenced to death were later exonerated. That means that for approximately every eight persons executed, an innocent person has been wrongly condemned to die.

Evidence that race plays a role in who is sentenced to death continues to mount. A recent report on race and the death penalty released last week by Amnesty International tells us that while African Americans comprise 12 percent of the U.S. population, they are more than 40 percent of the current death row population and one in three of those executed since 1977. The U.S. could soon carry out the 300th execution of an African American inmate since executions resumed in 1977. The report also highlighted that 80 percent of people executed in the modern death penalty era in the U.S. were executed for murders involving white victims, even though blacks and whites are murder victims in almost equal numbers in our society.

We should all be startled by this statistic. There is something particularly insidious, particularly un-American about racial discrimination in the application of the death penalty. A system that treats people differently in administering the ultimate punishment based on their race or the race of the victim is immoral.

In the face of these and other startling pieces of evidence that the death penalty is broken, our Nation is not, as it should be, ceasing or slowing the use of capital punishment. Instead, executions are being carried out at an alarming pace. Already this year, 28 people have been executed, and over the last 6 years, the average annual number of executions is well above that of previous years in the modern death penalty era. In 1999 alone, 99 people were executed in America.

It is my hope that we do not break any records this year. With an eight-to-one executed-to-exonerated ratio, however, we are clearly in a race—a race against time. Because with 107 death row inmates exonerated to date, I do not think any American can be sure that an innocent person has not been executed in this country, and we most certainly cannot guarantee that it will never happen. We must suspend executions and study the flaws in the

death penalty system. I have introduced the National Death Penalty Moratorium Act, which would place a moratorium on Federal executions and call on the States to do the same, while an independent, blue ribbon commission conducts a thorough study of the flaws in the system.

As public concern about the accuracy and fairness of the use of the death penalty deepens, I commend Governor Blagojevich for taking this opportunity to continue Illinois' commitment to justice and fairness.

Governor Blagojevich did the right thing last week when he decided to continue the death penalty moratorium in Illinois. We in the Senate have a unique opportunity to look to the State of Illinois as a model for the Nation in ensuring fairness in the Federal death penalty system. I urge my colleagues to co-sponsor the National Death Penalty Moratorium Act.

The time for a moratorium is now.

INTERPRETATION OF TITLE IX OF THE SARBANES-OXLEY ACT OF 2002, H.R. 3763

Mr. BIDEN. Mr. President, on April 11, 2003, I submitted for inclusion in the official RECORD of the Senate a section-by-section discussion and analysis of title IX of the Sarbanes-Oxley Act of 2002, P.L. 107–204. At the end of that statement, the full text of a letter to me from the United States Department of Justice, dated December 26, 2002, should have appeared. In that letter, Assistant Attorney General Daniel J. Bryant confirms my view that the Department may use existing criminal provisions to prosecute corporate executives who fail to file a certification attesting to the accuracy of a company's financial reports, pursuant to Section 906 of the Sarbanes-Oxley Act. Unfortunately, the letter was inadvertently excluded from the RECORD, so I now resubmit it and ask unanimous consent that its text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, December 26, 2002.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: This is in response to your letter of October 16, 2002 to the Attorney General and the Chairman of the Securities and Exchange Commission regarding enforcement of section 906 of the Sarbanes-Oxley Act of 2002 (''the Act''). The Department thanks you for your leadership in corporate governance reform and, in particular, commends your efforts as primary author of section 906 of the Act (18 U.S.C. §1350), which requires corporate executives to make certain certifications with respect to their financial statements.

The Department is fully committed to using the tools Congress provided in the Act in our continuing efforts to uncover and punish corporate fraud. As the President noted when he signed the Act, ''this law gives my administration new tools for enforcement. We will use them to the fullest.'' In keeping with the President's statement, Attorney General Ashcroft has directed all United States Attorneys and FBI Special-Agents-in-Charge to review the Act and to take all appropriate steps to implement its provisions fully and expeditiously.

The Department continues to consult with the Commission staff regarding certain legal and technical issues associated with implementing section 906. In particular, questions have arisen regarding the form, location, method of filing and scope of the certification required under section 906. We want to assure you that the Department will continue to work closely with the Commission and we are confident that these questions will be resolved to your satisfaction and with the full input of all affected parties in the near future.

The Department does believe that it is in a position to respond to one question you raised in your letter. You have inquired whether covered individuals who willfully fail to file the certifications required by 18 U.S.C. §1350(a) are subject to the penalties provided in 15 U.S.C. §78ff. While the facts and circumstances determine which tools our prosecutors utilize in each individual case, we believe that section 78ff's criminal penalties are applicable when an individual willfully fails to file the required certification under section 906.

Section 1350(a) of the Act mandates that each periodic report containing financial statements filed by an issuer with the Securities and Exchange Commission pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 shall be accompanied by the required written certification. In addition, Section 3(d) of the Act states that: ''a violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchangee Act of 1934 (15 U.S.C. §§78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules and regulations.''

The criminal provisions of the Securities Exchange Act of 1934 (15 U.S.C. §78ff) state that ''any person who willfully violates any provision of this chapter (other than section 78dd–1), or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this chapter . . . shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.'' Therefore, as you have suggested, the Department may utilize section 78ff's criminal penalties to prosecute executives who violate the Sarbanes-Oxley Act by willfully failing to file section 906's required certifications.

The Department believes that it is critically important to work with the Commission to resolve the remaining issues you have raised in a timely and thoughtful manner, and we are committed to moving forward expeditiously to achieve consensus on those issues. We also will continue, where appropriate, to formulate guidance for our prosecutors and investigators who must enforce the new law and to provide clarity for the corporate community which must comply with it.

We appreciate your attention to these issues, and look forward to continuing to work with you and others in Congress on the implementation of the Sarbanes-Oxley Act.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

HONORING OUR ARMED FORCES

Mr. LIEBERMAN. Mr. President, I rise to pay tribute to the second fallen son of Connecticut in the war against Saddam Hussein's regime in Iraq: Marine CPL Kemaphoom ''Ahn'' Chanawongse, 1st Battalion, 2nd Marine Regiment, 2nd Marine Expeditionary Brigade, United States Marine Corps, who was killed in an ambush outside of Nasiriyah, Iraq, on March 23rd, 2003. This brave young man was just 22 when he lost his life.

Corporal Chanawongse had been listed as missing in action for 3 weeks: three weeks of what I can only imagine was, for his family, a time of unimaginable uncertainty and trepidation. We can only hope that the news of their son's death has given the Corporal's family some sense of closure, and an opportunity to come to terms with his passing with God's help and the help of their friends.

Corporal Chanawongse was not the first to fall for his country in Iraq, and sadly, it is safe to say that his death will not be the last. Nonetheless it is important for us to honor each of the fallen in their own right: to say, ''these few gave their lives so that many could live without fear.'' There is no greater measure of compassion than the sacrifice that Corporal Chanawongse and his fallen brothers- and sisters-in-arms made. In the stories of the fallen soldiers we will learn more about the stuff that this country is made of and the values on which it is built. It is our duty as Americans, and as citizens of the world who believe in freedom, to always remember their names, their faces, and their stories.

This young man and his family came to the United States when he was 8 years old, and they settled in the wonderful town of Waterford, CT. Ahn graduated from Waterford High School in 1999 and joined the Marines shortly thereafter. It is a story similar to the stories of countless other young men and women who choose to serve their country for the chance to be a part of something greater than themselves; for a chance to build a noble life for themselves and the children they might someday have; for a chance to join a select brotherhood and sisterhood that has, throughout history, responded to our country's call and the call of others in danger and distress around the world.

I extend my deepest condolences to Corporal Chanawongse's mother, Tan Patchem, his stepfather, Paul Patchem, and his older brother, Awe. I tell you plainly that I am humbled by your family's sacrifice, and I am honored to pay tribute to your son in this Chamber today.

Paul, Tan, and Awe, our prayers are with you in this difficult time.

TRIBUTE TO THE LATE SENATOR SPARK MATSUNAGA

Mr. INOUYE. Mr. President, 13 years ago this month, our late colleague, the Honorable Spark Matsunaga of Hawaii, died while serving in office, abruptly cutting short a distinguished 28-year

career in the United States Senate and the House of Representatives.

His legacy should not be forgotten, particularly since in recent months, the war has dominated discussions in our Chamber and throughout the world. Sixty years ago, circumstances compelled Senator Matsunaga to become a warrior, and he acted with bravery and valor that resulted in our country awarding him the Bronze Star and two Purple Hearts. Even as a war hero, however, Senator Matsunaga knew the importance of peace and believed that the peaceful resolution of disputes should always be our primary goal.

''After serving as a soldier, he went into public service to find a way to end war,'' his son, former Hawaii State Senator Matt Matsunaga, once said.

Like other prominent Americans such as Woodrow Wilson, Jennings Randolph, and Everett Dirksen, Senator Matsunaga envisioned a ''Department of Peace'' that ideally would be on equal footing with the Department of Defense. In 1979, he was successful in having a provision added to an education appropriations bill that called for the establishment of the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

Senator Matsunaga chaired the newly created nonpartisan panel, which became known as the Matsunaga Commission. After numerous public hearings and meetings with scholars, government, and military officials, and representatives from religious and ethnic organizations, the Commission recommended the creation of a national peace academy. Subsequently, Senator Matsunaga spearheaded a bipartisan drive that led to the passage of a bill that was signed into law by President Reagan establishing the United States Institute of Peace in Washington, D.C.

The Institute's mission is to ''support the development, transmission, and use of knowledge to promote peace and curb violent international conflict.''

Following Senator Matsunaga's death in 1990, the University of Hawaii paid tribute to him by establishing the Matsunaga Institute for Peace, where scholars could study and advise on ways to settle regional and international disputes without turning to violence.

Senator Matsunaga's belief in peace began early. In 1930, as a student at the University of Hawaii, he wrote a short essay, titled ''Let Us Teach Our Children to Want Peace'':

> Wants are the drives of all human action. If we want peace we must educate people to want peace. We must replace attitudes favorable to war with attitudes opposed to war. Parents should protect the child from experiences with materials of warfare. Teachers should let the generals fall into the background and bring into the foreground leaders in social reform as heroes. We must help our young men to see that there are other types of bravery than that which is displayed on the battlefield. If in our teaching we emphasize the life and work of out great contributors instead of our great destroyers, people will come to realize that moral courage is bravery of the highest type, and America will be called the Champion of Peace.

Senator Matsunaga lived by those words throughout his life. I ask my colleagues to join me in paying tribute to the late Senator Matsunaga.

THE DISTINGUISHED CAREER OF JAY CUTLER

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the distinguished career of Jay Cutler, who is retiring this year as the Director of Government Relations and Special Counsel for the American Psychiatric Association, where he has served for 25 years. During that quarter century he has been a powerful advocate for America's psychiatrists, for the patients they serve, and for the broader cause of mental health. He is well known to virtually every Senator as an outstanding advocate and a fine human being.

I first came to know Jay many years ago, when he served on what was then known as the Senate Human Resources Committee and is today our Health, Education, Labor and Pensions Committee. Jay was Senator Jacob Javits' top staff person on the committee. I worked closely with him on a wide range of issues, especially on health care.

Jay's career has had a remarkable breadth and depth. There is no cause in which he has been more deeply involved than better treatment for persons suffering from mental illness and substance abuse. Over the course of his career, there has been a remarkable shift in the perception of mental illness and substance abuse by policy makers and the public. The Nation has made a remarkable transition from the long held and destructive view that mental illness and substance abuse are character flaws, and has achieved a new understanding, that they are diseases which can and should receive the best treatment that medical science can provide. In many ways, Jay's tireless dedication to the cause of mental illness reform and substance abuse treatment has been at the core of this profound shift in public awareness and understanding of these disorders.

Among many other accomplishments during Jay's years in the Senate tenure, he had played the central staff role in the drafting, introduction and passage of the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91–616, that established the National Institute on Alcohol Abuse and Alcoholism. He worked side by side with Senator Javits and Senator Harold Hughes to change the perception of national policymakers towards alcoholism and the effects of alcohol abuse.

As a Senate aide and later as APA's Director of Government Relations, Jay had a direct impact on virtually every major bill on health policy and mental illness and substance abuse treatment legislation over more than 30 years. Even a selective list of the policies and laws that bear Jay's imprint includes: the landmark Employee Retirement Income Security Act; expansion of the community mental health centers program; public oversight to protect patients in mental health treatment against abuse; reauthorization and reorganization of the Alcohol, Drug Abuse, and Mental Health Administration; the exemption of psychiatric hospitals and units from the Medicare prospective payment methodology, ensuring their fiscal viability for nearly 20 years; the expansion of Medicare's limited coverage of outpatient treatment for mental illness, first by lifting the $250 annual dollar limit to $500, then to $1,200, and ultimately repealing the discriminatory dollar limit altogether; enactment of the landmark 1996 Federal Mental Health Parity Act; increased funding for veterans', children's, and Indian mental health services; medical records privacy legislation, especially assuring the confidentiality of medical records for psychiatric and substance abuse treatment.

The historic decision by President Clinton to issue an Executive Order requiring non-discriminatory coverage of treatment for mental illness, including alcohol and substance abuse disorders, in the Federal Employees' Health Benefits Program; the APA's successful efforts to enact ''parity'' laws in some 30 States; the bipartisan national campaign to double the NIH research budget, including the budgets on mental illness and substance abuse disorders.

For more than 30 years, Jay has dedicated his professional career to the eradication of any stigma against persons with mental illness, including those struggling with alcohol and substance abuse disorders. He has greatly assisted in educating the public and key national policymakers on these vital issues. he has also been at the forefront of efforts to eliminate discrimination against persons with mental illness. He has a record that few can match as an advocate for education, research, and treatment of all mental disorders.

Jay's personal qualities have not only contributed immeasurably to his success but have made him countless friends in the Senate, the House, administrations of both parties, and the health policy community. All his interactions are marked by an extraordinary degree of candor and openness and by the incisive intellect and political skill that has made him a valuable counselor to so many of us.

Jay has always fought hard and effectively for the interests of the physicians represented by the American Psychiatric Association. Jay's wisest counsel to the APA was to place the public policy needs of its patients first. To his enduring credit, throughout

Jay's service as Director of Government Relations, APA could be relied upon to fight just as hard for its patients as its members.

No tribute to Jay can fail to mention Jay's beloved wife and lifelong partner, Randy. When the APA hired Jay Cutler, it got Randy as part of the deal. Her generosity of spirit, keen intellect, and strong commitment have meant the world to Jay, to his colleagues at the APA, and to the nation.

Throughout his remarkable career, Jay Cutler—with Randy Cutler beside him—has worked to improve the lives of millions of Americans who, for no fault of their own, have struggled to overcome mental illness. Much of the distance that we have come in recognizing their needs and meeting them over the years of Jay's outstanding services and dedication is the result of Jay's ability.

On the occasion of Jay's retirement, I comment his brilliant service to Congress, to the American Psychiatric Association, and to the millions of Americans with mental illness. I wish Jay and Randy great happiness and success as they begin this new chapter in their lives.

ADDITIONAL STATEMENTS

EL DÍA DE LOS NIÑOS

● Mr. BINGAMAN. Mr. President, I rise today to recognize the celebration of El día de los niños, a day for parents, families, and communities to celebrate, value, and uplift all children in the United States. As cochair of the Senate Democratic Hispanic Task Force, I believe it is important that we set aside a time to commemorate the essential role of children in the future of every nation. On this day, April 30, cities throughout the United States are promoting the well-being of children by hosting a variety of special events, including parades, book festivals, and health fairs. In my own State, for example, the New Mexico State University Library, in conjunction with the Southern New Mexico Engaging Latino Communities for Education Collaborative, ENLACE, is hosting an exhibit of bilingual, Spanish-English, children's books. This activity serves to help communities celebrate and promote the importance of reading in many languages.

As we continue to discuss the well-being of our children, I invite my colleagues to join with me in taking time on this day, El día de los niños, to rededicate ourselves to working together and acting on behalf of our children throughout the year.●

PREPARING FOR NATIONAL COMPETITION ON CONSTITUTIONAL KNOWLEDGE

● Mr. CARPER. Mr. President, this May, more than 1,200 students from across the United States will visit Washington, D.C. to compete in the national finals of the We the People... The Citizen and the Constitution program. It is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am proud to announce that a class from Smyrna High School will represent the State of Delaware in this national event. These students, with the leadership of their teacher Marc Deisem, have worked diligently to reach the national finals. Through their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

This 3-day national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their knowledge.

Administered by the Center for Civic Education, the We the People... program has provided curricular materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. The program affords students a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government.

It is inspiring to see these young people advocate the principles of our Government. These principles identify us as a people and bind us together as a Nation. It is important for our next generation to understand the values and principles that serve as the foundation in our ongoing effort to preserve and realize the promise of democracy.

These students from Smyrna High School are currently conducting research and preparing for their upcoming participation in the national competition in Washington, DC. I wish these young ''constitutional experts'' the best of luck at the We the People... national finals. They represent the future of our State and Nation, and they give us cause for great hope as we look to the future.●

RECOGNIZING ONCOLOGY NURSING MONTH—MAY 2003

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to oncology nurses. May is the ninth annual Oncology Nursing Month. The celebration kicks off on Thursday, May 1, 2003, on Oncology Nursing Day, during the opening ceremonies of the Oncology Nursing Society's 28th Annual Congress in Denver, CO, and continues until May 31, 2003.

Oncology Nursing Month recognizes oncology nurses, educates the public about oncology nursing, provides an opportunity for special educational events for oncology nurses, and celebrates the accomplishments of oncology nurses.

The Oncology Nursing Society, ONS, is the largest professional oncology group in the United States composed of more than 30,000 nurses and other health professionals. It exists to promote excellence in oncology nursing and the provision of quality care to those individuals affected by cancer.

As part of its mission, the society honors and maintains nursing's historical and essential commitment to advocacy for the public good. ONS was founded in 1975, and held its first Annual Congress in 1976. Since the society was established, 218 local chapters have been formed to provide a network for education and peer support at the community level.

In my State of California, there are more than 2,515 oncology nurses and health professionals who care for individuals with cancer and their families. In addition, California has 18 local Oncology Nursing Society chapters including the areas of Pacific Grove, Fresno, Brentwood, Lompoc, Simi Valley, Palm Springs, Greater Los Angeles, Redding, Sacramento, Colton, Chico, Lodi, Orange County, San Diego, San Francisco, Santa Clara, Sonoma County, and Lakewood.

Over the last 10 years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all Americans receive cancer care in community settings including cancer centers, physicians' offices, and hospital outpatient departments. Treatment regimens are as complex, if not more so, than regimens given in the inpatient setting a few short years ago.

Oncology nurses are on the frontlines of the provision of quality cancer care for individuals with cancer. Nurses are involved in the care of a cancer patient from the beginning through the end of treatment. Oncology nurses are the frontline providers of care by administering chemotherapy, managing patient therapies and sideeffects, working with insurance companies to ensure that patients receive the appropriate treatment, and providing counseling to patients and family members, in addition to many other daily acts on behalf of cancer patients.

With an increasing number of people with cancer needing high quality health care, and an inadequate supply of nurses, our Nation could well be facing a cancer care crisis of serious proportion, with limited access to quality cancer care.

I was proud to support the passage of the ''Nurse Reinvestment Act'' in the 107th Congress. This important piece of legislation expanded and implemented programs at the Health Resources Services Administration, HRSA, to address the multiple problems contributing to the nationwide nursing shortage, including the decline in nursing student enrollments, shortage of faculty, and dissatisfaction with nurse workplace environments.

I commend the Oncology Nursing Society for all of its hard work to prevent and reduce suffering from cancer and to improve the lives of those 1.3 million Americans who will be diagnosed with cancer in 2003.●

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 two treaties 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 3 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 274. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

The message also announced that the House has passed the following bill, without amendment:

S. 162. An act to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 149. Concurrent resolution expressing the support for the celebration of Patriots' Day and honoring the Nation's first patriots.

H. Con. Res. 156. Concurrent resolution extending congratulations to the United States Capitol Police on the occasion of its 175th anniversary and expressing gratitude to the men and women of the United States Capitol Police and their families for their devotion to duty and service in safeguarding the freedoms of the American people.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 274. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; to the Committee on Environment and Public Works.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 149. Concurrent resolution expressing support for the celebration of Patriots' Day and honoring the Nation's first patriots; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 14. A bill to enhance the energy security of the United States, and for other purposes.

The following joint resolution was read the first time:

H.J. Res. 51. Joint resolution increasing the statutory limit on the public debt.

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–1982. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice (Notice 2003–23)'' received on April 22, 2003; to the Committee on Finance.

EC–1983. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Special Estimated Tax Payments (Rev. Rul. 2003–34)'' received on April 22, 2003; to the Committee on Finance.

EC–1984. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Abusive Offshore Deferred Compensation Arrangements (Notice 2003–22)'' received on April 22, 2003; to the Committee on Finance.

EC–1985. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—February 2003 (Rev. Rul. 2003–42)'' received on April 22, 2003; to the Committee on Finance.

EC–1986. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—May 2003 (Rev. Rul. 2003–45)'' received on April 22, 2003; to the Committee on Finance.

EC–1987. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Action on Decision: Coordinated Issue: Contingent Liabilities (AOD 2003–17)'' received on April 22, 2003; to the Committee on Finance.

EC–1988. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice of Significant Reduction in the Rate of Future Benefit Accrual (1545–BA08)'' received on April 22, 2003; to the Committee on Finance.

EC–1989. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Overrecovered Fuel Costs (Rev. Rul. 2003–39)'' received on April 22, 2003; to the Committee on Finance.

EC–1990. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance Regarding the Active Trade or Business Requirement under Section 355(b) (Rev. Rul. 2003–38)'' received on April 22, 2003; to the Committee on Finance.

EC–1991. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification of Accounting Period Change Term and Condition (Rev. Proc. 2003–34)'' received on April 22, 2003; to the Committee on Finance.

EC–1992. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 9100 relief for 338 elections (Rev. Proc. 2003–33)'' received on April 22, 2003; to the Committee on Finance.

EC–1993. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax Return Preparers—Electronic Filing (1545–BC12)'' received on April 28, 2003; to the Committee on Finance.

EC–1994. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Depreciation of Tires (Rev. Proc. 2002–27)'' received on April 22, 2003; to the Committee on Finance.

EC–1995. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Aircraft Engines CT7 Series Turboprop Engines; Docket No. 99–NE–48 (2120–AA64) (2003–0168)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1996. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300B2 and B4 Series Airplanes; and A300 B4–600, B4–600R, and F4–600R Series Airplanes; docket no. 2001–NM–378 (2120–AA64) (2003–0169)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1997. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800XP and 800 Airplanes; docket no. 2001–NM–18 (2120–AA64) (2003–0170)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1998. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB SF340A Series Airplanes; Docket no. 2000–NM–420 (2120–AA64) (2003–0171)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1999. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Surface Area Airspace and Modification of Class E Airspace; Jefferson City, MO; CORRECTION (2120–AA66) (2003–0072)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2000. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Emmetsburg, IA; Docket no. 03–ACE–18 (2120–AA66) (2003–0073)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2001. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Circleville, OH; CORRECTION; Docket no. 02–AGL–08 (2120–AA66) (2003–0074)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2002. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Hampton, IA; Docket no. 03–ACE–20 (2120–AA66) (2003–0075)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2003. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Fairont, NE; Docket no. 03–ACE–1 (2120–AA66) (2003–0078)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2004. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Kookuk, IA; Docket no. 03–ACE–22 (2120–AA66) (2003–0077)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2005. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Hazen, ND; Docket no. 00–AGL–25 (2120–AA66) (2003–0076)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2006. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757–200, 757–200CB, and 757–200PF Series Airplanes; Docket no. 2002–NM–315 (2120–AA64) (2003–0167)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2007. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Designation of Class A, B, C, D, and E, Airspace Areas; Air Traffic Service Routes for Comments; Docket no. FAA–2003–14698 (2120–AH77)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2008. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Part 145 Review: Repair Stations; Correction; Docket No. FAA–1999–5836 (2120–AC38) (2003–0002)'' received on April 22, 2003 ; to the Committee on Commerce, Science, and Transportation.

EC–2009. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Flightcrew Compartment Access and Door Designs; Docket no. FAA–2001–10770; SFAR 92–5 (2120–AH97)'' received on April 22, 2003 ; to the Committee on Commerce, Science, and Transportation.

EC–2010. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Protection Against Certain Flights Within the Territory and Airspace of Iraq; Docket no. FAA–2003–14766; SFAR 77; technical amendment (2120–ZZ41)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2011. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (19); Amdt. No. 3052 (2120–AA65) (2003–0020)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2012. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (48); Amdt. No. 3051 (2120–AA65) (2003–0019)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2013. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Correction; Herington, KS; Docket no. 03–ACE–10 (2120–AA66) (2003–0070)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2014. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Rome, NY; Delay of Effective Date; Docket no. 02–AEA–13 (2120–AA66) ((2003–0071)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2015. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Surface Area Airspace and Modification of Class E Airspace; Jefferson City, MO; docket no. 02–ACE–14 (2120–AA66) (2003–0069)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2016. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; and Modification of Class E Airspace; Dubuque, IA; Docket no. 03–ACE–16 (2120–AA66) (2003–0068)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2017. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class E Airspace; Brookfield, MO; Docket no. 03–ACE–3 (2120–AA66) (2003–0067)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2018. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Collision Avoidance Systems; Docket no. FAA–2001–10910 (2120–AG90)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2019. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Wiscasset, ME, Maine Yankee Reactor Pressure Vessel Removal (CGD01–03–019)'' received on April 22, 2003; to the Committee on Commerce, Science , and Transportation.

EC–2020. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regatta and Marine Parade Regulations; SLR; Miami Beach Super Boat Race, Miami Beach, Florida (CGD07–03–041)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2021. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08–02–020) (1625–AA09) (2003–0007)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2022. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regatta and Marine Parade Regulations; SLR; (Including 3 regulations) [CGD05–02–0511] [CGD05–02–056] [CGD05–02–069] (1625–AA08) (2003–0002)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2023. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Protection of Tank Ships, Puget Sound, WA (CGD13–02–018) (1625–AA00) (2003–0009)'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2024. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Waters Adjacent to San Diego County, CA [COTP San Diego 03–014] (1625–AA00) (2003–0008)'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2025. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Coronado Bay, San Diego, California [COTP San Diego 03–013] (1625–AA00) (2003–0007)'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2026. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: Olympic View Resource Area EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA (CGD13–02–016) (1625–AA11) (2003–0002)'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2027. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: (Including 2 Regulations) [CGD08–03014] [CGD09–03–209] (1625–AA11) (2000–0003)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2028. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; (Including 3 Regulations) [CGD01–03–031] [CGD05–03–037] (1625–

AA09) (2003–0009)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2029. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Areas/Anchorage Grounds Regulations/Security Zones; Oahu, Maui, Hawaii, and Kauai, HI (CGD14–03–001)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2030. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Passenger Vessels, Portland, Maine, Captain of the Port Zone (CGD01–03–001) (1625–AA00) (2003–0011)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2031. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: (Including 3 Regulations) [COTP San Juan 03–047] [COPT Southeast Alaska 03–001] [CGD01–03–028] (1625–AA00) (2003–0011)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2032. A communication from the Attorney/Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Federal Motor Carrier Safety Administration, Department of Transportation; to the Committee on Commerce, Science, and Transportation.

EC–2033. A communication from the Legal Advisor, International Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Brands Below 28000 kHz (ET Doc. 02–16, FCC Number 03–39)'' received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2034. A communication from the General Counsel, Office of the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled ''Requirement for Low–Speed Electric Bicycles (FR Doc. 03–3423, 68 FR 7072)'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2035. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the 41st Annual Report of the activities of the Federal Maritime Commission for fiscal year 2002, which ended September 30, 2002'' received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2036. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report relative to the certification that Moldova is committed to the courses of action described in section 1203 (d) of the Cooperative Threat Reduction Act of 1993, received on April 25, 2003; to the Committee on Armed Services.

EC–2037. A communication from the Assistant Secretary of Defense, Reserve Affiars, transmitting, pursuant to law, the Department of Defense STARBASE Program Management Report, received on April 22, 2003; to the Committee on Armed Services.

EC–2038. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the report relative to providing benefits to Veterans, received on April 16, 2003; to the Committee on Armed Services.

EC–2039. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, the report entitled ''Cooperative Threat Reduction to Congress Fiscal Year 2004'' received on April 22, 2003; to the Committee on Armed Services.

EC–2040. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the report relative to the Veterans Affairs Department furnishing health care to members of Armed Forces of active duty during and immediately following a national disaster as declared by the President of the United States, received on April 22, 2003; to the Committee on Armed Services.

EC–2041. A communication from the Secretary of Labor, transmitting, pursuant to law, the report entitled ''Department of Labor's 2002 Finding on the Worst Forms of Child Labor'' received on April 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2042. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the report entitled ''FY 2002 Management and Performance Highlights'' received on April 22, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2043. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of proposed legislation relative to providing permanent, indefinite appropriation to allow the Department of the Treasury's Financial Management Service to reimburse financial institutions directly, received on April 28, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2044. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Twenty-Fifth Annual Report to Congress Pursuant to Section 815 of the Fair Debt Collection Practices Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–2045. A communication from the Assistant General Counsel, Banking and Finance, Departmental Offices, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Part 50—Terrorism Risk Insurance Program (1505–AA98)'' received on April 16, 2003; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 26. A concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 108–4 Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia (Exec. Rept. No. 108–6)

Resolution of ratification as recommended by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein),

Section 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS AND CONDITIONS.

The Senate advises and consents to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia (as defined in section 4(6)), which were opened for signature at Brussels on March 26, 2003, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty, subject to the declarations of section 2 and the conditions of section 3.

Sec. 2. DECLARATIONS.

The advice and consent of the Senate to ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia is subject to the following declarations:

(1) Reaffirmation that United States Membership in NATO Remains a Vital National Security Interest of the United States. The Senate declares that

(A) for more than 50 years the North Atlantic Treaty Organization (NATO) has served as the preeminent organization to defend the countries in the North Atlantic area against all external threats;

(B) through common action, the established democracies of North America and Europe that were joined in NATO persevered and prevailed in the task of ensuring the survival of democratic government in Europe and North America throughout the Cold War;

(C) NATO enhances the security of the United States by embedding European states in a process of cooperative security planning, by preventing the destabilizing re-nationalization of European military policies, and by ensuring an ongoing and direct leadership role for the United States in European security affairs;

(D) the responsibility and financial burden of defending the democracies of Europe and North America can be more equitably shared through an alliance in which specific obligations and force goals are met by its members;

(E) the security and prosperity of the United States is enhanced by NATO's collective defense against aggression that may threaten the security of NATO members;

(F) with the advice and consent of the United States Senate, Hungary, Poland, and the Czech Republic became members of NATO on March 12, 1999;

(G) on May 17, 2002, the Senate adopted the Freedom Consolidation Act of 2001 (S. 1572 of the 107th Congress), and President George W. Bush signed that bill into law on June 10, 2002, which ''reaffirms support for continued enlargement of the North Atlantic Treaty Organization (NATO) Alliance; designated Slovakia for participation in the Partnership for Peace and eligible to receive certain security assistance under the NATO Participation Act of 1994; [and[authorizes specified amounts of security assistance for [fiscal year] 2002 for Estonia, Latvia, Lithuania, Slovakia, Slovenia, Bulgaria and Romania''; and

(H) United States membership in NATO remains a vital national security interest of the United States.

(2) Strategic Rationale for NATO Enlargement. The Senate finds that

(A) notwithstanding the collapse of communism in most of Europe and the dissolution of the Soviet Union, the United States and its NATO allies face threats to their stability and territorial integrity;

(B) an attack against Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, or

Slovenia, or their destabilization arising from external subversion, would threaten the stability of Europe and jeopardize vital United States national security interests;

(C) Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, having established democratic governments and having demonstrated a willingness to meet all requirements of membership, including those necessary to contribute to the defense of all NATO members, are in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(D) extending NATO membership to Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, will strengthen NATO, enhance security and stability in Central Europe, deter potential aggressors, and advance the interests of the United States and its NATO allies.

(3) Full Membership for New NATO Members. The Senate understands that Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, in becoming NATO members, will have all the rights, obligations, responsibilities, and protections that are afforded to all other NATO members.

(4) The Importance of European Integration.

(A) Sense of the Senate. It is the sense of the Senate that

(i) the central purpose of NATO is to provide for the collective defense of its members;

(ii) the Organization for Security and Cooperation in Europe is an institution for the promotion of democracy, the rule of law, crisis prevention, and post-conflict rehabilitation and, as such, is an essential forum for the discussion and resolution of political disputes among European members, Canada, and the United States; and

(iii) the European Union is an essential organization of the economic, political, and social integration of all qualified European countries into an undivided Europe.

(B) Policy of the United States. The policy of the United States is

(i) to utilize fully the institutions of the Organization for Security and Cooperation in Europe to reach political solutions for disputes in Europe; and

(ii) to encourage actively the efforts of the European Union to continue to expand its membership, which will help to strengthen the democracies of Central and Eastern Europe.

(5) Future Consideration of Candidates for Membership in NATO.

(A) Senate Findings. The Senate finds that

(i) Article 10 of the North Atlantic Treaty provides that NATO members by unanimous agreement may invite the accession to the North Atlantic Treaty of any other European state in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area;

(ii) in its Prague Summit Declaration of November 21, 2002, NATO stated that the Alliance

(I)(aa) will keep its door open ''to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the Washington Treaty'';

(bb) will keep under review through the Membership Action Plan (MAP) the progress of those democracies, including Albania, Croatia, and the Former Yugoslav Republic of Macedonia, that seek NATO membership, and continue to use the MAP as the vehicle to measure progress in future round of NATO enlargement;

(cc) will consider the MAP as a means for those nations that seek NATO membership to develop military capabilities to enable such nations to undertake operations ranging from peacekeeping to high-intensity conflict, and help aspirant countries achieve political reform that includes strengthened democratic structures and progress in curbing corruption;

(dd) concurs that Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have successfully used the MAP to address issues important to NATO membership; and

(ee) maintains that the nations invited to join NATO at the Prague Summit ''will not be the last'';

(II)(aa) in response to the terrorist attacks on September 11, 2001, and its subsequent decision to invoke Article 5 of the Washington Treaty, will implement the approved ''comprehensive package of measures, based on NATO's Strategic Concept, to strengthen our ability to meet the challenges to the security of our forces, populations and territory, from wherever they may come''; and

(bb) recognizes that the governments of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have successfully used the MAP to address important issues and have showed solidarity with the United States after terrorist attacks on September 11, 2001;

(III) will create ''. . . a NATO Response Force (NRF) consisting of a technologically advanced, flexible, deployable, interoperable, and sustainable force including land, sea, and air elements ready to move quickly to wherever needed, as decided by the Council'';

(IV) will streamline its ''military command arrangements'' for '' a leaner, more efficient, effective, and deployable command structure, with a view to meeting the operational requirements for the full range of Alliance missions'';

(V) will ''approve the Prague Capabilities Commitment (PCC) as part of the continuing Alliance effort to improve and develop new military capabilities for modern warfare in a high threat environment''; and

(VI) will ''examine options for addressing the increasing missile threat to Alliance territory, forces and populations centres'' and tackle the threat of weapons of mass destruction (WMD) by enhancing the role of the WMD Centre within the International Staff;

(iii) as stated in the Prague Summit Declaration, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have ''demonstrated their commitment to the basic principles and values set out in the Washington Treaty, the ability to contribute to the Alliance's full range of missions including collective defence, and a firm commitment to contribute to stability and security, especially in regions of crisis and conflict'';

(iv) Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have been acting as de facto NATO allies through their contributions and participation in peacekeepig operations in the Balkins, Operation Enduring Freedom, and the International Security Assistance Force (ISAF);

(v) Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, together with Albania, Croatia and the Former Yugoslav Republic of Macedonia, issued joint statements on November 21, 2002, and February 5, 2003, expressing their support for the international community's efforts to disarm Iraq; and

(vi) the United States will not support the accession to the North Atlantic Treaty of, or the invitation to begin accession talks with, any European state (other than Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia), unless

(I) the President consults with the Senate consistent with Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties); and

(II) the prospective NATO member can fulfill the obligations and responsibilities of membership, and the inclusion of such state in NATO would serve the overall political and strategic interests of NATO and the United States.

(B) Requirement for Consensus and Ratification. The Senate declares that no action or agreement other than a consensus decision by the full membership of NATO, approved by the national procedures of each NATO member, including, in the case of the United States, the requirements of Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties), will constitute a commitment to collective defense and consultations pursuant to Article 4 and 5 of the North Atlantic Treaty.

(6) Partnership for Peace. The Senate declares that

(A)(i) the Partnership for Peace between NATO members and the Partnership for Peace countries is an important and enduring complement to NATO in maintaining and enhancing regional security; and

(ii) the Partnership for Peace has greatly enhanced security and ability throughout the Euro-Atlantic area, with Partnership for Peace countries, especially countries that seek NATO membership, and has encouraged them to strengthen political dialogue with NATO allies and to undertake all efforts to work with NATO allies, as appropriate, in the planning, conduct, and oversight of those activities and projects in which they participate and to which they contribute, including combating terrorism;

(B) the Partnership for Peace serves a critical role in promoting common objectives of NATO members and the Partnership for Peace countries, including

(i) increasing the transparency of national defense planning and budgeting processes;

(ii) ensuring democratic control of defense forces;

(iii) maintaining the capability and readiness of Partnership for Peace countries to contribute to operations of the United Nations and the Organization for Security and Cooperation in Europe;

(iv) developing cooperative military relations with NATO;

(v) enhancing the interoperability between forces of the Partnership for Peace countries and forces of NATO members; and

(vi) facilitating cooperation of NATO members with countries from Central Asia, the Caucasus and eastern and southeastern Europe.

(7) The NATO-Russia Council. The Senate declares that

(A) it is in the interest of the United States for NATO to continue to develop a new and constructive relationship with the Russian Federation as the Russian Federation pursues democratization, market reforms, and peaceful relations with its neighbors; and

(B) the NATO-Russia Council, established by the Heads of State and Government of NATO and the Russian Federation on May 28, 2002, will

(i) provide an important forum for strengthening peace and security in the Euro-Atlantic area, and where appropriate for consensus building, consultations, joint decisions, and joint actions;

(ii) permit the members of NATO and Russia to work as equal partners in areas of common interest;

(iii) participate in joint decisions and joint actions only after NATO members have consulted, in advance, among themselves about

what degree any issue should be subject to the NATO-Russia Council;

(iv) not provide the Russian Federation with a voice or veto in NATO's decisions or freedom of action through the North Atlantic Council, the Defense Planning Committee, or the Nuclear Planning Committee; and

(v) not provide the Russian Federation with a veto over NATO policy.

(8) Compensation for victims of the Holocaust and of Communism. The Senate finds that

(A) individuals and communal entities whose property was seized during the Holocaust or the communist period should receive appropriate compensations;

(B) Bulgaria, Estonia, Lativia, Lithuania, Romania, Slovakia, and Slovenia have put in place publicly declared mechanism for compensation for property confiscated during the Holocaust and the communist era, including the passage of statutes, and for the opening of archives and public reckoning with the past;

(C) Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have each adjudicated and resolved numerous specific claims for compensation for property confiscated during the Holocaust or the communist era over the past several years;

(D) Bulgaria, Estsonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have each established active historical commissions or other bodies to study and report on their governments and society's role in the Holocaust or the communist era; and

(E) the governments of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have made clear their openness to active dialogue with other governments, including the United States Government, and with nongovernmental organizations, on coming to grips with the past.

(9) Treaty Interpretation. The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997, relating to condition (1) of the resolution of ratification of the Intermediate-Range Nuclear Forces (INF) Treaty approved by the Senate on May 27, 1988.

Sec. 3. Conditions.

The advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia is subject to the following conditions, which shall be binding upon the President:

(1) Costs, Benefits, Burden-sharing, and Military Implications of the Enlargement of NATO

(A) Presidential Certification. Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that

(i) the inclusion of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and

(ii) the inclusion of Bulgaria, Estonia, Lathuania, Romania, Slovakia, and Slovenia in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

(B) Annual Reports. Not later than April 1 of each year during the 3-year period following the date of entry into force of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, the President shall submit to the appropriate congressional committees a report, which may be submitted in an unclassified and classified form, and which shall contain the following information:

(i) The amount contributed to the common budgets of NATO by each NATO by each NATO member during the preceding calendar year.

(ii) The proportional share assigned to, and paid by, each NATO member under NATO's cost-sharing arrangements.

(iii) The national defense budget of each NATO member, the steps taken by each NATO member to meet NATO force goals, and the adequacy of the national defense budget of each NATO member in meeting common defense and security obligations.

(C) Reports on Future Enlargement of NATO.

(i) Reports Prior to Commencement of Accession Talks. Prior to any decision by the North Atlantic Council to invite any country (other than Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia) to begin accession talks with NATO, the President shall submit to the appropriate congressional committees a detailed report regarding each country being actively considered for NATO membership, including

(I) an evaluation of how that country will further the principles of the North Atlantic Treaty and contribute to the security of the North Atlantic area;

(II) an evaluation of the eligibility of that country for membership based on the principles and criteria identified by NATO and the United States, including the military readiness of that country;

(III) an explanation of how an invitation to that country would affect the national security interests of the United States;

(IV) a United States Government analysis of the common-funded military requirements and costs associated with integrating that country into NATO, and an analysis of the shares of those costs to be borne by NATO members, including the United States; and

(V) a preliminary analysis of the implications for the United States defense budget and other United States budgets of integrating that country into NATO.

(ii) Updated Reports Prior to Signing Protocol of Accession. Prior to the signing of any protocol to the North Atlantic Treaty on the accession of any country, the President shall submit to the appropriate congressional committees a report, in classified and unclassified forms

(I) updating the information contained in the report required under clause (i) with respect to that country; and

(II) including an analysis of that country's ability to meet the full range of the financial burdens of NATO membership, and the likely impact upon the military effectiveness of NATO of the country invited for accession talks, if the country were to be admitted to NATO.

(D) Review and Reports by the General Accounting Office. The Comptroller General of the United States shall conduct a review and assessment of the evaluations and analyses contained in all reports submitted under subparagraph (C) and, not later than 90 days after the date of submission of any report under subparagraphs (C)(ii), shall submit a report to the appropriate congressional committees setting forth the assessment resulting from that review.

(2) Reports on Intelligence Matters.

(A) Progress Report, Not later than January 1, 2004, the President shall submit a report to the congressional intelligence committees on the progress of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia in satisfying the security sector and security vetting requirements for membership in NATO.

(B) Reports Regarding Protection of Intelligence Sources and Methods. Not later than January 1, 2004, and again not later than the date that is 90 days after the date of accession to the North Atlantic Treaty by Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, the Director of Central Intelligence shall submit a detailed report to the congressional intelligence committees

(i) identifying the latest procedures and requirements established by Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia for the protection of intelligence sources and methods; and

(ii) including an assessment of how the overall procedures and requirements of such countries for the protection of intelligence sources and methods compare with the procedures and requirements of other NATO members for the protection of intelligence sources and methods.

(C) Definitions. In this paragraph:

(i) Congressional Intelligence Committees. The term ''congressional intelligence committees'' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) Date of Accession to the North Atlantic Treaty by Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. The term ''date of accession to the North Atlantic Treaty by Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia'' means the latest of the following dates:

(I) The date on which Bulgaria accedes to the North Atlantic Treaty.

(II) The date on which Estonia accedes to the North Atlantic Treaty.

(III) The date on which Latvia accedes to the North Atlantic Treaty.

(IV) The date on which Lithuania accedes to the North Atlantic Treaty.

(V) The date on which Romania accedes to the North Atlantic Treaty.

(VI) The date on which Slovakia accedes to the North Atlantic Treaty.

(VII) The date on which Slovenia accedes to the North Atlantic Treaty.

(3) Requirement of Full Cooperation with United States Efforts to Obtain the Fullest Possible Accounting of Captured and Missing United States Personnel From Past Military Conflicts or Cold War Incidents. Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that each of the governments of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia are fully cooperating with United States efforts to obtain the fullest possible accounting of captured or missing United States personnel from past military conflicts or Cold War incidents, to include

(A) facilitating full access to relevant archival material; and

(B) identifying individuals who may possess knowledge relative to captured or missing United States personnel, and encouraging such individuals to speak with United States Government officials.

Sec. 4. DEFINITIONS.

In this resolution:

(1) Appropriate Congressional Committees. The term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

(2) NATO. The term ''NATO'' means the North Atlantic Treaty Organization.

(3) NATO Members. The term ''NATO members'' means all countries that are parties to the North Atlantic Treaty.

(4) North Atlantic Area. The term ''North Atlantic area'' means the area covered by Article 6 of the North Atlantic Treaty, as applied by the North Atlantic Council.

(5) North Atlantic Treaty. The term ''North Atlantic Treaty'' means the North Atlantic Treaty, signed at Washington on April 4, 1949 (63 Stat. 2241; TIAS 1964), as amended.

(6) Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. The term ''Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia'' refers to the following protocols transmitted by the President to the Senate on April 10, 2003 (Treaty Document No. 108–4):

(A) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Bulgaria, signed at Brussels on March 26, 2003.

(B) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Estonia, signed at Brussels on March 26, 2003.

(C) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Latvia, signed at Brussels on March 26, 2003.

(D) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Lithuania, signed at Brussels on March 26, 2003.

(E) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Romania, signed at Brussels on March 26, 2003.

(F) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Slovakia, signed at Brussels on March 26, 2003.

(G) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Slovenia, signed at Brussels on March 26, 2003.

(7) United States Instrument of Ratification. The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia.

(8) Washington Treaty. The term ''Washington Treaty'' means the North Atlantic Treaty, signed at Washington on April 4, 1949 (63 Stat. 2241; TIAS 1964), as amended.

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. DOMENICI:

S. 14. A bill to enhance the energy security of the United States, and for other purposes; read the first time.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. BAUCUS, Mr. DAYTON, Mr. BINGAMAN, Mr. CHAFEE, Mr. CRAIG, Mr. JOHNSON, and Mrs. MURRAY):

S. 950. A bill to allow travel between the United States and Cuba; to the Committee on Foreign Relations.

By Mr. WARNER (for himself, Mr. DAYTON, and Ms. COLLINS):

S. 951. A bill to amend the Internal Revenue Code of 1986 to allow medicare beneficiaries a refundable credit against income tax for the purchase of outpatient prescription drugs; to the Committee on Finance.

By Mr. CORZINE:

S. 952. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Finance.

By Ms. LANDRIEU:

S. 953. A bill to amend chapter 53 of title 5, United States Code, to provide special pay for board certified Federal Employees who are employed in health science positions, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. MILLER, Mr. LOTT, Ms. LANDRIEU, Mr. SESSIONS, Mr. COCHRAN, and Mr. CHAMBLISS):

S. 954. A bill to amend the Federal Power Act to provide for the protection of electric utility customers and enhance the stability of wholesale electric markets through the clarification of State regulatory jurisdiction; to the Committee on Energy and Natural Resources.

By Mr. ALLEN:

S. 955. A bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. DAYTON, and Mr. LEAHY):

S. 956. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 957. A bill to amend title 49, United States Code, to improve the training requirements for and require the certification of cabin crew members, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. REID, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. MILLER, and Mr. BREAUX):

S. 958. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. KYL, Mr. BURNS, Mr. THOMAS, and Mr. GRASSLEY):

S. 959. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 960. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 961. A bill to expand the scope of the HUBZone program to include difficult development areas; to the Committee on Small Business and Entrepreneurship.

By Mrs. LINCOLN (for herself, Mr. ROCKEFELLER, Mr. BINGAMAN, and Mr. BREAUX):

S. 962. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand refundability of such credit, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 963. A bill to require the Commandant of the Coast Guard to convey the United States Coast Guard Cutter BRAMBLE, upon its decommissioning, to the Port Huron Museum of Arts and History, Port Huron, Michigan, for use for education and historical display, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT (for himself and Mr. ROCKEFELLER):

S. 964. A bill to reauthorize the essential air service program under chapter 471 of title 49, United States Code, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 126. A resolution commending the University of Minnesota Golden Gophers for winning the 2002–2003 National Collegiate Athletic Association Division I National Collegiate Men's Ice Hockey Championship; considered and agreed to.

By Mr. COLEMAN:

S. Res. 127. A resolution expressing the sense of the Senate that the Secretary of Agriculture should reduce the interest rate on loans to processors of sugar beets and sugarcane by 1 percent to a rate equal to the cost of borrowing to conform to the intent of Congress; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 128. A resolution to commend Sally Goffinet on thirty-one years of service to the United States Senate; considered and agreed to.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 129. A resolution recognizing and commending the members of the Navy and Marine Corps who served in the U.S.S. Abraham Lincoln and welcoming them home from their recent mission abroad; to the Committee on Armed Services.

By Mrs. CLINTON (for herself and Mr. HAGEL):

S. Con. Res. 40. A concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CORZINE, and Mr. FEINGOLD):

S. Con. Res. 41. A concurrent resolution directing Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 56

At the request of Mr. JOHNSON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 138

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 196

At the request of Mr. ALLEN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 196, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 196

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 196, supra.

S. 243

At the request of Mr. ALLEN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 243, a bill concerning participation of Taiwan in the World Health Organization.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 269

At the request of Mr. INHOFE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 300

At the request of Mr. KERRY, the name of the Senator from Montana (Mr. BURNS) was withdrawn as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 300

At the request of Mr. KERRY, the names of the Senator from Mississippi (Mr. LOTT), the Senator from California (Mrs. FEINSTEIN), the Senator from Missouri (Mr. BOND) , the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 300, supra.

S. 310

At the request of Mr. THOMAS, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Rhode Island (Mr. REED) 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. 374

At the request of Mr. BAUCUS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 395

At the request of Mr. GRASSLEY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind.

S. 448

At the request of Mr. DODD, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 448, a bill to leave no child behind.

S. 459

At the request of Mr. LEAHY, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

S. 460

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

S. 466

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 466, a bill to provide financial assistance to State and local governments to assist them in preventing and responding to acts of terrorism in order to better protect homeland security.

S. 470

At the request of Mr. SARBANES, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 517

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S . 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

S. 544

At the request of Mr. KENNEDY, his name was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

S. 560

At the request of Mr. CRAIG, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S . 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 597

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 597 , a bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives.

S. 626

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 626, a bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes.

S. 641

At the request of Mrs. LINCOLN, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

S. 654

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 654, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve

the Medicare+Choice program, and for other purposes.

S. 665

At the request of Mr. GRASSLEY, the names of the Senator from Oregon (Mr. SMITH), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fisherman, and for other purposes.

S. 686

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 686, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 756

At the request of Mr. THOMAS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

S. 764

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 774

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 796

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 796, a bill to provide for the appointment of a Director of State and Local Government Coordination within the Department of Homeland Security and to transfer the Office for Domestic Preparedness to the Office of the Secretary of Homeland Security.

S. 822

At the request of Mr. KERRY, the name of the Senator from California (Mrs. FEINSTEIN) 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. 827

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 827, a bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

S. 829

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 829, a bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program.

S. 838

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Vermont (Mr. LEAHY), the Senator from Hawaii (Mr. AKAKA) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 838, a bill to waive the limitation on the use of funds appropriated for the Homeland Security Grant Program.

S. 847

At the request of Mr. SMITH, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 862

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 862, a bill to promote the adoption of children with special needs.

S. 888

At the request of Mr. GREGG, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Rhode Island (Mr. CHAFEE), the Senator from California (Mrs. FEINSTEIN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 890

At the request of Mrs. MURRAY, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 890, a bill to amend the Individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the costs of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 908

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 908, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 26

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 26, a concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

S. RES. 75

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. SCHUMER) 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. 75

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 75, supra.

S. RES. 125

At the request of Mr. GREGG, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. Res. 125, a resolution designating April 28, 2003, through May 2, 2003, as ''National Charter Schools Week'', and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 14. A bill to enhance the energy security of the United States, and for other purposes; read the first time.

Mr. DOMENICI. 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. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as ''The Energy Policy Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short Title.
Sec. 2. Table of Contents.

TITLE I—OIL AND GAS

Subtitle A—Production Incentives

Sec. 101. Permanent Authority to Operate the Strategic Petroleum Reserve and Other Energy Programs.

Sec. 102. Study on Inventory of Petroleum and Natural Gas Storage.
Sec. 103. Program on Oil and Gas Royalties in Kind.
Sec. 104. Marginal Property Production Incentives.
Sec. 105. Comprehensive Inventory of OCS Oil and Natural Gas Resources.
Sec. 106. Royalty Relief for Deep Water Production.
Sec. 107. Alaska Offshore Royalty Suspension.
Sec. 108. Orphaned, Abandoned, or Idled Wells on Federal Lands.
Sec. 109. Incentives for Natural Gas Production from Deep Wells in the Shallow Waters of the Gulf of Mexico.
Sec. 110. Alternate Energy-Related Uses on the Outer Continental Shelf.
Sec. 111. Coastal Impact Assistance.
Sec. 112. National Energy Resource Database.
Sec. 113. Oil and Gas Lease Acreage Limitation.
Sec. 114. Assessment of Dependence of State of Hawaii on Oil.

Subtitle B—Access to Federal Lands

Sec. 121. Office of Federal Energy Permit Coordination.
Sec. 122. Pilot Project to Improve Federal Permit Coordination.
Sec. 123. Federal Onshore Leasing Programs for Oil and Gas.
Sec. 124. Estimates of Oil and Gas Resources Underlying Onshore Federal Lands.
Sec. 125. Split-Estate Federal Oil & Gas Leasing and Development Practices.
Sec. 126. Coordination of Federal Agencies to Establish Priority Energy Transmission Rights-of-way.

Subtitle C—Alaska Natural Gas Pipeline

Sec. 131. Short Title.
Sec. 132. Definitions.
Sec. 133. Issuance of Certificate of Public Convenience and Necessity.
Sec. 134. Environmental Reviews.
Sec. 135. Pipeline Expansion.
Sec. 136. Federal Coordinator.
Sec. 137. Judicial Review.
Sec. 138. State Jurisdiction over In-State Delivery of Natural Gas.
Sec. 139. Study of Alternative Means of Construction.
Sec. 140. Clarification of ANGTA Status and Authorities.
Sec. 141. Sense of Congress.
Sec. 142. Participation of Small Business Concerns.
Sec. 143. Alaska Pipeline Construction Training Program.
Sec. 144. Loan Guarantee.
Sec. 145. Sense of Congress on Natural Gas Demand.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 201. Authorization of Appropriations.
Sec. 202. Project Criteria.
Sec. 203. Reports.
Sec. 204. Clean Coal Centers of Excellence.

Subtitle B—Federal Coal Leases

Sec. 211. Repeal of the 160-Acre Limitation for Coal Leases.
Sec. 212. Mining Plans.
Sec. 213. Payment of Advance Royalties Under Coal Leases.
Sec. 214. Elimination of Deadline for Submission of Coal Lease Operation and Reclamation Plan.
Sec. 215. Application of Amendments.

Subtitle C—Powder River Basin

Sec. 221. Resolution of Federal Resource Development Conflicts in the Powder River Basin.

TITLE III—INDIAN ENERGY

Sec. 301. Short Title.
Sec. 302. Office of Indian Energy Policy and Programs.
Sec. 303. Indian Energy.

''TITLE XXVI—INDIAN ENERGY

''Sec. 2601. Definitions.
''Sec. 2602. Indian Tribal Energy Resource Development.
''Sec. 2603. Indian Tribal Energy Resource Regulation.
''Sec. 2604. Leases, Business Agreements, and Rights-of-way Involving Energy Development or Transmission.
''Sec. 2605. Federal Power Marketing Administrations.
''Sec. 2606. Indian Mineral Development Review.
''Sec. 2607. Wind and Hydropower Feasibility Study.

Sec. 304. Four Corners Transmission Line Project.
Sec. 305. Energy Efficiency in Federally Assisted Housing.
Sec. 306. Consultation with Indian Tribes.

TITLE IV—NUCLEAR

Subtitle A—Price-Anderson Amendments

Sec. 401. Short Title.
Sec. 402. Extension of Indemnification Authority.
Sec. 403. Maximum Assessment.
Sec. 404. Department of Energy Liability Limit.
Sec. 405. Incidents Outside the United States.
Sec. 406. Reports.
Sec. 407. Inflation Adjustment.
Sec. 408. Treatment of Modular Reactors.
Sec. 409. Applicability.
Sec. 410. Civil Penalties.

Subtitle B—Deployment of Commercial Nuclear Plants

Sec. 421. Short Title.
Sec. 422. Definitions.
Sec. 423. Responsibilities of the Secretary of Energy.
Sec. 424. Limitations.
Sec. 425. Regulations.

Subtitle C—Advanced Reactor Hydrogen Co-Generation Project

Sec. 431. Project Establishment.
Sec. 432. Project Definition.
Sec. 433. Project Management.
Sec. 434. Project Requirements.
Sec. 435. Authorization of Appropriations.

Subtitle D—Miscellaneous Matters

Sec. 441. Uranium Sales and Transfers.
Sec. 442. Decommissioning Pilot Program.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 501. Assessment of Renewable Energy Resources.
Sec. 502. Renewable Energy Production Incentive.
Sec. 503. Renewable Energy on Federal Lands.
Sec. 504. Federal Purchase Requirement.
Sec. 505. Insular Area Renewable and Energy Efficient Plans.

Subtitle B—Hydroelectric Relicensing

Sec. 511. Alternative Conditions and Fishways.

Subtitle C—Geothermal Energy

Sec. 521. Competitive Lease Sale Requirements.
Sec. 522. Geothermal Leasing and Permitting on Federal Lands.
Sec. 523. Leasing and Permitting on Federal Lands Withdrawn for Military Purposes.
Sec. 524. Reinstatement of Leases Terminated for Failure to Pay Rent.
Sec. 525. Royalty Reduction and Relief.
Sec. 526. Royalty Exemption for Direct Use of Low Temperature Geothermal Energy Resources.

Subtitle D—Biomass Energy

Sec. 531. Definitions.
Sec. 532. Biomass Commercial Utilization Grant Program.
Sec. 533. Improved Biomass Utilization Grant Program.
Sec. 534. Report.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 601. Energy Management Requirements.
Sec. 602. Energy Use Measurement and Accountability.
Sec. 603. Federal Building Performance Standards.
Sec. 604. Energy Savings Performance Contracts.
Sec. 605. Procurement of Energy Efficient Products.
Sec. 606. Congressional Building Efficiency.
Sec. 607. Increased Federal Use of Recovered Mineral Components in Federally Funded Projects Involving Procurement of Cement or Concrete.
Sec. 608. Utility Energy Service Contracts.
Sec. 609. Study of Energy Efficiency Standards.

Subtitle B—State and Local Programs

Sec. 611. Low Income Community Energy Efficiency Pilot Program.
Sec. 612. Energy Efficient Public Buildings.
Sec. 613. Energy Efficient Appliance Rebate Programs.

Subtitle C—Consumer Products

Sec. 621. Energy Conservation Standards for Additional Products.
Sec. 622. Energy Labeling.
Sec. 623. Energy Star Program.
Sec. 624. HVAC Maintenance Consumer Education Program.

Subtitle D—Public Housing

Sec. 631. Capacity Building for Energy-Efficient, Affordable Housing.
Sec. 632. Increase of CDBG Public Services Cap for Energy Conservation and Efficiency Activities.
Sec. 633. FHA Mortgage Insurance Incentives for Energy Efficient Housing.
Sec. 634. Public Housing Capital Fund.
Sec. 635. Grants for Energy-Conserving Improvements for Assisted Housing.
Sec. 636. North American Development Bank.
Sec. 637. Energy-Efficient Appliances.
Sec. 638. Energy Efficiency Standards.
Sec. 639. Energy Strategy for HUD.

TITLE VII—TRANSPORTATION FUELS

Subtitle A—Alternative Fuel Programs

Sec. 701. Use of Alternative Fuels by Dual-Fueled Vehicles.
Sec. 702. Fuel Use Credits.
Sec. 703. Neighborhood Electric Vehicles.
Sec. 704. Credits for Medium and Heavy Duty Dedicated Vehicles.
Sec. 705. Alternative Fuel Infrastructure.
Sec. 706. Incremental Cost Allocation.
Sec. 707. Review of Alternative Fuel Programs.
Sec. 708. High Occupancy Vehicle Exception.
Sec. 709. Alternate Compliance and Flexibility.

Subtitle B—Automobile Fuel Economy

Sec. 711. Automobile Fuel Economy Standards.
Sec. 712. Dual-Fueled Automobiles.
Sec. 713. Federal Fleet Fuel Economy.
Sec. 714. Railroad Efficiency.
Sec. 715. Reduction of Engine Idling in Heavy-Use Vehicles.

TITLE VIII—HYDROGEN
Subtitle A—Basic Research Programs
Sec. 801. Short Title.
Sec. 802. Matsunaga Act Amendment.
Sec. 803. Hydrogen Transportation and Fuel Initiative.
Sec. 804. Interagency Task Force and Coordination Plan.
Sec. 805. Review by the National Academies.
Subtitle B—Demonstration Programs
Sec. 811. Definitions.
Sec. 812. Hydrogen Vehicle Demonstration Program.
Sec. 813. Stationary Fuel Cell Demonstration Program.
Sec. 814. Hydrogen Demonstration Programs in National Parks.
Sec. 815. International Demonstration Program.
Sec. 816. Tribal Stationary Hybrid Power Demonstration.
Sec. 817. Distributed Generation Pilot Program.
Subtitle C—Federal Programs
Sec. 821. Public Education and Training.
Sec. 822. Hydrogen Transition Strategic Planning.
Sec. 823. Minimum Federal Fleet Requirement.
Sec. 824. Stationary Fuel Cell Purchase Requirement.
Sec. 825. Department of Energy Strategy.
TITLE IX—RESEARCH AND DEVELOPMENT
Sec. 901. Short Title.
Sec. 902. Goals.
Sec. 903. Definitions.
Subtitle A—Energy Efficiency
Sec. 911. Energy Efficiency.
Sec. 912. Next Generation Lighting Initiative.
Sec. 913. National Building Performance Initiative.
Sec. 914. Secondary Electric Vehicle Battery Use Program.
Sec. 915. Energy Efficiency Science Initiative.
Subtitle B—Distributed Energy and Electric Energy Systems
Sec. 921. Distributed Energy and Electric Energy Systems.
Sec. 922. Hybrid Distributed Power Systems.
Sec. 923. High Power Density Industry Program.
Sec. 924. Micro-Cogeneration Energy Technology.
Sec. 925. Distributed Energy Technology Demonstration Program.
Sec. 926. Office of Electric Transmission and Distribution.
Sec. 927. Electric Transmission and Distribution Programs.
Subtitle C—Renewable Energy
Sec. 931. Renewable Energy.
Sec. 932. Bioenergy Programs.
Sec. 933. Biodiesel Engine Testing Program.
Sec. 934. Concentrating Solar Power Research Program.
Sec. 935. Miscellaneous Projects.
Subtitle D—Nuclear Energy
Sec. 941. Nuclear Energy.
Sec. 942. Nuclear Energy Research Programs.
Sec. 943. Advanced Fuel Cycle Initiative.
Sec. 944. University Nuclear Science and Engineering Support.
Sec. 945. Security of Nuclear Facilities.
Sec. 946. Alternatives to Industrial Radioactive Sources.
Subtitle E—Fossil Energy
Sec. 951. Fossil Energy.
Sec. 952. Oil and Gas Research Programs.
Sec. 953. Research and Development for Coal Mining Technologies.
Sec. 954. Coal and Related Technologies Program.
Sec. 955. Complex Well Technology Testing Facility.
Subtitle F—Science
Sec. 961. Science.
Sec. 962. United States Participation in ITER.
Sec. 963. Spallation Neutron Source.
Sec. 964. Support for Science and Energy Facilities and Infrastructure.
Sec. 965. Catalysis Research Program.
Sec. 966. Nanoscale Science and Engineering Research.
Sec. 967. Advanced Scientific Computing for Energy Missions.
Sec. 968. Genomes to Life Program.
Sec. 969. Fission and Fusion Energy Materials Research Program.
Sec. 970. Energy-Water Supply Technologies Program.
Subtitle G—Energy and Environment
Sec. 971. United States-Mexico Energy Technology Cooperation.
Sec. 972. Coal Technology Loan.
Subtitle H—Management
Sec. 981. Availability of Funds.
Sec. 982. Cost Sharing.
Sec. 983. Merit Review of Proposals.
Sec. 984. External Technical Review of Departmental Programs.
Sec. 985. Improved Coordination of Technology Transfer Activities.
Sec. 986. Technology Infrastructure Program.
Sec. 987. Small Business Advocacy and Assistance.
Sec. 988. Mobility of Scientific and Technical Personnel.
Sec. 989. National Academy of Sciences Report.
Sec. 990. Outreach.
Sec. 991. Competitive Award of Management Contracts.
Sec. 992. Reprogramming.
Sec. 993. Construction with Other Laws.
Sec. 994. Improved Coordination and Management of Civilian Science and Technology Programs.
Sec. 995. Educational Programs in Science and Mathematics.
Sec. 996. Other Transactions Authority.
Sec. 997. Report on Research and Development Program Evaluation Methodologies.
TITLE X—PERSONNEL AND TRAINING
Sec. 1001. Workforce Trends and Traineeship Grants.
Sec. 1002. Research Fellowships in Energy Research.
Sec. 1003. Training Guidelines for Electric Energy Industry Personnel.
Sec. 1004. National Center on Energy Management and Building Technologies.
Sec. 1005. Improved Access to Energy-related Scientific and Technical Careers.
Sec. 1006. National Power Plant Operations Technology and Education Center.
Sec. 1007. Federal Mine Inspectors.
TITLE XI—ELECTRICITY
Sec. 1101. Definitions.
Subtitle A—Reliability
Sec. 1111. Electric Reliability Standards.
Subtitle B—Regional Markets
Sec. 1121. Implementation Date for Proposed Rulemaking for Standard Market Design.
Sec. 1122. Sense of the Congress on Regional Transmission Organizations.
Sec. 1123. Federal Utility Participation in Regional Transmission Organizations.
Sec. 1124. Regional Consideration of Competitive Wholesale Markets.
Subtitle C—Improving Transmission Access and Protecting Service Obligations
Sec. 1131. Service Obligation Security and Parity.
Sec. 1132. Open Non-Discriminatory Access.
Sec. 1133. Transmission Infrastructure Investment.
Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978
Sec. 1141. Net Metering.
Sec. 1142. Smart Metering.
Sec. 1143. Adoption of Additional Standards.
Sec. 1144. Technical Assistance.
Sec. 1145. Cogeneration and Small Power Production Purchase and Sale Requirements.
Sec. 1146. Recovery of Costs.
Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935
Sec. 1151. Definitions.
Sec. 1152. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 1153. Federal Access to Books and Records.
Sec. 1154. State Access to Books and Records.
Sec. 1155. Exemption Authority.
Sec. 1156. Affiliate Transactions.
Sec. 1157. Applicability.
Sec. 1158. Effect on Other Regulations.
Sec. 1159. Enforcement.
Sec. 1160. Savings Provisions.
Sec. 1161. Implementation.
Sec. 1162. Transfer of Resources.
Sec. 1163. Effective Date.
Sec. 1164. Conforming Amendment to the Federal Power Act.
Subtitle F—Market Transparency, Anti-Manipulation and Enforcement
Sec. 1171. Market Transparency Rules.
Sec. 1172. Market Manipulation.
Sec. 1173. Enforcement.
Sec. 1174. Refund Effective Date.
Subtitle G—Consumer Protections
Sec. 1181. Consumer Privacy.
Sec. 1182. Unfair Trade Practices.
Sec. 1183. Definitions.
Subtitle H—Technical Amendments
Sec. 1191. Technical Amendments.

TITLE I—OIL AND GAS

Subtitle A—Production Incentives

SEC. 101. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250(e)); and

(3) by striking part E (42 U.S.C. 6251); relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.'';

(2) by inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(3) by striking section 273(e) (42 U.S.C. 6283(e)); relating to the expiration of summer fill and fuel budgeting programs); and

(4) by striking part D (42 U.S.C. 6285); relating to the expiration of title II of the Act).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by amending the items relating to part D of title I to read as follows:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.''; and

(3) by striking the items relating to part D of title II.

(d) NORTHEAST HOME HEATING OIL.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250(b)(1)) is amended by striking all after ''increases'' through to ''mid-October through March'' and inserting ''by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)''.

SEC. 102. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section ''petroleum'' means crude oil, motor gasoline, jet fuel, distillates and propane.

(b) STUDY.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet U.S. demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than one year from enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 103. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalties-in-kind accepted by the Secretary (referred to in this section as ''Secretary'') under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law beginning on the date of the enactment of this Act through September 30, 2013.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in kind.

(4) The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(6) Notwithstanding the provisions of paragraph 5, the Secretary may use a portion of the revenues from the sale of oil royalties taken in kind, without fiscal year limitation, to pay transportation costs, salaries, and other administrative costs directly related to filling the Strategic Petroleum Reserve.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those likely to have been received had royalties been taken in value.

(e) REPORT TO CONGRESS.—

(1) No later than September 30, 2005, the Secretary shall provide a report to Congress that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) For each of the fiscal years 2004 through 2013 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsections (h), the Secretary shall provide a report to Congress describing—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standard for comparing amounts received by the United States derived from such royalties in kind to amount likely to have been received had royalties been taken in value;

(B) an explanation of the evaluation that led the Secretary to take royalties in kind from a lease or group of leases, including the expected revenue effect of taking royalties in kind;

(C) actual amounts received by the United States derived from taking royalties in kind and cost and savings incurred by the United States associated with taking royalties in kind, including but not limited to administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) DEDUCTION OF EXPENSES.—

(1) Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary shall consult—

(1) with a State before conducting a royalty in-kind program under this section within the State, and may delegate management of any portion of the Federal royalty in-kind program to such State except as otherwise prohibited by Federal law; and

(2) annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in value.

(h) PROVISIONS FOR SMALL REFINERIES.—

(1) If the Secretary determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) In disposing of oil under this subsection, the Secretary may prorate such oil among such refineries in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than market price to any department or agency of the United States.

(2) Any royalty oil or gas taken in kind from Federal oil and gas leases on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing

of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 104. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) MARGINAL PROPERTY DEFINED.—Until such time as the Secretary of the Interior issues rules under subsection (e) that prescribe a different definition, for purposes of this section, the term ''marginal property'' means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the three most recent production months, including only those wells that produce more than half the days in the three most recent production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary of the Interior promulgates rules under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) The reduced royalty rate under this subsection shall be effective on the first day of the production month following the date on which the applicable price standard prescribed in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) on oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a); and

(2) on gas production from a marginal property, on the first day of the production month following the date on which

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a).

(e) RULES PRESCRIBING DIFFERENT RELIEF.—

(1) The Secretary of the Interior, after consultation with the Secretary of Energy, may by rule prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) The Secretary of the Interior, after consultation with the Secretary of Energy, and within 1 year after the date of enactment of this Act, shall, by rule—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) In promulgating rules under this subsection, the Secretary of the Interior may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and their effects on production economics;

(E) other royalty relief programs; and

(F) other relevant matters.

(f) SAVINGS PROVISION.—Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides more relief than the amounts provided by this section.

SEC. 105. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf (''OCS''). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resources estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the federal government and coastal states, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary of Interior shall submit a report to the Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within six months of the date of enactment of the section. The report shall be publically available and updated at least every five years.

SEC. 106. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than—

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters; and

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

SEC. 107. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337), is amended with the following: add ''and in the Planning Areas offshore Alaska'' after ''West longitude'' and before ''the Secretary''.

SEC. 108. ORPHANED, ABANDONED OR IDLED WELLS ON FEDERAL LANDS.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program within 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on lands administered by the land management agencies within the Department of the Interior and Agriculture. The program shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(b) COOPERATION AND CONSULTATIONS.—In carrying out this program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located and consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(c) PLAN.—Within 1 year after the date of enactment of the section, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a) and transmit copies of the plan to the Congress.

(d) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LANDS.—

(1) The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10–year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private lands.

(2) The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned abandoned oil or gas wells on State and private lands.

(3) The program shall include—

(A) mechanisms to facilitate identification, if possible, of the persons or other entities currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities; and

(C) information and training programs on best practices for remediation of different types of sites.

(e) DEFINITION.—For purposes of this section, a well is idled if it has been non-operational for 7 years and there is no anticipated beneficial use of the well.

(f) AUTHORIZATION.—To carry out this section there is authorized to be appropriated to the Secretary of the Interior $25,000,000 for each of the fiscal years 2004 through 2008. Of the amounts authorized, $5,000,000 is authorized for activities under subsection (d).

SEC. 109. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS.—Not later than 90 days after enactment, the Secretary of the Interior shall promulgate final regulations providing royalty incentives for natural gas produced from deep wells, as defined by the Secretary, on oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and issued prior to January 1, 2001, in shallow waters of the Gulf of Mexico, wholly west of 87 degrees, 30 minutes West longitude that are less than 200 meters deep.

(b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) No later than 90 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior shall promulgate new regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from 'ultra deep wells' on leases issued prior to January 1, 2001, in shallow waters less than 200 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes West longitude. For purposes of this subsection, the term 'ultra deep wells' means wells drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(2) The Secretary shall not grant the royalty incentives outlined in this subsection if the average annual NYMEX natural gas price exceeds for one full calendar year the threshold price of $5 per million Btu, adjusted from the year 2000 for inflation.

(3) This subsection shall have no force or effect after the end of the 5–year period beginning on the date of the enactment of this Act.

SEC. 110. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following new subsection:

''(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) The Secretary may grant an easement or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when such activities—

''(A) support exploration, development, or production of oil or natural gas, except that such easements or rights-of-way shall not be granted in areas where oil and gas preleasing, leasing and related activities are prohibited by a Congressional moratorium or a withdrawal pursuant to section 12 of this Act;

''(B) support transportation of oil or natural gas;

''(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(D) use facilities currently or previously used for activities authorized under this Act.

''(2) The Secretary shall promulgate regulations to ensure that activities authorized under this subsection are conducted in a manner that provides for safety, protection of the environment, conservation of the natural resources of the outer Continental Shelf, appropriate coordination with other Federal agencies, and a fair return to the Federal government for any easement or right-of-way granted under this subsection. Such regulations shall establish procedures for—

''(A) public notice and comment on proposals to be permitted pursuant to this subsection;

''(B) consultation and review by State and local governments that may be impacted by activities to be permitted pursuant to this subsection;

''(C) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455); and

''(D) consultation with the Secretary of Defense and other appropriate agencies prior to the issuance of an easement or right-of-way under this subsection concerning issues related to national security and navigational obstruction.

''(3) The Secretary shall require the holder of an easement or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary may deem necessary to protect the interests of the United States.

''(4) This subsection shall not apply to any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

''(5) Nothing in this subsection shall be construed to amend or repeal, expressly by implication, the applicability of any other law, including but not limited to, the Coastal Zone Management Act (16 U.S.C. 1455 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(b) CONFORMING AMENDMENT.—The text of the heading for section 8 of the Outer Continental Shelf Lands Act is amended to read as follows: ''LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.''.

SEC. 111. COASTAL IMPACT ASSISTANCE.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end:

''SEC. 32 COASTAL IMPACT ASSISTANCE FAIRNESS PROGRAM.

''(a) DEFINITIONS.—When used in this section:

''(1) The term 'coastal political subdivision' means a county, parish, or any equivalent subdivision of a Producing Coastal State in all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1))) and within a distance of 200 miles from the geographic center of any leased tract.

''(2) The term 'coastal population' means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. 1451 et seq.).

''(3) The term 'Coastal State' has the same meaning as provided by subsection 304(4) of the Coastal Zone Management Act (16 U.S.C. 1453(4)).

''(4) The term 'coastline' has the same meaning as the term 'coast line' as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(5) The term 'distance' means the minimum great circle distance, measured in statute miles.

''(6) The term 'leased tract' means a tract maintained under section 6 or leased under section 8 for the purpose of drilling for, developing, and producing oil and natural gas resources.

''(7) The term 'Producing Coastal State' means a Coastal State with a coastal seaward boundary within 200 miles from the geographic center of a leased tract other than a leased tract within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002 unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(8) The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of this Act, or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any Producing Coastal State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term shall only apply to leases issued after January 1, 2003 and revenues from existing leases that occurs after January 1, 2003. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(9) The term 'Secretary' means the Secretary of Interior.''

''(b) AUTHORIZATION.—For fiscal years 2004 through 2009, an amount equal to not more than 12.5 percent of qualified Outer Continental Shelf revenues is authorized to be appropriated for the purposes of this section.

''(c) IMPACT ASSISTANCE PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—The Secretary shall make payments from the amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

''(1) Of the amounts appropriated, the allocation for each Producing Coastal State shall be calculated based on the ratio of qualified Outer Continental Shelf revenues generated off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues generated off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State's allocation for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary.

''(2) Thirty-five percent of each Producing Coastal State's allocable share as determined under paragraph (1) shall be paid

directly to the coastal political subdivisions by the Secretary based on the following formula:

''(A) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions in the Producing Coastal State.

''(B) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastline miles to the coastline miles of a coastal political subdivision in the Producing Coastal State except that for those coastal political subdivisions in the State of Louisiana without a coastline, the coastline for purposes of this element of the formula shall be the average length of the coastline of the remaining coastal subdivisions in the state.

''(C) Fifty percent shall be allocated based on the relative distance of such coastal political subdivision from any leased tract used to calculate the Producing Coastal State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary, except that in the State of Alaska, the funds for this element of the formula shall be divided equally among the two closest coastal political subdivisions. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(3) Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold a Producing Coastal State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.

''(4) For purposes of this subsection, calculations of payments for fiscal years 2004 through 2006 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003, and calculations of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2006.

''(d) COASTAL IMPACT ASSISTANCE PLAN.—

''(1) The Governor of each Producing Coastal State shall prepare, and submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts received by Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Producing Coastal State's Coastal Impact Assistance Plan.

''(2) The Secretary shall approve a plan under paragraph (1) prior to disbursement of amounts under this section. The Secretary shall approve the plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (f) of this section and if the plan contains—

''(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

''(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

''(C) a contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section;

''(D) certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan; and

''(E) measures for taking into account other relevant Federal resources and programs.

''(3) The Secretary shall approve or disapprove each plan or amendment within 90 days of its submission.

''(4) Any amendment to the plan shall be prepared in accordance with the requirements of this subsection and shall be submitted to the Secretary for approval or disapproval.

''(e) AUTHORIZED USES.—Producing Coastal States and coastal political subdivisions shall use amounts provided under this section, including any such amounts deposited in a State or coastal political subdivision administered trust fund dedicated to uses consistent with this subsection, in compliance with Federal and State law and only for one or more of the following purposes—

''(1) projects and activities for the conservation, protection or restoration of coastal areas including wetlands;

''(2) mitigating damage to fish, wildlife or natural resources;

''(3) planning assistance and administrative costs of complying with the provisions of this section;

''(4) implementation of Federally approved marine, coastal, or comprehensive conservation management plans; and

''(5) mitigating impacts of Outer Continental Shelf activities through funding onshore infrastructure and public service needs.

(f) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a Producing Coastal State or coastal political subdivision is not consistent with the uses authorized in subsection (e) of this section, the Secretary shall not disburse any further amounts under this section to that Producing Coastal State or coastal political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

SEC. 112. NATIONAL ENERGY RESOURCE DATABASE.

(a) SHORT TITLE.—This section may be cited as the ''National Energy Data Preservation Program Act of 2003''.

(b) PROGRAM.—The Secretary of the Interior (in this section, referred to as ''Secretary'') shall carry out a National Energy Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data and samples related to energy resources including oil, gas, coal, and geothermal resources;

(2) to provide a national catalog of such archival material; and

(3) to provide technical assistance related to the archival material.

(c) ENERGY DATA ARCHIVE SYSTEM.—

(1) The Secretary shall establish, as a component of the Program, an energy data archive system, which shall provide for the storage, preservation, and archiving of subsurface, and in limited cases surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop guidelines relating to the energy data archive system, including the types of data and samples to be preserved.

(2) The system shall be comprised of State agencies and agencies within the Department of the Interior that maintain geological and geophysical data and samples regarding energy resources and that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) The Secretary may not designate a State agency as a component of the energy data archive system unless it is the agency that acts as the geological survey in the State.

(4) The energy data archive system shall provide for the archiving of relevant subsurface data and samples obtained during energy exploration and production operations on Federal lands—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(5)(A) Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under paragraph (2) for providing facilities to archive energy material.

(B) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall establish procedures for providing assistance under this paragraph. The procedures shall be designed to ensure that such assistance primarily supports the expansion of data and material archives and the collection and preservation of new data and samples.

(d) NATIONAL CATALOG.—

(1) As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies

(A) energy data and samples available in the energy data archive system established under subsection (c);

(B) the repository for particular material in such system; and

(C) the means of accessing the material.

(2) The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

(3) The Secretary may carry out the requirements of this subsection by contract or agreement with appropriate persons.

(e) TECHNICAL ASSISTANCE.—

(1) Subject to the availability of appropriations, as a component of the Program, the Secretary shall provide financial assistance to any State agency designated under subsection (c)(2) to provide technical assistance to enhance understanding, interpretation, and use of materials archived in the energy data archive system established under subsection (c).

(2) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop a process, which shall involve the participation of representatives of relevant Federal and State agencies, for the approval of financial assistance to State agencies under this subsection.

(f) COSTS.—

(1) The Federal share of the cost of an activity carried out with assistance under subsections (c) or (e) shall be no more than 50 percent of the total cost of that activity.

(2) The Secretary—

(A) may accept private contributions of property and services for technical assistance and archive activities conducted under this section; and

(B) may apply the value of such contributions to the non-Federal share of the costs of such technical assistance and archive activities.

(g) REPORTS.—

(1) Within one year after the date of the enactment of this Act, the Secretary shall submit an initial report to the Congress setting forth a plan for the implementation of the Program.

(2) Not later than 90 days after the end of the first fiscal year beginning after the submission of the report under paragraph (1) and after the end of each fiscal year thereafter, the Secretary shall submit a report to the Congress describing the status of the Program and evaluating progress achieved during the preceding fiscal year in developing and carrying out the Program.

(3) The Secretary shall consult with the Association of American State Geologists and interested members of the public in preparing the reports required by this subsection.

(h) DEFINITIONS.—As used in this section, the term:

(1) ''Association of American State Geologists'' means the organization of the chief executives of the State geological surveys.

(2) ''Secretary'' means the Secretary of the Interior acting through the Director of the United States Geological Survey.

(3) ''Program'' means the National Energy Data Preservation Program carried out under this section.

(4) ''Survey'' means the United States Geological Survey.

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2003 through 2007 for carrying out this section.

SEC. 113. OIL AND GAS LEASE ACREAGE LIMITATION.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sands area'' the following: ''as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement, or for which royalty, including compensatory royalty or royalty-in-kind, was paid in the preceding calendar year,''.

SEC. 114. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT. The Secretary of Energy shall assess the economic implication of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2) including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary of Energy may carry out the assessment under subsection (a) directly or, in whole or in part, through one or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, as report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Access to Federal Lands

SEC. 121. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Permit Coordination (in this section, referred to as ''Office'') within the Executive Office of the President in the same manner and mission as the White House Energy Projects Task Force established by Executive Order 13212.

(b) STAFFING.—The Office shall be staffed by functional experts from relevant federal agencies and departments on a nonreimbursable basis to carry out the mission of this office.

(c) REPORTING.—The Office shall provide an annual report to Congress, detailing the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the federal decision making process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient federal permitting process.

SEC. 122. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) CREATION OF PILOT PROJECT.—The Secretary of the Interior (in this section, referred to as ''Secretary'') shall establish a Federal Permit Streamlining Pilot Project. The Secretary shall enter into a Memorandum of Understanding with the Secretary of Agriculture, Administrator of the Environmental Protection Agency, and the Chief of the Corps of Engineers within 90 days after enactment of this Act. The Secretary may also request that the Governors of Wyoming, Montana, Colorado, and New Mexico be signatories to the Memorandum of Understanding.

(b) DESIGNATION OF QUALIFIED STAFF.—Once the Pilot Project has been established by the Secretary, all Federal signatory parties shall assign an employee on a nonreimbursable basis to each of the field offices identified in section (c), who has expertise in the regulatory issues pertaining to their office, including, as applicable, particular expertise in Endangered Species Act section 7 consultations and the preparation of Biological Opinions, Clean Water Act 404 permits, Clean Air Act regulatory matters, planning under the National Forest Management Act, and the preparation of analyses under the National Environmental Policy Act. Assigned staff shall report to the Bureau of Land Management (BLM) Field Managers in the offices to which they are assigned, and shall be responsible for all issues related to the jurisdiction of their home office or agency, and participate as part of the team of employees working on proposed energy projects, planning, and environmental analyses.

(c) FIELD OFFICES.—The following BLM Field Offices shall serve as the Federal Permit Streamlining Pilot Project offices:

(1) Rawlins, Wyoming;

(2) Buffalo, Wyoming;

(3) Miles City, Montana;

(4) Farmington, New Mexico;

(5) Carlsbad, New Mexico; and

(6) Glenwood Springs, Colorado.

(d) REPORTS.—The Secretary shall submit a report to the Congress 3 years following the date of enactment of this section, outlining the results of the Pilot Project to date and including a recommendation to the President as to whether the Pilot Project should be implemented nationwide.

(e) ADDITIONAL PERSONNEL.—The Secretary shall assign to each of the BLM Field Offices listed in subsection (c) such additional personnel as is necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by such offices, including inspection and enforcement related to energy development on federal lands, pursuant to the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(f) SAVINGS PROVISION.—Nothing in this section shall affect the operation of any federal or state law or any delegation of authority made by a Secretary or head of an Agency whose employees are participating in the program provided for by this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 123. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—

(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2004 through 2007, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b).

SEC. 124. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LANDS.

Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by striking ''(a) IN GENERAL'' and all thereafter and inserting—

''(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands and take measures necessary to update and revise this inventory. The inventory shall identify for all federal lands—

''(1) the United States Geological Survey estimates of the oil and gas resources underlying these lands;

''(2) the extent and nature of any restrictions or impediments to the exploration, production and transportation of such resources, including—

''(A) existing land withdrawals and the underlying purpose for each withdrawal;

''(B) restrictions or impediments affecting timeliness of granting leases;

''(C) post-lease restrictions or impediments such as conditions of approval, applications for permits to drill, applicable environmental permits;

''(D) permits or restrictions associated with transporting the resources; and

''(E) identification of the authority for each restriction or impediment together with the impact on additional processing or review time and potential remedies; and

''(3) the estimates of oil and gas resources not available for exploration and production by virtue of the restrictions identified above.

''(b) REPORTS.—The Secretary shall provide a progress report to the Congress by October 1, 2006 and shall complete the inventory by October 1, 2010.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.''.

SEC. 125. SPLIT-ESTATE FEDERAL OIL & GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of federal subsurface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1304) concerning surface mining of federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to the Congress no later than 180 days after enactment of this section.

SEC. 126. COORDINATION OF FEDERAL AGENCIES TO ESTABLISH PRIORITY ENERGY TRANSMISSION RIGHTS-OF-WAY.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''utility corridor'' means any linear strip of land across Federal lands of approved width, but limited by technological, environmental, and topographical factors for use by a utility facility.

(2) The term ''Federal authorization'' means any authorization required under Federal law in order to site a utility facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, issued by a Federal agency.

(3) The term ''Federal lands'' means all lands owned by the United States, except

(A) lands in the National Park System;

(B) lands held in trust for an Indian or Indian tribe; and

(C) lands on the Outer Continental Shelf.

(4) The term ''Secretary'' means the Secretary of Energy.

(5) The term ''utility facility'' means any privately, publicly, or cooperatively owned line, facility, or system (A) for the transportation of oil and natural gas, synthetic liquid or gaseous fuels, any refined product produced therefrom, or for transportation of products in support of production, or for storage and terminal facilities in connection therewith; or (B) for the generation, transmission and distribution of electric energy.

(b) UTILITY CORRIDORS.—

(1) No later than 24 months after the date of enactment of this section, the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, in consultation with the Secretary, shall—

(A) designate utility corridors pursuant to section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) in the eleven contiguous Western States, as identified in section 103(o) of such Act (43 U.S.C. 1702(o)); and

(B) incorporate the utility corridors designated under paragraph (A) into the relevant departmental and agency land use and resource management plans or their equivalent.

(2) The Secretary shall coordinate with the affected Federal agencies to jointly identify potential utility corridors on Federal lands in the other States and jointly develop a schedule for the designation, environmental review and incorporation of such utility corridors into relevant departmental and agency land use and resource management plans or their equivalent.

(c) FEDERAL PERMIT COORDINATION.—The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense, shall develop a memorandum of understanding (''MOU'') for the purpose of coordinating all applicable Federal authorizations and environmental reviews related to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary shall coordinate the process developed in the MOU with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility to ensure timely review and permit decisions. The MOU shall provide for—

(1) the coordination among affected Federal agencies to ensure that the necessary Federal authorizations are conducted concurrently with applicable State siting processes and are considered within a specific time frame to be identified in the MOU;

(2) an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(3) a process to expedite applications to construct or modify utility facilities within utility corridors.

Subtitle C—Alaska Natural Gas Pipeline

SEC. 131. SHORT TITLE.

This subtitle may be cited as the ''Alaska Natural Gas Pipeline Act''.

SEC. 132. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term ''Alaska natural gas'' means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) The term ''Alaska natural gas transportation project'' means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 133.

(3) The term ''Alaska natural gas transportation system'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's decision.

(4) The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) The term ''President's decision'' means the decision and report to Congress on the Alaska natural gas transportation system issued by the President on September 22, 1977, pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(e) and approved by Public Law 95–158 (91 Stat.1268).

SEC. 133. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—

(1) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than

60 days after the issuance of the final environmental impact statement for that project pursuant to section 134.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 135, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons; promote competition in the exploration, development, and production of Alaska natural gas; and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State's royalty gas for local consumption needs within the State; except that the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 134. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 133 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 133. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 133 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

SEC. 135. PIPELINE EXPANSION.

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.

(b) REQUIREMENTS.—Before ordering an expansion, the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.

(d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(e) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 136. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) for a term equal to the period required to design, permit and construction the project plus one year; and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

(1) All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the project.

(3) Unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of, or an expansion of, the project.

(4) The Federal Coordinator's authority shall not include the ability to override—

(A) the implementation or enforcement of regulations issued by the Commission pursuant to Section 133(e); or

(B) an order by the Commission to expand the project pursuant to Section 135.

(5) Nothing in this section shall give the Federal Coordinator the authority to impose additional terms, conditions or requirements beyond those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary of Energy pursuant to section 3012(b) of Public Law 102–486 (15 U.S.C. 719e(b)), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36,927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

SEC. 137. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court of the United States on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle;

(2) the constitutionality of any provision of this subtitle, or any decision made or action taken under this subtitle; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by inserting after paragraph (1) the following:

''(2) The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.''.

SEC. 138. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)), and therefore not subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section 133(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. In exercising such authority, the Commission, pursuant to section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall confer with the State of Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

SEC. 139. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission not later than 18 months after the date of enactment of this Act, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), the Secretary shall submit a report containing the results of the study, the Secretary's recommendations, and any proposals for legislation to implement the Secretary's recommendations to Congress.

SEC. 140. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g)) or any Presidential findings or waivers issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g)) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

SEC. 141. SENSE OF CONGRESS.

It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 142. PARTICIPATION OF SMALL BUSINESS CONCERNS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(b) STUDY.—

(1) The Comptroller General shall conduct a study on the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) Not later that 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report containing the results of the study.

(3) The Comptroller General shall update the study at least once every 5 years and transmit to Congress a report containing the results of the update.

(4) After the date of completion of the construction of an Alaska natural gas transportation project, this subsection shall no longer apply.

(c) SMALL BUSINESS CONCERN DEFINED.—In this section, the term ''small business concern'' has the meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 143. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (in this section referred to as the ''Secretary'') may make grants to the Alaska Department of Labor and Workforce Development to—

(1) develop a plan to train, through the workforce investment system established in the State of Alaska under the Workforce Investment Act of 1998 (112 Stat. 936 et seq.), adult and dislocated workers, including Alaska Natives, in urban and rural Alaska in the skills required to construct and operate an Alaska gas pipeline system; and

(2) implement the plan developed pursuant to paragraph (1).

(b) REQUIREMENTS FOR PLANNING GRANTS.—The Secretary may make a grant under subsection (a)(1) only if—

(1) the Governor of Alaska certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(c) REQUIREMENTS FOR IMPLEMENTATION GRANTS.—The Secretary may make a grant under subsection (a)(2) only if—

(1) the Secretary has approved a plan developed pursuant to subsection (a)(1);

(2) the Governor of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of an Alaska gas pipeline system will commence within 2 years after the date of such certification; and

(3) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (2) after considering—

(A) the status of necessary State and Federal permits;

(B) the availability of financing for the pipeline project; and

(C) other relevant factors and circumstances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000, to carry out this section.

SEC. 144. LOAN GUARANTEES.

(a) AUTHORITY.

(1) The Secretary may enter agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 133(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

(b) CONDITIONS.—

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 133(b) of this Act or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) has been issued for the project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.

(c) LIMITATIONS ON AMOUNTS.—

(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, $18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.

(d) LOAN TERMS AND FEES.—

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) REGULATIONS.—The Secretary may issue regulations to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall remain available until expended.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) The term ''Consumer Price Index'' means the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) The term ''eligible lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c)) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.

(3) The term ''Federal guarantee instrument'' means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) The term ''qualified infrastructure project'' means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

(5) The term ''Secretary'' means the Secretary of Energy.

SEC. 145. SENSE OF CONGRESS ON NATURAL GAS DEMAND.

It is the sense of Congress that:

(1) North American demand for natural gas will increase dramatically over the course of the next several decades.

(2) Both the Alaska Natural Gas Pipeline and the McKenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America.

(3) Federal and state officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion.

(4) Federal and state officials should acknowledge that the smaller scope, fewer permitting requirements and lower cost of the McKenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline.

(5) Lower 48 and Canadian natural gas production alone will not be able to meet all domestic demand in the coming decades.

(6) As a result, natural gas delivered from Alaska's North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the McKenzie Delta nor production from the Lower 48.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Energy (in this subtitle, referred to as ''Secretary'') to carry out the activities authorized by this subtitle $200,000,000 for each of the fiscal years 2003 through 2011, to remain available until expended.

SEC. 202. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR GASIFICATION.—In allocating the funds made available under section 201, the Secretary shall ensure that at least 80 percent of the funds are used for coal-based gasification technologies or coal-based projects that include gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion. The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able to—

(1) remove 99 percent of sulfur dioxide;

(2) emit no more than .05 lbs of NO_X per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(c) TECHNICAL CRITERIA FOR OTHER PROJECTS.—For projects not described in subsection (b), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able to—

(1) remove 97 percent of sulfur dioxide;

(2) emit no more than .08 lbs of NO_X per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(d) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraphs (b)(4) and (c)(4), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(e) PERMITTED USES.—In allocating funds made available in this section, the Secretary may allocate funds to projects that include, as part of the project, the separation and capture of carbon dioxide.

(f) CONSULTATION.—Before setting the technical milestones under subsections (b) and (c), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including

coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(g) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(h) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of this section and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(i) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(j) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SEC. 203. REPORTS.

(a) TEN-YEAR PLAN.—By September 30, 2004, the Secretary shall transmit to Congress a report, with respect to section 202(a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under section 201 are appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(b) TECHNICAL MILESTONES.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Congress, a report describing—

(1) the technical milestones set forth in section 212 and how those milestones ensure progress toward meeting the requirements of subsections (b) and (c) of section 212; and

(2) the status of projects funded under this title.

SEC. 204. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 211, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

Subtitle B—Federal Coal Leases

SEC. 211. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended by striking all the text in the first sentence after ''upon'' and inserting the following:

''a finding by the Secretary that it (1) would be in the interest of the United States, (2) would not displace a competitive interest in the lands, and (3) would not include lands or deposits that can be developed as part of another potential or existing operation, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed 320 acres, or add acreage larger than that in the original lease.''.

SEC. 212. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than forty years if the Secretary determines that the longer period will ensure the maximum economic recovery of a coal deposit, or the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 213. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended by striking all after ''Secretary).'' through to ''a lease.'' and inserting:

''The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed twenty. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.''.

SEC. 214. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

SEC. 215. APPLICATION OF AMENDMENTS.

The amendments made by this Act apply with respect to any coal lease issued on or after the date of enactment of this Act, and, with respect to any coal lease issued before the date of enactment of this Act, upon the date of readjustment of the lease as provided for by section 7(a) of the Mineral Leasing Act, or upon request by the lessee, prior to such date.

Subtitle C—Powder River Basin Shared Mineral Estates

SEC. 221. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall—

(1) undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana; and

(2) not later than 6 months after the enactment of this Act, report to the Congress on alternatives to resolve these conflicts and identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE III—INDIAN ENERGY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2003''.

SEC. 302. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''Sec. 217. (a) ESTABLISHMENT.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office'). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) DUTIES OF DIRECTOR.—The Director shall in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote Indian tribal energy development, efficiency, and use;

''(2) reduce or stabilize energy costs;

''(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

''(4) electrify Indian tribal land and the homes of tribal members.

''COMPREHENSIVE INDIAN ENERGY ACTIVITIES

''Sec. 218. (a) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

''(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal consortium for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

''(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

''(5) There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2004 through 2011.

''(b) LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in

section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

''(2) A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

''(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(6) Not later than 1 year from the date of enactment of this section, the Secretary shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(c) INDIAN ENERGY PREFERENCE.—

''(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

''(2) In carrying out this subsection, a Federal agency or department shall not—

''(A) pay more than the prevailing market price for an energy product or byproduct; and

''(B) obtain less than prevailing market terms and conditions.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking ''Section'' and inserting ''Sec.''; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

''Sec. 213. Establishment of policy for National Nuclear Security Administration.
''Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
''Sec. 215. Office of Counterintelligence.
''Sec. 216. Office of Intelligence.
''Sec. 217. Office of Indian Energy Policy and Programs.
''Sec. 218. Comprehensive Indian Energy Activities.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 303. INDIAN ENERGY.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI INDIAN ENERGY

''SEC. 2601. DEFINITIONS.

''For purposes of this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and ''(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(8) The term 'Secretary' means the Secretary of the Interior.

''(9) The term 'tribal consortium' means an organization that consists of 2 or more entities, at least 1 of which is an Indian tribe.

''(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

''(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) IN GENERAL.—To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

''(b) GRANTS AND LOANS.—In carrying out the Program, the Secretary shall—

''(1) provide development grants to Indian tribes and tribal consortia for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land;

''(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes and tribal consortia, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

''(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

''(4) the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal consortia scientific and technical data for use in the development and management of energy resources on Indian land.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND AGREEMENTS.—Subject to the provisions of this section—

''(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

''(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

''(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

''(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(B) the term of the lease or business agreement does not exceed—

''(i) 30 years; or

''(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an

electric transmission or distribution line without specific approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement.

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal energy resource agreements approved by the Secretary under subsection (e).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On promulgation of regulations under paragraph (9), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

''(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

''(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

''(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(III) address amendments and renewals;

''(IV) address consideration for the lease, business agreement, or right-of-way;

''(III) address amendments and renewals;

''(IV) address consideration for the lease, business agreement, or right-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

''(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

''(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

''(iv) sufficient administrative support and technical capability to carry out the environmental review process.

''(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

''(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

''(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1).

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(9), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of the terms of any lease, business agreement or right-of-way by any other party to the lease, business agreement, or right-of-way.

''(7)(A) The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal energy resource agreements approved under this subsection.

''(B) On approval of a tribal energy resource agreement of an Indian tribe under paragraph (1), the Indian tribe shall be stopped from asserting a claim against the United States on the ground that Secretary should not have approved the Tribal energy resource agreement.

''(8)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(9), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

''(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

''(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

''(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

''(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(E)(i) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

''(9) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environmental law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

''SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

''(2) The term 'power marketing administration' means—

''(A) the Bonneville Power Administration;

''(B) the Western Area Power Administration; and

''(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

''(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

''(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

''(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

''(2) identifies—

''(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

''SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

''(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

''SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

''(a) STUDY.—The Secretary, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

''(b) SCOPE OF STUDY.—The study shall—

''(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

''(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

''(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

''(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

''(5) include an independent tribal engineer as a study team member.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

''(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

''(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

''(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal consortium to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

''(4) an identification of—

''(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

''(B) the manner in which such a partnership could contribute to the energy security of the United States.

''(d) FUNDING.—

''(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

''(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

SEC. 304. FOUR CORNERS TRANSMISSION LINE PROJECT.

The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 302 of this title and section 2602 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

SEC. 305. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting 'improvement to achieve greater energy efficiency,' after 'planning,'.

SEC. 306. CONSULTATION WITH INDIAN TRIBES.

In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

TITLE IV—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 401. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2003''.

SEC. 402. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES'';

(2) by striking ''licenses issued between August 30, 1954, and December 31, 2003'' and inserting ''licenses issued after August 30, 1954''; and

(3) by striking ''With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2003, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2003.''

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of

the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until December 31, 2004,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k.of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking ''licenses issued between August 30, 1954, and August 1, 2002'' and replacing it with ''licenses issued after August 30, 1954''; and

(2) by striking ''With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 2002, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 2002.''

SEC. 403. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)

(A) by striking ''$63,000,000'' and inserting ''$94,000,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''; and

(2) in subsection t.(1)

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''July 1, 2003''; and

(C) by striking ''such date of enactment'' and inserting ''July 1, 2003''.

SEC. 404. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended by:

(1) striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 405. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 406. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2013''.

SEC. 407. INFLATION ADJUSTMENT.

Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 408. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 409. APPLICABILITY.

The amendments made by sections 403, 404, and 405 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 410. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term ''not-for-profit'' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

Subtitle B—Deployment of New Nuclear Plants

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Nuclear Energy Finance Act of 2003.''

SEC. 422. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''advanced reactor design'' means a nuclear reactor that enhances safety, efficiency, proliferation resistance, or waste reduction compared to commercial nuclear reactors in use in the United States on the date of enactment of this Act.

(2) The term ''eligible project costs'' means all costs incurred by a project developer that are reasonably related to the development and construction of a project under this subtitle, including costs resulting from regulatory or licensing delays.

(3) The term ''financial assistance'' means a loan guarantee, purchase agreement, or any combination of the foregoing.

(4) The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal and interest on a loan or other debt obligation issued by a project developer and funded by a lender.

(5) The term ''project'' means any commercial nuclear power facility for the production of electricity that uses one or more advanced reactor designs.

(6) The term ''project developer'' means an individual, corporation, partnership, joint venture, trust, or other entity that is primarily liable for payment of a project's eligible costs.

(7) The term ''purchase agreement'' means a contract to purchase the electric energy produced by a project under this subtitle.

(8) The term ''Secretary'' means the Secretary of Energy.

SEC. 423. RESPONSIBILITIES OF THE SECRETARY.

(a) FINANCIAL ASSISTANCE.—Subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may, subject to appropriations, make available to project developers for eligible project costs such financial assistance as the Secretary determines is necessary to supplement private-sector financing for projects if he determines that such projects are needed to contribute to energy security, fuel or technology diversity, or clean air attainment goals. The Secretary shall prescribe such terms and conditions for financial assistance as the Secretary deems necessary or appropriate to protect the financial interests of the United States.

(b) REQUIREMENTS.—Approval criteria for financial assistance shall include—

(1) the creditworthiness of the project;

(2) the extent to which financial assistance would encourage public-private partnerships and attract private-sector investment;

(3) the likelihood that financial assistance would hasten commencement of the project; and,

(4) any other criteria the Secretary deems necessary or appropriate.

(c) CONFIDENTIALITY.—The Secretary shall protect the confidentiality of any information that is certified by a project developer to be commercially sensitive.

(d) FULL FAITH AND CREDIT.—All financial assistance provided by the Secretary under this subtitle shall be general obligations of the United States backed by its full faith and credit.

SEC. 424. LIMITATIONS.

(a) FINANCIAL ASSISTANCE.—The total financial assistance per project provided by this subtitle shall not exceed fifty percent of eligible project costs.

(b) GENERATION.—The total electrical generation capacity of all projects provided by this subtitle shall not exceed 8,400 megawatts.

SEC. 425. REGULATIONS.

Not later than 12 months from the date of enactment of this Act, the Secretary shall issue regulations to implement this subtitle.

SUBTITLE C—ADVANCED REACTOR HYDROGEN

Co-Generation Project

SEC. 431. PROJECT ESTABLISHMENT.

The Secretary is directed to establish an Advanced Reactor Hydrogen Co-Generation Project.

SEC. 432. PROJECT DEFINITION.

The project shall conduct the research, development, design, construction, and operation of a hydrogen production co-generation testbed that, relative to the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This testbed shall be constructed so as to enable research and development on advanced reactors of the type selected and on alternative approaches for reactor-based production of hydrogen.

SEC. 433. PROJECT MANAGEMENT.

(a) MANAGEMENT.—The project shall be managed within the Department by the Office of Nuclear Energy Science and Technology.

(b) LEAD LABORATORY.—The lead laboratory for the program, providing the site for the reactor construction, shall be the Idaho National Engineering and Environmental Laboratory (''INEEL'').

(c) STEERING COMMITTEE.—The Secretary shall establish a national steering committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science and Technology on technical and program management aspects of the project.

(d) COLLABORATION.—Project activities shall be conducted at INEEL, other national laboratories, universities, domestic industry, and international partners.

SEC. 434. PROJECT REQUIREMENTS.

(a) RESEARCH AND DEVELOPMENT.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(1) The project shall utilize, where appropriate, extensive reactor test capabilities resident at INEEL.

(2) The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(3) The industrial lead for the project must be a United States-based company.

(b) INTERNATIONAL COLLABORATION.—The Secretary shall seek international cooperation, participation, and financial contribution in this program.

(1) The project may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be coordinated with the Generation IV International Forum.

(3) The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(c) DEMONSTRATION.—The overall project, which may involve demonstration of selected project objectives in a partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable tests of alternative reactor core and cooling configurations.

(d) PARTNERSHIPS.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction and operation of the demonstration facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership while maximizing cost sharing opportunities and minimizing federal funding responsibilities.

(e) TARGET DATE.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen production or electricity generation by 2010 or provide a report to Congress why this date is not feasible.

(f) WAIVER OF CONSTRUCTION TIMELINES.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Co-Generation Project without the constraints of DOE Order 413.3 as deemed necessary to meet the specified operational date.

(g) COMPETITION.—The Secretary may fund up to two teams for up to one year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall define the format of the competitive evaluation of proposals.

(h) USE OF FACILITIES.—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the demonstration facility. Utilization of domestic university-based testbeds shall be encouraged to provide educational opportunities for student development.

(i) ROLE OF NUCLEAR REGULATORY COMMISSION.—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar reactor architecture.

(j) REPORT.—A comprehensive project plan shall be developed no later than April 30, 2004. The project plan shall be updated annually with each annual budget submission.

SEC. 435. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH, DEVELOPMENT AND DESIGN PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for all activities under this subtitle except for reactor construction:

(1) For fiscal year 2004, $35,000,000;

(2) For each of fiscal years 2005–2008, $150,000,000; and

(3) For fiscal years beyond 2008, such funds as are needed are authorized to be appropriated.

(b) REACTOR CONSTRUCTION.—The following sum is authorized to be appropriated to the Secretary for all project-related construction activities, to be available until expended, $500,000,000.

Subtitle D—Miscellaneous Matters

SEC. 441. URANIUM SALES AND TRANSFERS.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d) and (e) and inserting the following:

''(d)(1)(A) The aggregate annual deliveries of uranium in any form (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) sold or transferred for commercial nuclear power end uses by the United States Government shall not exceed 3,000,000 pounds U_3O_8 equivalent per year through calendar year 2009. Such aggregate annual deliveries shall not exceed 5,000,000 pounds U_3O_8 equivalent per year in calendar years 2010 and 2011. Such aggregate annual deliveries shall not exceed 7,000,000 pounds U_3O_8 equivalent in calendar year 2012. Such aggregate annual deliveries shall not exceed 10,000,000 pounds U_3O_8 equivalent per year in calendar year 2013 and each year thereafter. Any sales or transfers by the United States Government to commercial end users shall be limited to long-term contracts of no less than 3 years duration.

''(B) The recovery and extraction of the uranium component from contaminated uranium bearing materials from United States Government sites by commercial entities shall be the preferred method of making uranium available under this subsection. The uranium component contained in such contaminated materials shall be counted against the annual maximum deliveries set forth in this section, provided that uranium is sold to end users.

''(C) Sales or transfers of uranium by the United States Government for the following purposes are exempt from the provisions of this paragraph—

''(i) sales or transfers provided for under existing law for use by the Tennessee Valley Authority in relation to the Department of Energy's high-enriched uranium or tritium programs;

''(ii) sales or transfers to the Department of Energy research reactor sales program;

''(iii) the transfer of up to 3,293 metric tons of uranium to the United States Enrichment Corporation to replace uranium that the Secretary transferred, prior to privatization of the United States Enrichment Corporation in July 1998, to the Corporation on or about June 30, 1993, April 20, 1998, and May 18, 1998, and that does not meet commercial specifications;

''(iv) the sale or transfer of any uranium for emergency purposes in the event of a disruption in supply to end users in the United States;

''(v) the sale or transfer of any uranium in fulfillment of the United States Government's obligations to provide security of supply with respect to implementation of the Russian HEU Agreement; and

''(vi) the sale or transfer of any enriched uranium for use in an advanced commercial nuclear power plant in the United States with nonstandard fuel requirements.

''(D) The Secretary may transfer or sell enriched uranium to any person for national security purposes, as determined by the Secretary.

''(2) Except as provided in subsections (b) and (c), and in paragraph (1)(B), clauses (i) through (iii) of paragraph (1)(C), and paragraph (1)(D) of this subsection, no sale or transfer of uranium in any form shall be made by the United States Government unless—

''(A) the President determines that the material is not necessary for national security needs;

''(B) the price paid to the Secretary, if the transaction is a sale, will not be less than the fair market value of the material, as determined at the time that such material is contracted for sale;

''(C) prior to any sale or transfer, the Secretary solicits the written views of the Department of State and the National Security Council with regard to whether such sale or transfer would have any adverse effect on national security interests of the United States, including interests related to the implementation of the Russian HEU Agreement; and

''(D) neither the Department of State nor the National Security Council objects to such sale or transfer.

The Secretary shall endeavor to determine whether a sale or transfer is permitted under this paragraph within 30 days. The Secretary's determinations pursuant to this paragraph shall be made available to interested members of the public prior to authorizing any such sale or transfer.

''(3) Within 1 year after the date of enactment of this subsection and annually thereafter the Secretary shall undertake an assessment for the purpose of reviewing available excess Government uranium inventories, and determining, consistent with the procedures and limitations established in this subsection, the level of inventory to be sold or transferred to end users.

''(4) Within 5 years after the date of enactment of this subsection and biennially thereafter the Secretary shall report to the Congress on the implementation of this subsection. The report shall include a discussion of all sales or transfers made by the United States Government, the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States, and any steps taken to remediate any adverse impacts of such sales or transfers.

''(5) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.''.

SEC. 442. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2004 through 2008.

SEC. 502. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.''.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government of subdivision thereof,''; and

(2) by inserting ''landfill gas,'' after ''wind, biomass,''.

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''after October 1, 2003, and before October 1, 2013''.

(d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas,'' after ''wind, biomass,''.

(e) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.''.

SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.

(a) REPORT.—Within 24 months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall develop and report to the Congress recommendations on opportunities to develop renewable energy on public lands under the jurisdiction of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary of Agriculture. The report shall include—

(1) 5-year plans developed by the Secretary of the Interior and the Secretary of Agriculture, respectively, for encouraging the development of renewable energy consistent with applicable law and management plans; and

(2) an analysis of—

(A) the use of rights-of-way, leases, or other methods to develop renewable energy on such lands;

(B) the anticipated benefits of grants, loans, tax credits, or other provisions to promote renewable energy development on such lands; and

(C) any issues that the Secretary of the Interior or the Secretary of Agriculture have encountered in managing renewable energy projects on such lands, or believe are likely to arise in relation to the development of renewable energy on such lands;

(3) a list, developed in consultation with the Secretary of Energy and the Secretary of Defense, of lands under the jurisdiction of the Department of Energy or Defense that would be suitable for development for renewable energy, and any recommended statutory and regulatory mechanisms for such development; and

(4) any recommendations pertaining to the issues addressed in the report.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) Not later than 90 days after the date of the enactment of this section, the Secretary of the Interior shall contract with the National Academy of Sciences to—

(A) study the potential for the development of wind, solar, and ocean (tidal and thermal) energy on the Outer Continental Shelf;

(B) assess existing Federal authorities for the development of such resources; and

(C) recommend statutory and regulatory mechanisms for such development.

(2) The results of the study shall be transmitted to the Congress within 24 months after the date of the enactment of this section.

SEC. 504. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy—

(1) not less than 3 percent in fiscal years 2005 through 2007,

(2) not less than 5 percent in fiscal years 2008 through 2010, and

(3) not less than 7.5 percent in fiscal year 2011 and each fiscal year thereafter.

(b) DEFINITION.—For purposes of this section—

(1) the term ''biomass'' means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled; or

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) the term ''renewable energy'' means electric energy generated from solar, wind, biomass, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) CALCULATION.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) REPORT.—Not later than April 15, 2005, and every 2 years thereafter, the Secretary of Energy shall provide a report to the Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 505. INSULAR AREA RENEWABLE AND ENERGY EFFICIENCY PLANS.

The Secretary of Energy shall update the energy surveys, estimates, and assessments for the insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau undertaken pursuant to section 604 of Public Law 96–597 (48 U.S.C. 1492) and revise the comprehensive energy plan for the insular areas to reduce reliance on energy imports and increase use of renewable energy resources and energy efficiency opportunities. The update and revision shall by undertaken in consultation with the Secretary of the Interior and the chief executive officer of each insular area and shall be completed and submitted to Congress and to the chief executive officer of each insular area by December 31, 2005.

Subtitle B—Hydroelectric Licensing

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ''adequate protection and utilization of such reservation.'' at the end of the first proviso the following: ''The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such conditions.''.

(b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ''and such fishways as may be prescribed by the Secretary of Commerce.'' the following: ''The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such fishways.''.

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

''SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

''(a) ALTERNATIVE CONDITIONS.—

''(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the Department under whose supervision such reservation falls (referred to in this subsection as 'the Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant or otherwise available to the Secretary, that such alternative condition—

''(A) provides for the adequate protection and utilization of the reservation; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

''(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

''(b) ALTERNATIVE PRESCRIPTIONS.—

(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway. The alternative may include a fishway or an alternative to a fishway.

''(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

''(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

''(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a nonbinding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.''.

Subtitle C—Geothermal Energy

SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.

(a) IN GENERAL.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by striking the text and inserting the following:

''(a) NOMINATIONS.—The Secretary shall accept nominations at any time from companies and individuals of lands to be leased under this Act.

''(b) COMPETITIVE LEASE SALE REQUIRED.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State in which there are nominations pending under subsection (a) where such lands are otherwise available for leasing.

''(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in the competitive lease sale.''.

(b) PENDING LEASE APPLICATIONS.—It shall be a priority for the Secretary of the Interior and, with respect to National Forest lands, the Secretary of Agriculture, to ensure timely completion of administrative actions necessary to conduct competitive lease sales for lands with pending applications for geothermal leasing as of the date of enactment of this section where such lands are otherwise available for leasing.

SEC. 522. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to the Congress a memorandum of understanding in accordance with this section regarding leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) identify known geothermal resources areas on lands included in the National Forest System and, when necessary, require review of management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; and

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with interested states, counties, representatives of the geothermal industry, and interested members of the public, shall submit to the Congress a joint report concerning leasing and permitting activities for geothermal energy on Federal lands withdrawn for military purposes. Such report shall—

(1) describe any differences, including differences in royalty structure and revenue sharing with states and counties, between—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2689 of title 10, United States Code, by the Secretary of Defense;

(2) identify procedures for interagency coordination to ensure efficient processing and administration of leases or contracts for geothermal energy on federal lands withdrawn for military purposes, consistent with the defense purposes of such withdrawals; and

(3) provide recommendations for legislative or administrative actions that could facilitate program administration, including a common royalty structure.

SEC. 524. REINSTATEMENT OF LEASES TERMINATED FOR FAILURE TO PAY RENT.

Section 5(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(c)), is amended in the last sentence by inserting ''or was inadvertent,'' after ''reasonable diligence,''.

SEC. 525. ROYALTY REDUCTION AND RELIEF.

(a) RULEMAKING.—Within one year after the date of enactment of this Act, the Secretary shall promulgate a final regulation providing a methodology for determining the amount or value of the steam for purposes of calculating the royalty due to be paid on such production pursuant to section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004). The final regulation shall provide for a simplified methodology for calculating the royalty. In undertaking the rulemaking, the Secretary shall consider the use of a percent of revenue method and shall ensure that the final rule will result in the same level of royalty revenues as the regulation in effect on the date of enactment of this provision.

(b) LOW TEMPERATURE DIRECT USE.—Notwithstanding the provisions of section 5(a) of the Geothermal Steam Act of 1979 (30 U.S.C. 1004(a)), with respect to the direct use of low temperature geothermal resources for purposes other than the generation of electricity, the Secretary shall establish a schedule of fees and collect fees pursuant to such schedule in lieu of royalties based upon the total amount of geothermal resources used. The schedule of fees shall ensure that there is a fair return to the public for the use of the low temperature geothermal resource. With the consent of the lessee, the Secretary may modify the terms of a lease in existence on the date of enactment of this Act in order to reflect the provisions of this subsection.

Subtitle D—Biomass Energy

SEC. 531. DEFINITIONS.

For the purposes of this subtitle:

(1) The term ''eligible operation'' means a facility that is located within the boundaries of an eligible community and uses biomass from federal or Indian lands as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products.

(2) The term ''biomass'' means pre-commercial thinnings of trees and woody plants, or non-merchantable material, from preventative treatments to reduce hazardous fuels, or reduce or contain disease or insect infestations.

(3) The term ''green ton'' means 2,000 pounds of biomass that has not been mechanically or artificially dried.

(4) The term ''Secretary'' means—

(A) with respect to lands within the National Forest System, the Secretary of Agriculture; or

(B) with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands, the Secretary of the Interior.

(5) The term ''eligible community'' means any Indian Reservation, or any county, town, township, municipality, or other similar unit of local government that has a population of not more than 50,000 individuals and is determined by the Secretary to be located in an area near federal of Indian lands which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) The term ''person'' includes—

(A) an individual;

(B) a community;

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; or

(E) a nonprofit organization.

SEC. 532. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an eligible operation to offset the costs incurred to purchase biomass for use by such eligible operation with priority given to operations using biomass from the highest risk areas.

(b) LIMITATION.—No grant provided under this subsection shall be paid at a rate that exceeds $20 per green ton of biomass delivered.

(c) RECORDS.—Each grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of any eligible operation receiving grant funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 533. IMPROVED BIOMASS UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to persons in eligible communities to offset the costs of developing or researching proposals to improve the use of biomass or add value to biomass utilization.

(b) SELECTION.—Grant recipients shall be selected based on the potential for the proposal to—

(1) develop affordable thermal or electric energy resources for the benefit of an eligible community;

(2) provide opportunities for the creation or expansion of small businesses within an eligible community;

(3) create new job opportunities within an eligible community, and

(4) reduce the hazardous fuels from the highest risk areas.

(c) LIMITATION.—No grant awarded under this subsection shall exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 534. REPORT.

Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Agriculture shall jointly submit to the Congress a report that describes the interim results of the programs authorized under this subtitle.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 601. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking ''its Federal buildings so that'' and all that follows through the end and inserting ''the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2004 through 2013 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:

''Fiscal Year	Percentage reduction
2004	2
2005	4
2006	6
2007	8
2008	10
2009	12
2010	14
2011	16
2012	18
2013	20.''.

(b) EFFECTIVE DATE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act, as amended by subsection (a) of this section, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(c) REVIEW OF ENERGY PERFORMANCE REQUIREMENTS.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

''(3) Not later than December 31, 2011, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2014 through 2022.''.

(d) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking ''An agency may exclude'' and all that follows through the end and inserting—

''(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

''(i) compliance with those requirements would be impracticable;

''(ii) the agency has completed and submitted all federally required energy management reports;

''(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law; and

''(iv) the agency has implemented all practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

''(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

''(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

''(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.''.

(e) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking ''impracticability standards'' and inserting ''standards for exclusion''; and

(2) by striking ''a finding of impracticability'' and inserting ''the exclusion''.

(f) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

''(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).''.

(g) RETENTION OF ENERGY SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

''(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.''.

(h) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended

(1) in the subsection heading, by inserting ''THE PRESIDENT AND'' before ''CONGRESS''; and

(2) by inserting ''President and'' before ''Congress''.

(i) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking ''the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).'' and inserting ''each of the energy reduction goals established under section 543(a).''.

SEC. 602. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

''(e) METERING OF ENERGY USE.—

''(1) DEADLINE.—By October 1, 2010, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

''(2) GUIDELINES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

''(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

''(i) take into consideration

''(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

''(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

''(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

''(3) PLAN.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including—

''(A) how the agency will designate personnel primarily responsible for achieving the requirements; and

''(B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.''.

SEC. 603. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(a) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2000 International Energy Conservation Code''; and

(b) by adding at the end the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective, for new Federal buildings—

''(i) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the most recent version of the International Energy Conservation Code, as appropriate; and

''(ii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

''(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

SEC. 604. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) REPLACEMENT FACILITIES.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced life-cycle costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced, established through a methodology set forth in the contract.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.''.

(c) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means—

''(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by co-generation or heat recovery, excluding any co-generation process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources; or

''(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned facilities by reason of the construction and operation of the replacement building or facility.''.

(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation

Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities. Such contracts shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).''.

(e) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(f) PILOT PROGRAM FOR NON-BUILDING APPLICATIONS.—

(1) The Secretary of Defense, and the heads of other interested Federal agencies, are authorized to enter into up to 10 energy savings performance contracts under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) for the purpose of achieving energy or water savings, secondary savings, and benefits incidental to those purposes, in non-building applications, provided that the aggregate payments to be made by the Federal government under such contracts shall not exceed $100,000,000.

(2) The Secretary of Energy, in consultation with the Secretary of Defense and the heads of other interested Federal agencies, shall select projects that demonstrate the applicability and benefits of energy savings performance contracting to a range of non-building applications.

(3) For the purposes of this subsection:

(A) The term ''non-building application'' means—

(i) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(ii) any Federally owned equipment used to generate electricity or transport water.

(B) The term ''secondary savings'', means additional energy or cost savings that are a direct consequence of the energy or water savings that result from the financing and implementation of the energy savings performance contract, including, but not limited to, energy or cost savings that result from a reduction in the need for fuel delivery and logistical support, or the increased efficiency in the production of electricity.

(4) Not later than 3 years after the date of enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of the projects funded pursuant to this section. Such report shall include a description of projects undertaken; the energy, water and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized permanently as a part of the program authorized under Title VIII of the National Energy Conservation Policy act (42 U.S.C. 8287 et seq.).

(5) Section 546(c)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by striking the word ''facilities'', and inserting the words ''facilities, equipment and vehicles'', in lieu thereof.

(g) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 605. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

''SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

''(2) The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

''(3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(4) The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

''(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure an Energy Star product or a FEMP designated product.

''(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the executive agency finds in writing that—

''(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

''(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

''(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

''(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

''(d) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

''(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to the end of the items relating to part 3 of title V the following:

''Sec. 552. Federal procurement of energy efficient products.''.

SEC. 606. CONGRESSIONAL BUILDING EFFICIENCY.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is further amended by adding at the end:

''SEC. 553. CONGRESSIONAL BUILDING EFFICIENCY.

''(a) IN GENERAL.—The Architect of the Capitol—

''(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

''(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

''(b) PLAN REQUIREMENTS.—The plan shall include—

''(1) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

''(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

''(3) a strategy for installation of life-cycle cost-effective energy and water conservation measures;

''(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

''(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

''(c) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

''SEC. 553. Energy and water savings measures in congressional buildings.''.

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), not more than $2,000,000 for fiscal year 2004.

SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

''SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to fuller realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C) (i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, within 1 year of the release of the report in accordance with subsection (c)(3), take additional actions authorized under this section to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

SEC. 608. UTILITY ENERGY SERVICE CONTRACTS.

Section 546(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended to read as follows:

''(1) Agencies are authorized and encouraged to participate in programs, including utility energy services contracts, conducted by gas, water and electric utilities and generally available to customers of such utilities, for the purposes of increased energy efficiency, water conservation or the management of electricity demand.''.

SEC. 609. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this section, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report of the Academy to the Congress.

Subtitle B—State and Local Programs

SEC. 611. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative, renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services

provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2006.

SEC. 612. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary for each of fiscal years 2003 through 2012. Not more than 30 percent of appropriated funds shall be used for administration.

SEC. 613. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) The term ''eligible State'' means a State that meets the requirements of subsection (b).

(2) The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) The term ''State program'' means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 2004 through 2008.

Subtitle C—Consumer Products

SEC. 621. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in subparagraph (30)(S), by striking the period and adding at the end the following: ''but does not include any lamps specifically designed to be used for special purpose applications, and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule.''; and

(2) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products.

''(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—

''(A) is not a consumer product regulated under this Act; and

''(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

''(35) The term 'illuminated exit sign' means a sign that—

''(A) is designed to be permanently fixed in place to identify an exit; and

''(B) consists of an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

''(36)(A) Except as provided in subparagraph (B), the term 'low-voltage dry-type transformer' means a transformer that—

''(i) has an input voltage of 600 volts or less;

''(ii) is air-cooled;

''(iii) does not use oil as a coolant; and

''(iv) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'low-voltage dry-type transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

''(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

''(37)(A) Except as provided in subsection (B), the term 'distribution transformer' means a transformer that—

''(i) has an input voltage of 34.5 kilovolts or less;

''(ii) has an output voltage of 600 volts or less; and

''(iii) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'distribution transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 15 percent more than the lowest voltage tap;

''(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application, and are unlikely to be used in general purpose applications; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application, is unlikely to be used in general purpose applications, and the application of standards to the transformer would not result in significant energy savings.

''(38) The term 'standby mode' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

''(39) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

''(40) The term 'transformer' means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

''(41) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

''(42) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.''

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under Version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

''(10) Test procedures for low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2 1998). The Secretary may review and revise this test procedure.

''(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

''(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001 version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 325(bb). However, covered products may be marketed prior to completion of lamp life and lumen maintenance at 40% of rated life testing provided manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40% rated life and lamp life time.''; and

(2) by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

(c) NEW STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—

''(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

''(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

''(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

''(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—

''(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any non-covered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; except that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

''(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

''(i) standby mode power consumption compared to overall product energy consumption; and

''(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

''(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

''(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of paragraph (2) of this subsection.

''(4) RULEMAKING.—

''(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in this section and the criteria set forth in subparagraph (B) of paragraph (2) of this subsection.

''(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

''(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

''(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

''(6) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 36 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

''(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

''(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

''(1) shall consume not more than 190 watts of power; and

''(2) shall not be capable of operating with lamps that total more than 190 watts.

''(y) DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for distribution transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

''(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.

''(aa) UNIT HEATERS.—Unit heaters manufactured on or after the date that is three years after the date of enactment of the Energy Policy Act of 2003 shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

''(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—Bare lamp and covered lamp (no reflector) medium base compact fluorescent lamps manufactured on or after January 1, 2005 shall meet the following requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40% of rated life; rapid cycle stress test; and lamp life. The Secretary may, by rule, establish requirements for color quality (CRI); power factor;

operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

''(cc) EFFECTIVE DATE.—The provisions of section 327 shall apply—

''(1) to products for which standards are to be set pursuant to subsection (v) of this section on the date on which a final rule is issued by the Department of Energy, except that any state or local standards prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standard set pursuant to subsection (v) for that product takes effect; and

''(2) to products for which standards are set in subsections (w) through (bb) of this section on the date of enactment of the Energy Policy Act of 2003, except that any state or local standards prescribed or enacted prior to the date of enactment of the Energy Policy Act of 2003 shall not be preempted until the standards set in subsections (w) through (bb) take effect.''.

SEC. 622. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 2 years after the date of enactment of this subparagraph.''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

''(5) The Secretary or the Commission, as appropriate, may for covered products referred to in subsections (u) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set pursuant to section 323. In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the ''Standard for the Labeling of Distribution Transformer Efficiency'' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect upon the date of enactment of this Act.''.

SEC. 623. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 et. seq.) is amended by inserting the following after section 324:

''SEC. 324A. ENERGY STAR PROGRAM.

''There is established at the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label;

''(4) solicit the comments of interested parties in establishing a new Energy Star product category, specifications, or criteria, or in revising a product category, and upon adoption of a new or revised product category, specifications, or criteria, publish a notice of any changes in product categories, specifications or criteria along with an explanation of such changes, and, where appropriate, responses to comments submitted by interested parties; and

''(5) unless waived or reduced by mutual agreement between the Administrator, the Secretary, and the affected parties, provide not less than 12 months lead time prior to implementation of changes in product categories, specifications, or criteria as may be adopted pursuant to this section.''.

(b) TABLE OF CONTENTS AMENDMENT. The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

''Sec. 324A. Energy Star program.''.

SEC. 624. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

''(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Program, and the Department of Agriculture.''.

Subtitle D—Public Housing

SEC. 631. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(a) in paragraph (1), by inserting before the semicolon at the end the following: '', including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures''; and

(b) in paragraph (2), by inserting before the semicolon the following: '', including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families''.

SEC. 632. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended

(a) by inserting ''or efficiency'' after ''energy conservation'';

(b) by striking '', and except that'' and inserting ''; except that''; and

(c) by inserting before the semicolon at the end the following: ''; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency''.

SEC. 633. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated and indented paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting ''or paragraph (10)'' before the first comma; and

(2) by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

SEC. 634. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(a) in subsection (d)(1)—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

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

''(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998

and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and (b) in subsection (e)(2)(C)

(1) by striking ''The'' and inserting the following:

''(i) IN GENERAL. The''; and

(2) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generations, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

SEC. 635. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(a) by striking ''financed with loans'' and inserting ''assisted'';

(b) by inserting after ''1959,'' the following: ''which are eligible multifamily housing projects (as such term is defined in section 512 of the Multi-family Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,''; and

(c) by inserting after the period at the end of the first sentence the following new sentence: ''Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.''.

SEC. 636. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m 290m–3) is amended by adding at the end the following:

''SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

SEC. 637. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Policy and Conservation Act (as amended by this Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 638. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)

(A) in paragraph (1)

(i) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2003'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''90.1—1989') and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2003''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

SEC. 639. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than one year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every two years thereafter on progress in implementing the strategy.

TITLE VII—TRANSPORTATION FUELS

Subtitle A—Alternative Fuel Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area where—

''(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

''(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

''(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to the Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.''.

SEC. 702. FUEL USE CREDITS.

(a) IN GENERAL.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13220) is amended to read as follows:

''SEC. 312. FUEL USE CREDITS.

''(a) ALLOCATION.—

''(1) The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of alternative fuel or biodiesel purchased for use in an on-road motor vehicle operated by the fleet that weighs more than 8,500 pounds gross vehicle weight rating.

''(2) No credits shall be allocated under this section for purchase of an alternative fuel or biodiesel that is required by Federal or State law.

''(3) A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under this section.

''(b) USE.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

''(c) TREATMENT.—A credit provided to a fleet or covered person under this section shall be considered a credit under section 508.

''(d) ISSUANCE OF RULE.—Not later than 6 months after the date of enactment of this section, the Secretary shall issue a rule establishing procedures for the implementation of this section.

''(e) DEFINITIONS.—For the purposes of this section—

''(1) the term ''biodiesel'' means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

''(2) the term ''qualifying volume'' means—

''(A) in the case of biodiesel, when used as a component of fuel containing at least 20 percent biodiesel by volume, 450 gallons, or if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use; or

''(B) in the case of an alternative fuel, the amount of such fuel determined by the Secretary to have an equivalent energy content to the amount of biodiesel defined as a qualifying volume pursuant to subparagraph (A).''

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

''Sec. 312. Fuel use credits.''

SEC. 703. NEIGHBORHOOD ELECTRIC VEHICLES.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (3), by striking ''or a dual fueled vehicle'' and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of paragraph (13);

(3) by striking the period at the end of paragraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle—

''(A) which meets the definition of a low-speed vehicle, as such term is defined in part 571 of title 49, Code of Federal Regulations;

''(B) which meets the definition of a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations;

''(C) which meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

''(D) which has a top speed of not greater than 25 miles per hour.''.

SEC. 704. CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:

''(e) CREDIT FOR PURCHASE OF MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—

''(1) DEFINITIONS.—In this subsection:

''(A) The term 'medium duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

''(B) The term 'heavy duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 14,000 pounds.

''(2) CREDITS FOR MEDIUM DUTY VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a medium duty dedicated vehicle.

''(3) CREDITS FOR HEAVY DUTY VEHICLES.—The Secretary shall issue 3 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a heavy duty dedicated vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

SEC. 705. ALTERNATIVE FUEL INFRASTRUCTURE.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is further amended by adding at the end the following:

''(f) CREDIT FOR INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITIONS.—In this subsection, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or equivalent expenditure, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

SEC. 706. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c) is amended by striking ''may'' and inserting ''shall''.

SEC. 707. REVIEW OF ALTERNATIVE FUEL PROGRAMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on the development of alternative fueled vehicle technology, its availability in the market, and the cost of light duty motor vehicles that are alternative fueled vehicles.

(b) TOPICS.—As part of such study, the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the amount, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the amount of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the cost of compliance with vehicle acquisition requirements by fleets or covered persons; and

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons.

(c) REPORT.—Upon completion of the study, the Secretary shall submit to the Congress a report that describes the results of the study conducted under this section and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.). Such study shall be updated on a regular basis as deemed necessary by the Secretary.

SEC. 708. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a)(1) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

SEC. 709. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 is amended by adding at the end the following:

''SEC. 515. ALTERNATIVE COMPLIANCE.

''(a) APPLICATION FOR WAIVER.—Any covered person subject to the requirements of section 501 and any State subject to the requirement of section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

''(b) GRANT OF WAIVER.—The Secretary may grant a waiver of the requirements of section 501 or 507(o) upon a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

''(1) will achieve a reduction in its annual consumption of petroleum fuels equal to the reduction in consumption of petroleum that would result from compliance with section 501 or 507(o); and

''(2) is in compliance with all applicable vehicle emission standards established by the Administrator under the Clean Air Act.

''(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with the requirements of subsection (b).''.

(b) CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.—Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) (as amended by section 705) is amended by adding at the end the following:

''(r) CREDITS FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—

''(1) DEFINITIONS.—In this subsection:

''(A) 2000 MODEL YEAR CITY FUEL EFFICIENCY.—The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

''(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

''(B) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(C) ENERGY STORAGE DEVICE.—The term 'energy storage device' means an onboard rechargeable energy storage system or similar storage device.

''(D) FUEL EFFICIENCY.—The term 'fuel efficiency' means the percentage increased fuel efficiency specified in table 1 in paragraph (2)(C) over the average 2000 model year city fuel efficiency of vehicles in the same weight class.

''(E) MAXIMUM AVAILABLE POWER.—The term 'maximum available power', with respect to a new qualified hybrid motor vehicle that is a passenger vehicle or light truck, means the quotient obtained by dividing—

''(i) the maximum power available from the electrical storage device of the new qualified hybrid motor vehicle, during a standard 10–second pulse power or equivalent test; by

''(ii) the sum of—

''(I) the maximum power described in clause (i); and

''(II) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.

''(F) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

''(G) NEW QUALIFIED HYBRID MOTOR VEHICLE.—The term 'new qualified hybrid motor vehicle' means a motor vehicle that—

''(i) draws propulsion energy from both—

''(I) an internal combustion engine (or heat engine that uses combustible fuel); and

''(II) an energy storage device;

''(ii) in the case of a passenger automobile or light truck—

''(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the standard established by a qualifying California standard described in section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

''(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the level established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

''(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

''(H) Vehicle inertia weight class. The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(2) ALLOCATION.—

''(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

''(B) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

''(i) the partial credits determined under table 1 in subparagraph (C); and

''(ii) the partial credits determined under table 2 in subparagraph (C).

''(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

''Table 1

''Partial credit for increased fuel efficiency:	Amount of credit:
At least 125% but less than 150% of 2000 model year city fuel efficiency	0.14
At least 150% but less than 175% of 2000 model year city fuel efficiency	0.21
At least 175% but less than 200% of 2000 model year city fuel efficiency	0.28
At least 200% but less than 225% of 2000 model year city fuel efficiency	0.35
At least 225% but less than 250% of 2000 model year city fuel efficiency	0.50.

''Table 2

''Partial credit for 'Maximum Available Power':	Amount of credit:
At least 5% but less than 10%	0.125
At least 10% but less than 20%	0.250
At least 20% but less than 30%	0.375
At least 30% or more	0.500.

''(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(3) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

''(s) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEDICATED VEHICLE.—The term 'dedicated vehicle' includes—

''(i) a light, medium, or heavy duty vehicle; and

''(ii) a neighborhood electric vehicle.

''(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—

''(i) operates solely on alternative fuel; and

''(ii) (I) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

''(II) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

''(C) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' (equal to 1 full credit) means not less than $15,000 in cash or in kind services, as determined by the Secretary.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

''(3) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

''(t) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITIONS.—In this section, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

''(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

(c) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by inserting ''mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;'' after ''liquified petroleum gas; '';

(2) in paragraph (15), by inserting ''mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate; '' after ''liquified petroleum gas; ''; and

(3) by adding at the end the following:

''(16) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, which is recovered as a liquid from natural gas in lease separation facilities.''.

Subtitle B—Automobile Fuel Economy

SEC. 711. AUTOMOBILE FUEL ECONOMY STANDARDS.

(a) TITLE 49 AMENDMENT.—Section 32902(f) of title 49, United States Code, is amended to read as follows:

''(f) CONSIDERATIONS.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

''(1) technological feasibility;

''(2) economic practicability;

''(3) the effect of other motor vehicle standards of the Government on fuel economy;

''(4) the need of the United States to conserve energy;

''(5) the effects of fuel economy standards on motor vehicle and passenger safety; and

''(6) the effects of compliance with average fuel economy standards on levels of employment in the United States.''.

(b) CLARIFICATION OF AUTHORITY.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ''or such other number as the Secretary prescribes under subsection (c)''.

(c) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 712. DUAL-FUELED AUTOMOBILES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in subsections (b) and (d), by striking ''1993–2004'' and inserting ''1993–2008'';

(2) in subsection (f), by striking ''2001'' and inserting ''2005''.

(3) in subsection (f)(1), by striking ''2004'' and inserting ''2008'';

(4) in subsection (g), by striking ''September 30, 2000'' and inserting ''September 30, 2004''.

(b) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking ''the model years 1993–2004'' and inserting ''model years 1993–2008''; and

(2) in subparagraph (B), by striking ''the model years 2005–2008'' and inserting ''model years 2009–2012''.

SEC. 713. FEDERAL FLEET FUEL ECONOMY.

Section 32917 of title 49, United States Code, is amended to read as follows:

"§ 32917. Standards for executive agency automobiles.

''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.

SEC. 714. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall establish a cost-shared, public-private research partnership to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation. Such partnership shall involve the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2004, $35,000,000 for fiscal year 2005, and $50,000,000 for fiscal year 2006.

SEC. 715. REDUCTION OF ENGINE IDLING IN HEAVY-DUTY VEHICLES.

(a) IDENTIFICATION.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall commence a study to analyze the potential fuel savings and emissions reductions resulting from use of idling reduction technologies as they are applied to heavy-duty vehicles. Upon completion of the study, the Secretary of Energy shall, by rule, certify those idling reduction technologies with the greatest economic or technical feasibility and the greatest potential for fuel savings and emissions reductions, and publish a list of such certified technologies in the Federal Register.

(b) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of Title 23, United States Code, is amended by adding at the end the following:

''In order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any motor vehicle equipped with an idling reduction technology certified by the U.S. Department of Energy will be increased by an amount necessary to compensate for the additional weight of the idling reduction system, provided that the weight increase shall be no greater than 400 pounds.''

(c) DEFINITIONS.—For the purposes of this section:

(1) The term ''idling reduction technology'' means a device or system of devices utilized to reduce long-duration idling of a vehicle.

(2) The term ''heavy-duty vehicle'' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

(3) The term ''long-duration idling'' means the operation of a main drive engine, for a period greater than 30 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.

TITLE VIII—HYDROGEN

Subtitle A—Basic Research Programs

SEC. 801. SHORT TITLE.

This subtitle may be cited as the ''George E. Brown, Jr. and Robert S. Walker Hydrogen Future Act of 2003''.

SEC. 802. MATSUNAGA ACT AMENDMENT.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.) is amended by striking sections 102 through 109 and inserting the following:

"SEC. 102. DEFINITIONS.

In this Act—

''(a) the term 'advisory committee' means the Hydrogen and Fuel Cell Technical Advisory Committee established under section 107.

''(b) the term 'Department' means the Department of Energy.

''(c) the term 'fuel cell' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process.

''(d) the term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen.

''(e) the term 'Secretary' means the Secretary of Energy.

"SEC. 103. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall conduct a research and development program on technologies related to the production, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) GOAL.—The goal of such program shall be to enable the safe, economic, and environmentally sound use of hydrogen energy, fuel cells, and related infrastructure for transportation, commercial, industrial, residential, and electric power generation applications.

(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on critical technical issues including, but not limited to—

''(1) the production of hydrogen from diverse energy sources, with emphasis on cost-effective production from renewable energy sources;

''(2) the delivery of hydrogen, including safe delivery in fueling stations and use of existing hydrogen pipelines;

''(3) the storage of hydrogen, including storage of hydrogen in surface transportation;

''(4) fuel cell technologies for transportation, stationary and portable applications, with emphasis on cost-reduction of fuel cell stacks; and

''(5) the use of hydrogen energy and fuel cells, including use in—

''(A) isolated villages, islands, and areas in which other energy sources are not available or are very expensive; and

''(B) foreign markets, particularly where an energy infrastructure is not well developed.

''(d) CODES AND STANDARDS.—The Secretary shall facilitate the development of domestic and international codes and standards and seek to resolve other critical regulatory and technical barriers preventing the introduction of hydrogen energy and fuel cells into the marketplace.

''(e) SOLICITATION.—The Secretary shall carry out the research and development activities authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

''(f) COST SHARING. The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects. The Secretary may reduce or eliminate the cost sharing requirement—

''(1) if the Secretary determines that the research and development is of a basic or fundamental nature, or

''(2) for technical analyses, outreach activities, and educational programs that the Secretary does not expect to result in a marketable product.

"SEC. 104. DEMONSTRATION PROGRAMS.

''(a) REQUIREMENT.—In conjunction with activities conducted under section 103, the Secretary shall conduct demonstrations of hydrogen energy and fuel cell technologies in order to evaluate the commercial potential of such technologies.

''(b) SOLICITATION.—The Secretary shall carry out the demonstrations authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

''(c) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

"SEC. 105. TECHNOLOGY TRANSFER.

''The Secretary shall conduct programs to—

''(a) transfer critical hydrogen energy and fuel cell technologies to the private sector in order to promote wider understanding of such technologies and wider use of research progress under this Act;

''(b) to accelerate wider application of hydrogen energy and fuel cell technologies in foreign countries in order to increase the global market for the technologies and foster global development without harmful environmental effects;

''(c) foster the exchange of generic, nonproprietary information and technology developed pursuant to this Act, among industry, academia, and the Federal agencies; and

''(d) inventory and assess the technical and commercial viability of technologies related to production, distribution, storage, and use of hydrogen energy and fuel cells.

"SEC. 106. COORDINATION AND CONSULTATION.

''The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary—

''(a) shall establish a central point for the coordination of all hydrogen energy and fuel cell research, development, and demonstration activities of the Department;

''(b) in carrying out the Secretary's authorities pursuant to this Act, shall consult with other Federal agencies as appropriate, and may obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency;

''(c) shall attempt to ensure that activities under this Act do not unnecessarily duplicate any available research and development results or displace or compete with privately funded hydrogen and fuel cell energy activities.

''SEC. 107. ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—There is hereby established the Hydrogen and Fuel Cell Technical Advisory Committee, to advise the Secretary on the programs under this Act.

''(b) MEMBERSHIP.—The advisory committee shall be comprised of not fewer than 12 nor more than 25 members appointed by the Secretary based on their technical and other qualifications from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate. The advisory committee shall have a chairperson, who shall be elected by the members from among their number.

''(c) TERMS.—Members of the advisory committee shall be appointed for terms of 3 years, with each term to begin not later than 3 months after the date of enactment of the Energy Policy Act of 2003, except that one-third of the members first appointed shall serve for 1 year, and one-third of the members first appointed shall serve for 2 years, as designated by the Secretary at the time of appointment.

''(d) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

''(1) implementation and conduct of programs under this Act;

''(2) economic, technological, and environmental consequences of the deployment of technologies related to production, distribution, storage, and use of hydrogen energy, and fuel cells;

''(3) means for resolving barriers to implementing hydrogen and fuel cell technologies; and

''(4) the coordination plan and any updates thereto prepared by the Secretary pursuant to section 108.

''(e) RESPONSE.—The Secretary shall consider any recommendations made by the advisory committee, and shall provide a response to the advisory committee within 30 days after receipt of such recommendations. Such response shall either describe the implementation of the advisory committee's recommendations or provide an explanation of the reasons that any such recommendations will not be implemented.

''(f) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the advisory committee to carry out its functions. In carrying out activities pursuant to this section, the advisory committee may also obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency.

''SEC. 108. COORDINATION PLAN.

''(a) PLAN.—The Secretary, in consultation with other Federal agencies, shall prepare and maintain on an ongoing basis a comprehensive plan for activities under this Act.

''(b) DEVELOPMENT.—In developing such plan, the Secretary shall—

''(1) consider the guidance of the National Hydrogen Energy Roadmap published by the Department in November 2002 and any updates thereto;

''(2) consult with the advisory committee;

''(3) consult with interested parties from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate.

''(c) CONTENTS.—At a minimum, the plan shall provide—

''(1) an assessment of the effectiveness of the programs authorized under this Act, including a summary of recommendations of the advisory committee for improvements in such programs;

''(2) a description of proposed research, development, and demonstration activities planned by the Department for the next five years;

''(3) a description of the role Federal laboratories, institutions of higher education, small businesses, and other private sector firms are expected to play in such programs;

''(4) cost and performance milestones that will be used to evaluate the programs for the next five years; and

''(5) any significant technical, regulatory, and other hurdles that stand in the way of achieving such cost and performance milestones, and how the programs will address those hurdles; and

''(6) to the extent practicable, an analysis of Federal, State, local, and private sector hydrogen research, development, and demonstration activities to identify areas for increased intergovernmental and private-public sector collaboration.

''(d) REPORT.—Not later than January 1, 2005, and biennially thereafter, the Secretary shall transmit to Congress the comprehensive plan developed for the programs authorized under this Act, or any updates thereto.

''SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out the purposes of this Act—

''(1) such sums as may be necessary for fiscal years 1992 through 2003;

''(2) $105,000,000 for fiscal year 2004;

''(3) $150,000,000 for fiscal year 2005;

''(4) $175,000,000 for fiscal year 2006;

''(5) $200,000,000 for fiscal year 2007; and

''(6) $225,000,000 for fiscal year 2008.''.

SEC. 803. HYDROGEN TRANSPORTATION AND FUEL INITIATIVE.

(a) VEHICLE TECHNOLOGIES.—The Secretary shall carry out a research, development, demonstration, and commercial application program on advanced hydrogen-powered vehicle technologies. Such program shall address—

(1) engine and emission control systems;

(2) energy storage, electric propulsion, and hybrid systems;

(3) automotive materials;

(4) hydrogen-carrier fuels; and

(5) other advanced vehicle technologies.

(b) HYDROGEN FUEL INITIATIVE.—In coordination with the program authorized in subsection (a), the Secretary of Energy, in partnership with the private sector, shall conduct a research, development, demonstration and commercial application program designed to enable the rapid and coordinated introduction of hydrogen-fueled vehicles and associated infrastructure into commerce. Such program shall address—

(1) production of hydrogen from diverse energy resources, including—

(A) renewable energy resources;

(B) fossil fuels, in conjunction with carbon capture and sequestration;

(C) hydrogen-carrier fuels; and

(D) nuclear energy;

(2) delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) safe, convenient, and economic refueling of vehicles, either at central refueling stations or through distributed on-site generation;

(3) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid or solid forms at refueling facilities or on-board vehicles; and

(4) development of advanced vehicle technologies, such as efficient fuel cells and direct hydrogen combustion engines, and related component technologies such as advanced materials and control systems; and

(5) development of necessary codes, standards, and safety practices to accompany the production, distribution, storage and use of hydrogen or hydrogen-carrier fuels in transportation.

(c) MATSUNAGA ACT.—In carrying out programs and projects under subsections (a) and (b), the Secretary shall ensure that such programs and projects are consistent with, and do not unnecessarily duplicate, activities carried out under the programs authorized under the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.).

(d) ADVISORY COMMITTEE.—The Hydrogen and Fuel Cell Technical Advisory Committee authorized under section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408), as amended in this title, shall also advise the Secretary on the programs and activities carried out under this section.

(e) SOLICITATION.—The Secretary shall carry out the programs authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary—

(1) for activities pursuant to subsection (a), to remain available until expended—

(A) $100,000,000 for each of fiscal years 2004 and 2005;

(B) $110,000,000 for each of fiscal years 2006 and 2007; and

(C) $120,000,000 for fiscal year 2008; and

(2) for activities pursuant to subsection (b), to remain available until expended—

(A) $125,000,000 for fiscal year 2004;

(B) $150,000,000 for fiscal year 2005;

(C) $175,000,000 for fiscal year 2006;

(D) $200,000,000 for each of fiscal years 2007 and 2008.

SEC. 804. INTERAGENCY TASK FORCE AND COORDINATION PLAN.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an interagency task force to coordinate Federal hydrogen and fuel cell energy activities.

(b) COMPOSITION.—The task force shall be chaired by a designee of the Secretary, and shall include representatives of—

(1) the Office of Science and Technology Policy;

(2) the Department of Transportation;

(3) the Department of Defense;

(4) the Department of Commerce (including the National Institute for Standards and Technology);

(5) the Environmental Protection Agency;

(6) the National Aeronautics and Space Administration;

(7) the Department of State; and

(8) other Federal agencies as the Director considers appropriate.

(c) COORDINATION PLAN.—The task force shall prepare a comprehensive coordination

plan for Federal hydrogen and fuel cell energy activities, which shall include a summary of such activities.

(d) REPORT.—Not later than one year after it is established, the task force shall report to Congress on the coordination plan in subsection (c) and on the interagency coordination of Federal hydrogen and fuel cell energy activities.

SEC. 805. REVIEW BY THE NATIONAL ACADEMIES.

Not later than two years after the date of enactment of this Act, and every four years thereafter, the Secretary shall enter into a contract with the National Academies. Such contract shall require the National Academies to perform a review of the progress made through Federal hydrogen and fuel cell energy programs and activities, including the need for modified or additional programs, and to report to the Congress on the results of such review. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the requirements of this section.

Subtitle B—Demonstration Programs

SEC. 811. DEFINITIONS.

For the purposes of this subtitle and subtitle C—

(a) the term ''fuel cell'' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process.

(b) the term ''hydrogen-carrier fuel'' means any hydrocarbon fuel that is capable of being thermochemically processed or otherwise reformed to produce hydrogen;

(c) the term ''infrastructure'' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen or hydrogen-carrier fuels.

(d) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(b) the term ''Secretary'' means the Secretary of Energy;

SEC. 812. HYDROGEN VEHICLE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen-powered vehicles and associated hydrogen fueling infrastructure in a variety of transportation-related applications, including—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles, including mass transit buses;

(3) use of hydrogen-powered vehicles and hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(4) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation.

(b) ELIGIBILITY.—Federal, State, tribal, and local governments, academic and other nonprofit organizations, private entities, and consortia of these entities shall be eligible for these projects.

(c) SELECTION.—In selecting projects under this section, the Secretary shall—

(1) consult with Federal, State, local and private fleet managers to identify potential projects where hydrogen-powered vehicles may be placed into service;

(2) identify not less than 10 sites at which to carry out projects under this program, 2 of which must be based at Federal facilities;

(3) select projects based on the following factors—

(A) geographic diversity;

(B) a diverse set of operating environments, duty cycles, and likely weather conditions;

(C) the interest and capability of the participating agencies, entities, or fleets;

(D) the availability and appropriateness of potential sites for refueling infrastructure and for maintenance of the vehicle fleet;

(E) the existence of traffic congestion in the area expected to be served by the hydrogen-powered vehicles;

(F) proximity to non-attainment areas as defined in section 171 of the Clean Air Act (42 U.S.C. 7501); and

(G) such other criteria as the Secretary determines to be appropriate in order to carry out the purposes of the program.

(d) INFRASTRUCTURE.—In funding projects under this section, the Secretary shall also support the installation of refueling infrastructure at sites necessary for success of the project, giving preference to those infrastructure projects that include co-production of both—

(1) hydrogen for use in transportation; and

(2) electricity that can be consumed on site.

(e) OPERATION AND MAINTENANCE PERIOD.—Vehicles purchased for projects under this section shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in—

(1) the installation, operation, and maintenance of fueling infrastructure;

(2) the operation and maintenance of fuel cell vehicles; and

(3) data collection necessary to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 813. STATIONARY FUEL CELL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen fuel cells in stationary applications, including—

(1) fuel cells for use in residential and commercial buildings;

(2) portable fuel cells, including auxiliary power units in trucks;

(3) small form and micro fuel cells of 20 watts or less;

(4) distributed generation systems with fuel cells using renewable energy; and

(5) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use.

(b) COMPETITIVE EVALUATION.—Proposals submitted in response to solicitations issued pursuant to this section shall be evaluated on a competitive basis using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposal.

(c) PREFERENCE.—The Secretary shall give preference, in making an award under this section, to proposals that—

(1) are submitted jointly from consortia that include two or more participants from institutions of higher education, industry, State, tribal, or local governments, and Federal laboratories; and

(2) that reflect proven experience and capability with technologies relevant to the projects proposed.

(d) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in the installation, operation, and maintenance of fuel cells and the collection of data to monitor project performance.

(e) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS.

(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

(1) the energy needs and uses at National Parks; and

(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

(b) PILOT PROJECTS.—Based on the results of the study conducted under subsection (a), the Secretary of the Interior shall fund not fewer than 3 pilot projects in national parks to provide for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use in National Parks has been identified. Such pilot projects shall be geographically distributed throughout the United States.

(c) DEFINITION.—For the purpose of this section, the term ''National Parks'' means those areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.

SEC. 815. INTERNATIONAL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the U.S. Agency for International Development, shall conduct demonstrations of fuel cells and associated hydrogen fueling infrastructure in countries other than the United States, particularly in areas where an energy infrastructure is not already well developed.

(b) ELIGIBLE TECHNOLOGIES.—The program may demonstrate—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles;
(3) stationary fuel cells in residential and commercial buildings; or
(4) portable fuel cells, including auxiliary power units in trucks.
(c) PARTICIPANTS.—
(1) ELIGIBILITY.—Foreign nations, non-profit organizations, and private companies shall be eligible for these pilot projects.
(2) COOPERATION.—Eligible entities may perform the projects in cooperation with United States non-profit organizations and private companies.
(3) COST-SHARING.—The Secretary may require a commitment from participating private companies and from participating foreign countries.
(d) AUTHORIZATION OF APPROPRIATIONS.—For activities conducted under this section, there are authorized to be appropriated to the Secretary $25,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 816. TRIBAL STATIONARY HYBRID POWER DEMONSTRATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with Indian tribes, shall develop and transmit to Congress a strategy for a demonstration and commercial application program to develop hybrid distributed power systems on Indian lands that combine—
(1) one renewable electric power generating technology of 2 megawatts or less located near the site of electric energy use; and
(2) fuel cell power generation suitable for use in distributed power systems.
(b) DEFINITION.—For the purposes of this section, the terms ''Indian tribe'' and ''Indian land'' have the meaning given such terms under Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.), as amended by this Act.
(c) AUTHORIZATION OF APPROPRIATIONS.—For activities under this section, there are authorized to be appropriated to the Secretary of Energy $1,000,000 for fiscal year 2005, and $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 817. DISTRIBUTED GENERATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a demonstration program to develop, deploy, and commercialize distributed generation systems to significantly reduce the cost of producing hydrogen from renewable energy for use in fuel cells. Such program shall provide the necessary infrastructure to test these distributed generation technologies at pilot scales in a real-world environment.
(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this section:
(1) $10,000,000 for fiscal year 2004;
(2) $15,000,000 for fiscal year 2005; and
(3) $20,000,000 for each of fiscal years 2006 through 2008.

Subtitle C—Federal Programs

SEC. 821. PUBLIC EDUCATION AND TRAINING.

(a) EDUCATION.—The Secretary shall conduct a public education program designed to increase public interest in and acceptance of hydrogen energy and fuel cell technologies.
(b) TRAINING.—The Secretary shall conduct a program to promote university-based training in critical skills for research in, production of, and use of hydrogen energy and fuel cell technologies. Such program may include research fellowships at institutions of higher education, centers of excellence in critical technologies, internships in industry, and such other measures as the Secretary deems appropriate.
(c) AUTHORIZATION OF APPROPRIATIONS.—For activities pursuant to this section, there are authorized to be appropriated to the Secretary $7,000,000 for each of fiscal years 2004 through 2008.

SEC. 822. HYDROGEN TRANSITION STRATEGIC PLANNING.

(a) IN GENERAL.—Not later than September 30, 2004, the head of each federal agency with annual outlays of greater than $20,000,000 shall submit to the Director of the Office of Management and Budget and to the Congress a hydrogen transition strategic plan containing a comprehensive assessment of how the transition to a hydrogen-based economy could to assist the mission, operation and regulatory program of the agency.
(b) CONTENTS.—At a minimum, each plan shall contain—
(1) a description of areas within the agency's control where using hydrogen and/or fuel cells could benefit the operation of the agency, assist in the implementation of its regulatory functions or enhance the agency's mission; and
(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency's transition to use of fuel cells and hydrogen as an energy source;
(c) DURATION AND REVISION.—The strategic plan shall cover a period of not less than the five years following the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

SEC. 823. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) Section 303(b) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)) is amended by adding at the end the following:
''(4) HYDROGEN VEHICLES.—
''(A) Of the number of vehicles acquired under paragraph (1)(D) by a Federal fleet of 100 or more vehicles, not less than—
(i) 5 percent in fiscal years 2006 and 2007;
(ii) 10 percent in fiscal years 2008 and 2009;
(iii) 15 percent in fiscal years 2010 and 2011; and
(iv) 20 percent in fiscal years 2012 and thereafter,
shall be hydrogen-powered vehicles that meet standards for performance, reliability, cost, and maintenance established by the Secretary.
''(B) The Secretary may establish a lesser percentage, or waive the requirement under subparagraph (A) for any fiscal year entirely, if hydrogen-powered vehicles meeting the standards set by the Secretary pursuant to subparagraph (A) are not available at a purchase price that is less than 150 percent of the purchase price of other comparable alternative fueled vehicles.
''(C) The Secretary may by rule, delay the implementation of the requirements under subparagraph (A) in the event that the Secretary determines that hydrogen-powered vehicles are not commercially or economically available, or that fuel for such vehicles is not commercially or economically available.
''(D) The Secretary, in consultation with the Administrator of General Services, may for reasons of refueling infrastructure use and cost optimization, elect to allocate the acquisitions necessary to achieve the requirements in subparagraph (A) to certain Federal fleets in lieu of requiring each Federal fleet to achieve the requirements in subparagraph (A).''.
(b) REFUELING.—Section 304 of the Energy Policy Act of 1992 (42 U.S.C. 13213) is amended—
(1) by redesignating subsection (b) as subsection (c);
(2) in the second sentence of subsection (a), by striking ''If publicly'' and inserting the following:
''(b) COMMERCIAL ARRANGEMENTS.—
''(1) IN GENERAL.—If publicly''; and
(3) in subsection (b) (as designated by paragraph (2)), by adding at the end the following:
''(2) MANDATORY ARRANGEMENTS.—
''(A) IN GENERAL.—In a case in which publicly available fueling facilities are not convenient or accessible to the locations of 2 or more Federal fleets for which hydrogen-powered vehicles are required to be purchased under section 303(b)(4), the Federal agency for which the Federal fleets are maintained (or the Federal agencies for which the Federal fleets are maintained, acting jointly under a memorandum of agreement providing for cost sharing) shall enter into a commercial arrangement as provided in paragraph (1).
''(B) SUNSET.—Subparagraph (A) ceases to be effective at the end of fiscal year 2013.''.

SEC. 824. STATIONARY FUEL CELL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically practicable and technically feasible, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be generated by fuel cells—
(1) not less than 1 percent in fiscal years 2006 through 2008;
(2) not less than 2 percent in fiscal years 2009 and 2010; and
(3) not less than 3 percent in fiscal year 2011 and each fiscal year thereafter.
(b) COMPLIANCE.—In complying with the requirements of subsection (a), Federal agencies are encouraged to—
(1) use innovative purchasing practices;
(2) use fuel cells at the site of electricity usage and in combined heat and power applications; and
(3) use fuel cells in stand alone power functions, such as but not limited to battery power and backup power.
(c) DEFINITIONS.— For purposes of this section—
(1) the term ''fuel cells'' means an integrated system comprised of a fuel cell stack assembly and balance of plant components that converts a fuel into electricity using an electrochemical means.
(2) the term ''electrical energy'' includes on and off grid power, including premium power applications, standby power applications and electricity generation.
(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $30,000,000 for fiscal years 2004, $70,000,000 for fiscal year 2005, and $100,000,000 for each of fiscal years 2006 and thereafter.

SEC. 825. DEPARTMENT OF ENERGY STRATEGY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall publish and transmit to Congress a plan identifying critical technologies, enabling strategies and applications, technical targets, and associated timeframes that support the commercialization of hydrogen-fueled fuel cell vehicles.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This Title may be cited as the ''Energy Research, Development, Demonstration, and Commercial Application Act of 2003''.

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application, focused on—
(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies,

(2) promoting diversity of energy supply,
(3) decreasing the nation's dependence on foreign energy supplies,
(4) improving United States energy security, and
(5) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals with each annual budget submission in at least the following areas:
(1) energy efficiency for buildings, energy-consuming industries, and vehicles;
(2) electric energy generation (including distributed generation), transmission, and storage;
(3) renewable energy technologies including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower;
(4) fossil energy including power generation, onshore and offshore oil and gas resource recovery, and transportation; and
(5) nuclear energy including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, university, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by a Federal agency to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

For purposes of this title:
(1) The term ''Department'' means the Department of Energy.
(2) The term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.
(3) The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).
(4) The term ''National Laboratory'' means any of the following laboratories owned by the Department:
(A) Ames Laboratory.
(B) Argonne National Laboratory.
(C) Brookhaven National Laboratory.
(D) Fermi National Accelerator Laboratory.
(E) Idaho National Engineering and Environmental Laboratory.
(F) Lawrence Berkeley National Laboratory.
(G) Lawrence Livermore National Laboratory.
(H) Los Alamos National Laboratory.
(I) National Energy Technology Laboratory.
(J) National Renewable Energy Laboratory.
(K) Oak Ridge National Laboratory.
(L) Pacific Northwest National Laboratory.
(M) Princeton Plasma Physics Laboratory.
(N) Sandia National Laboratories.
(O) Stanford Linear Accelerator Center.
(P) Thomas Jefferson National Accelerator Facility.
(5) The term ''nonmilitary energy laboratory'' means the laboratories listed in (4) with the exclusion of (4)(G), (4)(H), and (4)(N).
(6) The term ''Secretary'' means the Secretary of Energy.
(7) The term ''single-purpose research facility'' means any of the primarily single-purpose entities owned by the Department or any other organization of the Department designated by the Secretary.

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:
(1) for fiscal year 2004, $616,000,000;
(2) for fiscal year 2005, $695,000,000;
(3) for fiscal year 2006, $772,000,000;
(4) for fiscal year 2007, $865,000,000; and
(5) for fiscal year 2008, $920,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:
(1) For activities under section 912—
(A) for fiscal year 2004, $20,000,000; and
(B) for fiscal year 2005, $30,000,000.
(2) For activities under section 914—
(A) for fiscal year 2004, $4,000,000; and
(B) for each of fiscal years 2005 through 2008, $7,000,000.
(3) For activities under section 915—
(A) for fiscal year 2004, $20,000,000;
(B) for fiscal year 2005, $25,000,000;
(C) for fiscal year 2006, $30,000,000;
(D) for fiscal year 2007, $35,000,000; and
(E) for fiscal year 2008, $40,000,000.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for activities under section 912, $50,000,000 for each of fiscal years 2006 through 2013.

(d) None of the funds authorized to be appropriated under this section may be used for—
(1) the promulgation and implementation of energy efficiency regulations;
(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act;
(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act; or
(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act.

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—The objectives of the initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting; more energy-efficient; cost-competitive and have less environmental impact.

(c) INDUSTRY ALLIANCE.—The Secretary shall, within 3 months from the date of enactment of this section, competitively select an Industry Alliance to represent participants who are private, for-profit firms which, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(d) RESEARCH.—
(1) The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including Industry Alliance participants, national laboratories and institutions of higher education.
(2) The Secretary shall annually solicit from the Industry Alliance—
(A) comments to identify solid-state lighting technology needs;
(B) assessment of the progress of the Initiative's research activities; and
(C) assistance in annually updating solid-state lighting technology roadmaps.
(3) The information and roadmaps under (2) shall be available to the public.

(e) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—The Secretary shall carry out a development, demonstration, and commercial application program for the Next Generation Lighting Initiative through competitively selected awards. The Secretary may give preference to participants of the Industry Alliance selected pursuant to subsection (c).

(f) COST SHARING.—The Secretary shall require cost sharing according to 42 U.S.C. 13542.

(g) INTELLECTUAL PROPERTY.—The Secretary may require, in accordance with the authorities provided in 35 U.S.C. 202(a)(ii), 42 U.S.C. 2182 and 42 U.S.C. 5908, that for any new invention from subsection (d)—
(1) that the Industry Alliance members who are active participants in research, development and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this legislation shall be granted first option to negotiate with the invention owner, at least in the field of solid-state lighting, non-exclusive licenses and royalties on terms that are reasonable under the circumstances;
(2) that the invention owner must offer to negotiate licenses with the Industry Alliance participants cited in (1), in good faith, for at least 1 year after U.S. patents are issued on any such new invention; and
(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(h) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative.

(i) DEFINITIONS.—As used in this section:
(1) The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.
(2) The term ''research'' includes basic research on the technologies, materials and manufacturing processes required for white light emitting diodes.
(3) The term ''Industry Alliance'' means an entity selected by the Secretary under subsection (c).
(4) The term ''white light emitting diode'' means a semiconducting package, utilizing either organic or inorganic materials, that produces white light using externally applied voltage.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (in this section referred to as the ''Initiative''). The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan

for carrying out the appropriate Federal role in the Initiative. The plan shall include—

(1) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components; and

(2) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) CONSTRUCTION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) The term ''associated equipment'' means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), select up to 5 proposals which may receive financial assistance under this section once the Department is in receipt of appropriated funds.

(2) In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) No one project selected under this section shall receive more than 25 percent of the funds authorized for this Program.

(4) The Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of federal resources.

(5) The Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers; and

(2) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to the Congress, along with the President's annual budget request under section 1105(a) of title 31, United States Code, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—

(1) The following sums are authorized to be appropriated to the Secretary for distributed energy and electric energy systems activities, including activities authorized under this subtitle:

(A) for fiscal year 2004, $190,000,000;
(B) for fiscal year 2005, $200,000,000;
(C) for fiscal year 2006, $220,000,000;
(D) for fiscal year 2007, $240,000,000; and
(E) for fiscal year 2008, $260,000,000.

(2) For the Initiative in subsection 927(e), there are authorized to be appropriated—

(A) for fiscal year 2004, $15,000,000;
(B) for fiscal year 2005, $20,000,000;
(C) for fiscal year 2006, $30,000,000;
(D) for fiscal year 2007, $35,000,000; and
(E) for fiscal year 2008, $40,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2004 and 2005 shall be available for activities under section 924.

SEC. 922. HYBRID DISTRIBUTED POWER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and transmit to the Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) one or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

SEC. 923. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 924. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore the use of small-scale combined heat and power in residential heating appliances, the use of excess power to operate other appliances within the residence and supply of excess generated power to the power grid.

SEC. 925. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary, within the sums authorized under section 921(a)(1), may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the utilization of distributed energy technologies, such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems, in highly energy intensive commercial applications.

SEC. 926. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act is amended by inserting the following after section 217 (42 U.S.C. 7144d):

''OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION

''Sec. 218. (a) There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, who shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Director shall—

''(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

''(2) ensure that the recommendations of the Secretary's National Transmission Grid Study are implemented;

''(3) carry out the research, development, and demonstration functions;

''(4) grant authorizations for electricity import and export;

''(5) perform other electricity transmission and distribution-related functions assigned by the Secretary; and

''(6) develop programs for workforce training in power and transmission engineering.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 217 the following new item:

''218. Office of Electric Transmission and Distribution.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Electric Transmission and Distribution, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SECTION 927. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Director of the Office of Electric Transmission and Distribution, shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems. This program shall include—

(1) advanced energy and energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;
(4) advanced metering, load management, and control technologies;
(5) technologies to enhance existing grid components;
(6) the development and use of high-temperature superconductors to—
(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or
(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;
(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;
(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;
(9) the development and use of advanced grid design, operation and planning tools;
(10) any other infrastructure technologies, as appropriate; and
(11) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5–year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—The Secretary shall establish a research, development and demonstration initiative specifically focused on power delivery utilizing components incorporating high temperature superconductivity.

(1) Goals of this Initiative shall be to—
(A) establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;
(B) provide technical leadership for establishing reliability for high temperature superconductivity power applications including suitable modeling and analysis;
(C) facilitate commercial transition toward direct current power transmission, storage, and use for high power systems utilizing high temperature superconductivity; and
(D) facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control and reliability.

(2) The Initiative shall include—
(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current and controllable alternating current transmission systems;
(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and
(C) testbeds developed in cooperation with national laboratories, industries, and universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to successful commercial use.

(g) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—The Secretary shall establish a research, development and demonstration initiative specifically focused on tools needed to plan, operate and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response and ancillary services. Goals of this Initiative shall be to:
(1) develop and utilize a geographically distributed Center, consisting of research universities and national laboratories, with expertise and facilities to develop the underlying theory and software for power system application, and to assure commercial development in partnership with software vendors and utilities;
(2) provide technical leadership in engineering and economic analysis for reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;
(3) model, simulate and experiment with new market mechanisms and operating practices to understand and optimize such new methods before actual use; and
(4) provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:
(1) for fiscal year 2004, $480,000,000;
(2) for fiscal year 2005, $550,000,000;
(3) for fiscal year 2006, $610,000,000;
(4) for fiscal year 2007, $659,000,000; and
(5) for fiscal year 2008, $710,000,000.

(b) BIOENERGY.—From the amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 932:
(1) for fiscal year 2004, $135,425,000;
(2) for fiscal year 2005, $155,600,000;
(3) for fiscal year 2006, $167,650,000;
(4) for fiscal year 2007, $180,000,000; and
(5) for fiscal year 2008, $192,000,000.

(c) BIODIESEL ENGINE TESTING.—From amounts authorized under subsection (a), $5,000,000 is authorized to be appropriated in each of fiscal years 2004 and 2008 to carry out section 933.

(d) CONCENTRATING SOLAR POWER.—From amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 934:
(1) for fiscal year 2004, $20,000,000;
(2) for fiscal year 2005, $40,000,000; and
(2) for each of fiscal years 2006, 2007 and 2008, $50,000,000.

(e) LIMITS ON USE OF FUNDS.—
(1) None of the funds authorized to be appropriated under this section may be used for Renewable Support and Implementation.
(2) Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

(f) CONSULTATION.— In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of advanced wind power technology, including combined use with coal gasification; biomass; geothermal energy systems; and other renewable energy technologies to assist in delivering electricity to rural and remote locations.

SEC. 932. BIOENERGY PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—
(1) biopower energy systems;
(2) biofuels;
(3) bioproducts;
(4) integrated biorefineries that may produce biopower, biofuels and bioproducts;
(5) cross-cutting research and development in feedstocks; and
(6) economic analysis.

(b) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry—
(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles; and
(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems.

(c) DEFINITION.—For purposes of (b), the term ''cellulosic feedstock'' means any portion of a crop not normally used in food production or any non-food crop grown for the purpose of producing biomass feedstock.

SEC. 933. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The study shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on
(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;
(2) the impact of long-term use of biodiesel on engine operations;
(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and
(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15–parts-per-million sulfur content.

(c) REPORT.—Not later than 2 years after the date of enactment, the Secretary shall provide an interim report to Congress on the findings of this study, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) DEFINITION.—For purposes of this section, the term ''biodiesel'' means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials

D6751–02a ''Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.''

SEC. 934 CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential of concentrating solar power for hydrogen production, including co-generation approaches for both hydrogen and electricity. Such program shall take advantage of existing facilities to the extent possible and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermo-chemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermo-chemical cycles in (2);

(4) system architectures and economics studies; and

(5) coordination with activities in the Advanced Reactor Hydrogen Co-generation Project on high temperature materials, thermo-chemical cycle and economic issues.

(b) ASSESSMENT.—In carrying out the program under this section, the Secretary is directed to assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council report entitled ''Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs'' in 2000 and subsequent DOE-funded reviews of that report and provide an assessment of the potential impact of this technology before, or concurrent with, submission of the fiscal year 2006 budget.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall provide a report to Congress on the economic and technical potential for electricity or hydrogen production, with or without co-generation, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity and/or hydrogen from concentrating solar power.

SEC. 935. MISCELLANEOUS PROJECTS.

The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy;

(2) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies; and

(3) renewable energy technologies for cogeneration of hydrogen and electricity.

Subtitle D—Nuclear Energy

SEC. 941. NUCLEAR ENERGY.

(a) CORE PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (b):

(1) for fiscal year 2004, $273,000,000;
(2) for fiscal year 2005, $305,000,000;
(3) for fiscal year 2006, $330,000,000;
(4) for fiscal year 2007, $355,000,000; and
(5) for fiscal year 2008, $495,000,000.

(b) NUCLEAR INFRASTRUCTURE SUPPORT.—The following sums are authorized to be appropriated to the Secretary for activities under section 942(f):

(1) for fiscal year 2004, $125,000,000;
(2) for fiscal year 2005, $130,000,000;
(3) for fiscal year 2006, $135,000,000;
(4) for fiscal year 2007, $140,000,000; and
(5) for fiscal year 2008, $145,000,000.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 943—
(A) for fiscal year 2004, $140,000,000;
(B) for fiscal year 2005, $145,000,000;
(C) for fiscal year 2006, $150,000,000;
(D) for fiscal year 2007, $155,000,000; and
(E) for fiscal year 2008, $275,000,000.
(2) For activities under section 944—
(A) for fiscal year 2004, $33,000,000;
(B) for fiscal year 2005, $37,900,000;
(C) for fiscal year 2006, $43,600,000;
(D) for fiscal year 2007, $50,100,000; and
(E) for fiscal year 2008, $56,000,000.
(3) For activities under section 946, for each of fiscal years 2004 through 2008, $6,000,000.

(d) None of the funds authorized under this section may be used for decommissioning the Fast Flux Test Facility.

SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, component aging, safety and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled ''A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010'' issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—

(1) utilization of the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(2) consideration of a variety of reactor designs suitable for both developed and developing nations;

(3) participation of international collaborators in research, development, and design efforts as appropriate; and

(4) encouragement for university and industry participation.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(4) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen using thermo-chemical processes.

(f) NUCLEAR INFRASTRUCTURE SUPPORT.—The Secretary shall develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology and shall transmit a report containing the strategy along with the President's budget request to the Congress for fiscal year 2006. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility upgrades and modifications; and

(4) building new facilities.

SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to evaluate proliferation-resistant fuel recycling and transmutation technologies which minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate. Opportunities to enhance progress of this program through international cooperation should be sought.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program as part of the Department's annual budget submission.

SEC. 944. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—In carrying out the program under this section, the Secretary shall establish fellowship and faculty assistance programs, as well as provide support for fundamental research and encourage collaborative research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative. The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of both the Offices of Nuclear Energy, Science and Technology and Civilian Radioactive Waste Management. The Secretary shall support communication and outreach related to nuclear science, engineering and nuclear waste management.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among institutions of higher education;

(2) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(3) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop sabbatical fellowship and visiting scientist programs to encourage sharing of personnel between national laboratories and universities.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a

portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 945. SECURITY OF NUCLEAR FACILITIES.

The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology shall conduct a research and development program on cost-effective technologies for increasing the safety of nuclear facilities from natural phenomena and the security of nuclear facilities from deliberate attacks.

SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—Not later than August 1, 2004, the Secretary shall provide to the Congress results of a survey of industrial applications of large radioactive sources. The survey shall—

(1) consider well-logging sources as one class of industrial sources;

(2) include information on current domestic and international Department, Department of Defense, State Department and commercial programs to manage and dispose of radioactive sources; and

(3) discuss available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—In conjunction with the survey in subsection (a), the Secretary shall establish a research and development program to develop alternatives to such sources that reduce safety, environmental, or proliferation risks to either workers using the sources or the public. Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts. Details of the program plan shall be provided to the Congress by August 1, 2004.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $523,000,000;

(2) for fiscal year 2005, $542,000,000;

(3) for fiscal year 2006, $558,000,000;

(4) for fiscal year 2007, $585,000,000; and

(5) for fiscal year 2008, $600,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 952(b)(2), $28,000,000 for each of the fiscal years 2004 through 2008.

(2) For activities under section 953—

(A) for fiscal year 2004, $12,000,000;

(B) for fiscal year 2005, $15,000,000; and

(C) for each of fiscal years 2006 through 2008, $20,000,000.

(3) For activities under section 954, to remain available until expended,—

(A) for fiscal year 2004, $200,000,000;

(B) for fiscal year 2005, $210,000,000; and

(C) for fiscal year 2006, $220,500,000.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2004 through 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITS ON USE OF FUNDS.—

(1) None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) Of the funds authorized under subsection (b)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAMS.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and oil shale; and

(7) related environmental research.

(b) FUEL CELLS.—

(1) The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress of the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana and Texas.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, utilizing the resources of the existing Clean Power and Energy Research Consortium, to address the nation's critical dependence on energy and the need to reduce emissions.

(2) The center or consortium will conduct a program of research, development, demonstration and commercial application on integrating the following six focus areas:

(A) efficiency and reliability of gas turbines for power generation;

(B) reduction in emissions from power generation;

(C) promotion of energy conservation issues;

(D) effectively utilizing alternative fuels and renewable energy;

(E) development of advanced materials technology for oil and gas exploration and utilization in harsh environments; and

(F) education on energy and power generation issues.

SEC. 953. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research and development on coal mining technologies. The Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(b) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging and radar techniques for horizontal drilling in order to increase methane recovery efficiency, prevent spoilage of domestic coal reserves and minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 954. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the program authorized under Title II of this Act, the Secretary of Energy shall conduct a program of technology research, development and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and (8) advanced coal-related research.

(B) COST AND PERFORMANCE GOALS.—In carrying out programs authorized by this section, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015, and the years after 2020. In establishing such cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken to date by industry in cooperation with the Department of Energy in support of such assessment;

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers;

(3) not later than 120 days after the date of enactment of this section, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(4) not later than 180 days after the date of enactment of this section and every four years thereafter, submit to Congress a report describing final cost and performance goals for such technologies that includes a list of technical milestones as well as an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under Title II of this Act.

SEC. 955. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary of Energy, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

Subtitle F—Science

SEC. 961. SCIENCE.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 967(c)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support:

(1) for fiscal year 2004, $3,785,000,000;
(2) for fiscal year 2005, $4,153,000,000;
(3) for fiscal year 2006, $4,586,000,000
(4) for fiscal year 2007, $5,000,000,000; and
(5) For fiscal year 2008, $5,400,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities of the Fusion Energy Sciences Program, including activities under section 962—

(A) for fiscal year 2004, $335,000,000;
(B) for fiscal year 2005, $349,000,000;
(C) for fiscal year 2006, $362,000,000;
(D) for fiscal year 2007, $377,000,000; and
(E) for fiscal year 2008, $393,000,000.

(2) For the Spallation Neutron Source—

(A) for construction in fiscal year 2004, $124,600,000;

(B) for construction in fiscal year 2005, $79,800,000; and

(C) for completion of construction in fiscal year 2006, $41,100,000; and

(D) for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment related to construction), $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

(3) For Catalysis Research activities under section 965—

(A) for fiscal year 2004, $33,000,000;
(B) for fiscal year 2005, $35,000,000;
(C) for fiscal year 2006, $36,500,000;
(D) for fiscal year 2007, $38,200,000; and
(E) for fiscal year 2008, $40,100,000.

(4) For Nanoscale Science and Engineering Research activities under section 966—

(A) for fiscal year 2004, $270,000,000;
(B) for fiscal year 2005, $290,000,000;
(C) for fiscal year 2006, $310,000,000;
(D) for fiscal year 2007, $330,000,000; and
(E) for fiscal year 2008, $375,000,000.

(5) For activities under subsection 966(c), from the amounts authorized under subparagraph (4)—

(A) for fiscal year 2004, $135,000,000;
(B) for fiscal year 2005, $150,000,000;
(C) for fiscal year 2006, $120,000,000;
(D) for fiscal year 2007, $100,000,000; and
(E) for fiscal year 2008, $125,000,000.

(6) For activities in the Genomes to Life Program under section 968—

(A) for fiscal year 2004, $100,000,000;
(B) for fiscal year 2005, $170,000,000;
(C) for fiscal year 2006, $325,000,000;
(D) for fiscal year 2007, $415,000,000; and
(E) for fiscal year 2008, $455,000,000.

(7) For construction and ancillary equipment of the Genomes to Life User Facilities under section 968(d), of funds authorized under (6)—

(A) for fiscal year 2004, $16,000,000;
(B) for fiscal year 2005, $70,000,000;
(C) for fiscal year 2006, $175,000,000;
(D) for fiscal year 2007, $215,000,000; and
(E) for fiscal year 2008, $205,000,000.

(8) For activities in the Water Supply Technologies Program under section 970, $30,000,000 for each of fiscal years 2004 through 2008.

(c) In addition to the funds authorized under subsection (b)(1), the following sums are authorized for construction costs associated with the ITER project under section 962—

(1) for fiscal year 2006, $55,000,000;
(2) for fiscal year 2007, $95,000,000; and
(3) for fiscal year 2008, $115,000,000.

SEC. 962. UNITED STATES PARTICIPATION IN ITER.

(a) PARTICIPATION.—

(1) The Secretary of Energy is authorized to undertake full scientific and technological cooperation in the International Thermonuclear Experimental Reactor project (referred to in this title as ''ITER'').

(2) In the event that ITER fails to go forward within a reasonable period of time, the Secretary shall send to Congress a plan, including costs and schedules, for implementing the domestic burning plasma experiment known as the Fusion Ignition Research Experiment. Such a plan shall be developed with full consultation with the Fusion Energy Sciences Advisory Committee and be reviewed by the National Research Council.

(3) It is the intent of Congress that such sums shall be largely for work performed in the United States and that such work contributes the maximum amount possible to the U.S. scientific and technological base.

(b) PLANNING.—

(1) Not later than 180 days of the date of enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential international partners, for the implementation of the goals of this section. The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) in coordination with the program in section 969, the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

SEC. 963. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term ''Spallation Neutron Source'' means Department Project 9909E 09334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

(c) AUTHORIZATION OF APPROPRIATIONS.—The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;
(2) $219,000,000 for other project costs; and
(3) $1,411,700,000 for total project cost.

SEC. 964. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all national laboratories and single-purpose research facilities. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;
(2) closing unneeded facilities;
(3) making facility modifications; and
(4) building new facilities.

(b) REPORT.—

(1) The Secretary shall prepare and transmit, along with the President's budget request to the Congress for fiscal year 2006, a report containing the strategy developed under subsection (a).

(2) For each national laboratory and single-purpose research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 965. CATALYSIS RESEARCH PROGRAM.

(A) ESTABLISHMENT.—The Secretary, through the Office of Science, shall support a program of research and development in catalysis science consistent with the Department's statutory authorities related to research and development. The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and sub-nanometer scales in situ under actual operating conditions,

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out this program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of 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 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.

(c) TRIENNIAL 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 towards developing new fuels for energy production and material fabrication processes.

SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application in nanoscience and nanoengineering. The program shall include efforts to further the understanding of the chemistry, physics, materials science, and engineering of phenomena on the scale of nanometers and to apply this knowledge to the Department's mission areas.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and teams of investigators, including multidisciplinary teams;

(2) carry out activities under subsection (c);

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with other DOE programs, industry and other Federal agencies.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) The Secretary shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) Projects under paragraph (1) may include the measurement of properties at the scale of nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) IN GENERAL.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge, computationally based, science problems related to departmental missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms in collaboration with other DOE program offices;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets;

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address departmental missions are available; and

(5) explore new computing approaches and technologies that promise to advance scientific computing including developments in quantum computing.

(c) HIGH-PERFORMANCE COMPUTING ACT OF 1991 AMENDMENTS.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3) by striking ''means'' and inserting ''and 'networking and information technology' mean'', and by striking ''(including vector supercomputers and large scale parallel systems)''; and

(B) in paragraph (4), by striking ''packet switched''.

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after ''As part of the'' and inserting—

''Networking and Information Technology Research and Development Program, the Secretary of Energy shall conduct basic and applied research in networking and information technology, with emphasis on supporting fundamental research in the physical sciences and engineering, and energy applications; providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and developing tools for distributed scientific collaboration.'';

(B) in subsection (b), by striking ''Program'' and inserting ''Networking and Information Technology Research and Development Program''; and

(C) by amending subsection (e) to read as follows:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2008.''.

(d) COORDINATION.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the Genomes to Life Program, in systems biology and proteomics consistent with the Department's statutory authorities.

(b) PLANNING.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities would be developed by the program and applied to Department missions relating to energy security, environmental cleanup, and national security.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary's annual budget submission.

(c) PROGRAM EXECUTION.—In carrying out the program under this Act, the Secretary shall

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President's fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the Department's fusion energy program. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark models against existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) ESTABLISHMENT.—There is established within the Office of Science, Office of Biological and Environmental Research, the

''Energy-Water Supply Technologies Program,'' to study energy-related issues associated with water resources and municipal waterworks and to study water supply issues related to energy production.

(b) DEFINITIONS.—

(1) The term ''Foundation'' means the American Water Works Association Research Foundation.

(2) The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) The term ''Program'' means the Water Supply Technologies Program established by section 970(a).

(c) PROGRAM AREAS.— The program shall conduct research and development, including—

(1) arsenic removal under subsection (d);

(2) desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) ARSENIC REMOVAL PROGRAM.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to utilize the facilities, institutions and relationships established in the ''Consolidated Appropriations Resolution, 2003'' as described in Senate Report 107–220 that will carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities or Indian tribes.

(5) The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other federal agencies, state programs and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed in Title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate Report 107–39 under the heading ''WATER AND RELATED RESOURCES'' in the ''BUREAU OF RECLAMATION'' section.

(2) The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the January 2003 national Desalination and Water Purification Technology Roadmap for next-generation desalination technology;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater and other saline water supplies; disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) Under the desalination program, funds made available may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program. The steering committee shall be jointly chaired by 1 representative from this Program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) The Secretary shall carry out a research program to develop understanding and technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) Under this program and in collaboration with other programs within the Department including those within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy, the Secretary of the Interior, Army Corps of Engineers, Environmental Protection Agency, Department of Commerce, Department of Defense, state agencies, non-governmental agencies and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a by-product of oil and gas extraction;

(D) use of impaired and non-traditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technology development needs and activities required to support long-term water needs and planning for energy sustainability, use of impaired water for energy production and other uses, and reduction of water use in energy production;

(B) carry out the research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies and strategies;

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under subparagraph (B) and assess the viability of these tools at the scale of river basins with at least one demonstration involving an international border; and

(D) transfer these tools to other federal agencies, state agencies, non-profit organizations, industry and academia for use in their energy and water sustainability efforts.

(4) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research elements described under paragraph (2), and makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) Research projects under this section shall not require cost-sharing.

(2) Each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(3) With respect to a demonstration project, the Secretary may accept in-kind contributions, and waive the cost-sharing requirement in appropriate circumstances.

Subtitle G—Energy and Environment

SEC. 971. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) PROGRAM.—The Secretary shall establish a research, development, demonstration, and commercial application program to be carried out in collaboration with entities in Mexico and the United States to promote energy efficient, environmentally sound economic development along the United States-Mexico border which minimizes public health risks from industrial activities in the border region.

(b) PROGRAM MANAGEMENT.—The program under subsection (a) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(c) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section, the Secretary shall assess the applicability of technology developed under the Environmental Management Science Program of the Department.

(d) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered into between the United States and Mexico regarding intellectual property protection.

(e) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to be appropriated to the Secretary to carry out activities under this section:

(1) For each of fiscal years 2004 and 2005, $5,000,000; and

(2) For each of fiscal years 2006, 2007, and 2008, $6,000,000.

SEC. 972. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC–22–91PC90544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

Subtitle H—Management

SEC. 981. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

SEC. 982. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of

the project. Cost sharing is not required for research and development of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this subtitle, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 983. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this title shall be made only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department.

SEC. 984. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) The Secretary shall establish one or more advisory boards to review Department research, development, demonstration, and commercial application programs in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, and may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory board shall also review the measurable cost and performance-based goals for such programs as established under section 902, and the progress on meeting such goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for such programs as established under section 902, if any, and the progress on meeting such goals. Such reviews and assessments shall be conducted every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the Congress reports containing the results of all such reviews and assessments.

SEC. 985. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall designate a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Transfer Working Group, shall oversee the expenditure of funds allocated to the Technology Transfer Working Group, and shall coordinate with each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c).

(b) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including those related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section shall affect the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980.

SEC. 986. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(b) PURPOSE.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or single-purpose research facilities and entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as institutions of higher education; technology-related business concerns; nonprofit institutions; and agencies of State, tribal, or local governments.

(c) PROJECTS.—The Secretary shall authorize the Director of each National Laboratory or single-purpose research facility to implement the Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (d) and (e).

(d) PROGRAM REQUIREMENTS.—Each project funded under this section shall meet the following requirements:

(1) Each project shall include at least one of each of the following entities: a business; an institution of higher education; a nonprofit institution; and an agency of a State, local, or tribal government.

(2) Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources. The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project after start of the project. Independent research and development expenses of Government contractors that qualify for reimbursement under section 3109205 0918(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(3) All projects under this section shall be competitively selected using procedures determined by the Secretary.

(4) Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) No Federal funds shall be made available under this section for construction or any project for more than 5 years.

(e) SELECTION CRITERIA.—

(1) The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) The Secretary shall consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of Department investment, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(f) ALLOCATION.—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate such activities with the project.

(g) REPORT TO CONGRESS.—Not later than July 1, 2006, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.

(h) DEFINITIONS.—In this section:

(1) The term ''technology cluster'' means a concentration of technology-related business

concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(2) The term ''technology-related business concern'' means a for-profit corporation, company, association, firm, partnership, or small business concern that conducts scientific or engineering research; develops new technologies; manufactures products based on new technologies; or performs technological services.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2004, 2005, and 2006.

SEC. 987. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small businesses training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) DEFINITIONS.—In this section:

(1) The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 988. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities and provide suggestions for improving inter-laboratory exchange of scientific and technical personnel.

SEC. 989. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to the Congress on recommendations developed as a result of the study.

SEC. 990. OUTREACH.

The Secretary shall ensure that each program authorized by this title includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 991. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a nonmilitary energy laboratory of the Department unless such contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying the Congress of the waiver and setting forth the reasons for the waiver at least 60 days prior to the date of the award of such a contract.

SEC. 992. REPROGRAMMING.

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of the enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to the appropriate authorizing committees of the Congress a report explaining how such amounts will be distributed among the authorizations contained in this title.

(b) PROHIBITION.—

(1) No amount identified under subsection (a) shall be reprogrammed if such reprogramming would result in an obligation which changes an individual distribution required to be reported under subsection (a) by more than 5 percent unless the Secretary has transmitted to the appropriate authorizing committees of the Congress a report described in subsection (c) and a period of 30 days has elapsed after such committees receive the report.

(2) In the computation of the 30-day period described in paragraph (1), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) REPROGRAMMING REPORT.—A report referred to in subsection (b)(1) shall contain a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of the proposed action.

SEC. 993. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this title in accordance with the applicable provisions of the Atomic Energy Act of 1954 (42 U.S.C. et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), and any other Act under which the Secretary is authorized to carry out such activities.

SEC. 994. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

''(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

''(3) The Under Secretary for Energy and Science shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

''(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.''.

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—

(1) Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

''OFFICE OF SCIENCE

''SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Assistant Secretary for Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

''(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.''.

(2) Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science immediately prior to the effective date of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act, as amended by paragraph (1). While so acting, such person shall receive compensation at the rate provided by this Act for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''There shall be in the Department six Assistant Secretaries'' and inserting ''Except as provided in section 209, there shall be in the Department seven Assistant Secretaries''.

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

''(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code, is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

(3) Section 5315 of title 5, United States Code, is amended by—

(A) striking ''Director, Office of Science, Department of Energy.''; and

(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''.

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking ''Section 209'' and inserting ''Sec. 209'';

(B) by striking ''213.'' and inserting ''Sec. 213.'';

(C) by striking ''214.'' and inserting ''Sec. 214.'';

(D) by striking ''215.'' and inserting ''Sec. 215.''; and

(E) by striking ''216.'' and inserting ''Sec. 216.''.

SEC. 995. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS

(a) Section 3165a of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

''(14) Support competitive events for students, under supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.''

(b) Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e), as redesignated by this Act, is amended by inserting before the period: ''; and $40,000,000 for each of fiscal years 2004 through 2008.''

SEC. 996. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g)(1) In addition to other authorities granted to the Secretary under law, the Secretary may enter into other transactions on such terms as the Secretary may deem appropriate in furtherance of research, development, or demonstration functions vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

''(2)(A) The Secretary shall ensure that

''(i) to the maximum extent the Secretary determines practicable, no transaction entered into under paragraph (1) provides for research, development, or demonstration that duplicates research, development, or demonstration being conducted under existing projects carried out by the Department; and

''(ii) To the extent the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction.

''(iii) To the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1).

''(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

''(3)(A) The Secretary shall protect from disclosure, including disclosure under section 552 of title 5, United States Code, for up to 5 years after the date the information is received by the Secretary—

''(i) a proposal, proposal abstract, and supporting documents submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award to the party submitting the information entering into a transaction under paragraph (1); and

''(ii) a business plan and technical information relating to a transaction authorized by paragraph (1) submitted to the Department as confidential business information.

''(B) The Secretary may protect from disclosure, for up to 5 years after the information was developed, any information developed pursuant to a transaction under paragraph (1) which developed information is of a character that it would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

''(4) Not later than 90 days after the date of enactment of this section, the Secretary shall prescribe guidelines for using other transactions authorized by the amendment under subsection (a). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

''(5) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.''.

SEC. 997. REPORT ON RESEARCH AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical merits of any evaluation methodology currently in use or proposed for use in relation to the scientific and technical programs of the Department by the Secretary or other Federal official. Not later than 6 months after receiving the report of the National Academy, the Secretary shall submit such report to Congress, along with any other views or plans of the Secretary with respect to the future use of such evaluation methodology.

TITLE X—PERSONNEL AND TRAINING

SEC. 1001. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) The Secretary of Energy (in this title referred to as the ''Secretary''), in consultation with the Secretary of Labor and utilizing statistical data collected by the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) The Secretary shall report to the Congress whenever the Secretary determines that significant national shortfalls of skilled technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish grant programs in the appropriate offices of the Department of Energy to enhance training of skilled technical personnel for which a shortfall is determined under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''skilled technical personnel'' means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1002. RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $40,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1003. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

The Secretary of Labor, in consultation with the Secretary of Energy and jointly with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support electric system reliability and safety. The training guidelines shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, and maintenance of electric generation, transmission, and distribution, including competency and certification requirements, and assessment requirements that include initial and ongoing evaluation of workers, recertification assessment procedures, and methods for examining or testing the qualification of individuals performing covered tasks; and

(2) consolidate existing training guidelines on the construction, operation, maintenance, and inspection of electric generation, transmission, and distribution facilities, such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1004. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the establishment of a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial, and residential buildings. The National Center shall be established by—

(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;

(2) contractors that install and maintain heating, ventilation, and air-conditioning systems and equipment;

(3) manufacturers of heating, ventilation, and air-conditioning systems and equipment;

(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as the Secretary may deem appropriate.

SEC. 1005. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

''(c) PROGRAMS FOR STUDENTS FROM UNDERREPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.''.

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

''SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

''(a) DEFINITIONS. In this section:

''(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given that term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

''(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

''(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given that term in section 903(5) of the Energy Policy Act of 2003.

''(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903(8) of the Energy Policy Act of 2003.

''(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

''(b) EDUCATION PARTNERSHIP.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

''(c) ACTIVITIES.—An activity under subsection (b) may include—

''(1) collaborative research;

''(2) equipment transfer;

''(3) training activities conducted at a National Laboratory or science facility; and

''(4) mentoring activities conducted at a National Laboratory or science facility.

''(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the activities carried out under this section.''.

SEC. 1006. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (in this section referred to as the ''Center''), to address the need for training and educating certified operators for electric power generation plants.

(b) ROLE.—The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall support the establishment of the Center at an institution of higher education with expertise in power plant technology and operation and with the ability to provide on-site as well as Internet-based training.

SEC. 1007. FEDERAL MINE INSPECTORS.

In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled Federal mine inspectors as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

''(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;''.

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

''(23) 'transmitting utility' means an entity, including any entity described in section 201(f), that owns or operates facilities used for the transmission of electric energy—

''(A) in interstate commerce; or

''(B) for the sale of electric energy at wholesale;''.

(c) ADDITIONAL DEFINITIONS.—At the end of section (3) of the Federal Power Act, add the following:

''(26) 'unregulated transmitting utility' means an entity that—

''(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

''(B) is an entity described in section 201(f) or a rural electric cooperative with financing from the Rural Utilities Service.

''(27) 'distribution utility' means an electric utility that does not own or operate transmission facilities or an unregulated transmitting utility that provides 90 percent of the electric energy its transmits to customers at retail.''

(d) For the purposes of this title, the term ''the Commission'' means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding the following:

''ELECTRIC RELIABILITY

''SEC. 215. (a) For the purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to such components to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the components of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other

components within the system to maintain reliable operation of the portion of the system within their control.

''(6) The term 'transmission organization' means an RTO or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section. The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) The ERO shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i)(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

''(4) Within 90 days of the application of the ERO or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) The provisions of this section do not apply to Alaska or Hawaii.''.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission's proposed rulemaking entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12–000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, shall be proceeded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations (''RTO'') that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not own or control generation facilities used to supply electric energy for sale at wholesale.

SEC. 1123. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—

(1) The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a Regional Transmission Organization (''RTO''). Such contract, agreement or arrangement shall be voluntary and include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement, consistency with existing contracts and third-party financing arrangements, and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the RTO fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) Any statutory provision requiring or authorizing a Federal utility to transmit electric power, or to construct, operate or maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1124. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) STATE REGULATORY COMMISSIONS.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory commissions, as defined in section 3(21) of the Federal Power Act. The regional discussions should address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization ''(RTO''). The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide non-discriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonable and economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain their ability to use the existing transmission system without incurring unreasonable additional costs in order to expand the transmission system for new customers;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers (''economic dispatch'') and maintaining system reliability;

(6) a means to provide transparent price signals to ensure efficient expansion of the electric system and efficiently manage transmission congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region (''pancaked rates'');

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor for the region with State regulatory authority and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information and that provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access so as to best meet the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection related to the existence of transmission congestion, the existence of significant hydroelectric capacity, the participation of unregulated

transmitting utilities, and the distances between generation and load; and,

(12) a timetable to meet the objectives of this section.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and State or other retail regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

The Federal Power Act (16 U.S.C. 824e) is amended by adding the following:

''SEC. 220. (a)(1) The Commission shall exercise its authority under this Act to ensure that any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or equivalent financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to meet its service obligation.

''(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

''(b) Nothing in this section shall affect any methodology for the allocation of transmission rights by a Commission-approved entity that, prior to the date of enactment of this section, has been authorized by the Commission to allocate transmission rights.

''(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.''

''(d) Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

''(e) For purposes of this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility (including an entity described in section 201(f) or a rural cooperative) that has a service obligation to end-users or a distribution utility.

''(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility (including an entity described in section 201(f) or a rural cooperative) under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.''

''(f) Nothing in the section shall apply to an entity located in an area referred to in section 212(k)(2)(A).''

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

''(1) is a distribution utility that sells no more than 4,000,000 megawatt hours of electricity per year; or

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) Whenever the Commission, after a hearing held upon a complaint, finds any exemption granted pursuant to subsection (b) adversely affects the reliable and efficient operation of an interconnected transmission system, it may revoke the exemption.

''(d) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(e) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(f) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(g) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(h) Nothing in this Act authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.''.

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act is amended by adding the following:

''SUSTAINABLE TRANSMISSION NETWORKS RULEMAKING

''SEC. 221. Within six months of enactment of this section, the Commission shall issue a final rule establishing transmission pricing policies applicable to all public utilities and policies for the allocation of costs associated with the expansion, modification or upgrade of existing interstate transmission facilities and for the interconnection of new transmission facilities for utilities and facilities which are not included within a Commission approved RTO. Consistent with section 205 of this Act, such rule shall, to the maximum extent practicable:

''(1) promote capital investment in the economically efficient transmission systems;

''(2) encourage the construction of transmission and generation facilities in a manner which provides the lowest overall risk and cost to consumers;

''(3) encourage improved operation of transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks;

''(4) ensure that the costs of any transmission expansion or interconnection be allocated in such a way that all users of the affected transmission system bear the appropriate share of costs; and

''(5) ensure that parties who pay for facilities necessary for transmission expansion or interconnection receive appropriate compensation for those facilities.''.

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) NET METERING.—

''(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

''(i) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section 111(d)(13), the term net metering service shall mean a service provided in accordance with the following standards:

''(1) An electric utility—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

''(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during

the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

''(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(7) For purposes of this subsection—

''(A) The term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(C) The term 'high efficiency system' means fuel cells or combined heat and power.

''(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.

SEC. 1142. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(12) TIME-BASED METERING AND COMMUNICATIONS.

''(A) Each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

''(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than twelve (12) months after enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding the at the end the following:

''(k) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Polices Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2003, providing the Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2005.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response; and

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

(3) Not later than 1 year after the date of enactment of this Act, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

''(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

''(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

''(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(9) Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation.''.

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

''(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.''.

SEC. 1144. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

''(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).''.

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.-

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real time wholesale market for the sale of electric energy.

''(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

''(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

''(4) RECOVERY OF COSTS.—''(A) REGULATION.—The Commission shall promulgate such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section before the date of enactment of this subsection recovers all prudently incurred costs associated with the purchase.

''(B) ENFORCEMENT.—A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended

(1) by striking paragraph (17)(C) and inserting the following:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;''; and

(2) by striking paragraph (18)(B) and inserting the following:

''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;''.

SEC. 1146. RECOVERY OF COSTS.

(a) REGULATION.—To ensure recovery by any electric utility that purchases electricity or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) before the date of enactment of this Act of all costs associated with the purchases, the Commission shall promulgate and enforce such regulations as are required to ensure that no utility shall be required directly or indirectly to absorb the costs associated with the purchases.

(b) TREATMENT.—A regulation under subsection (a) shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a et seq.).

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

SEC. 1151. DEFINITIONS.

For the purposes of this subtitle:

(1) The term ''affiliate'' of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) THE TERM ''HOLDING COMPANY'' MEANS—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) The term ''jurisdictional rates'' means rates established by the Commission for 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, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public utility company'' means an electric utility company or a gas utility company.

(15) The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and (B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall

maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public utility company; and (3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 203 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

SEC. 1156. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 1158. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a and following) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 and following) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1162. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1163. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this title.

SEC. 1164. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

SEC. 1171. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding:

''MARKET TRANSPARENCY RULES

''SEC. 222. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

''(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).''.

SEC. 1172. MARKET MANIPULATION.

Part II of the Federal Power Act is amended by the following:

''PROHIBITION ON FILING FALSE INFORMATION

''SEC. 223. It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

''PROHIBITION ON ROUND TRIP TRADING

''SEC. 224. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to enter into any contract or other arrangement to execute a 'round-trip trade' for the purchase or sale of electric energy at wholesale.

''(b) For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and ''(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.''.

SEC. 1173. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by

(1) inserting ''electric utility (including entities described in section 201(f) and rural cooperative entities),'' after ''Any person,''; and

(2) inserting ''transmitting utility,'' after ''licensee'' each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and (3) by striking subsection (c).

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

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. 1174. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by (1) striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of'';

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) striking the fifth sentence and inserting: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''.

Subtitle G—Consumer Protections

SEC. 1181. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1182. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1183. DEFINITIONS.

For purposes of this subtitle—

(1) ''State regulatory authority '' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Technical Amendments

SEC. 1191. TECHNICAL AMENDMENTS.

(a) Section 211(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking ''(2)';

(2) striking ''(A)'' and inserting ''(1)''

(3) striking ''(B)'' and inserting ''(2)''; and

(4) striking ''termination of modification'' and inserting ''termination or modification''.

(b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking ''electric utility'' the second time it appears and inserting ''transmitting utility''.

(c) Section 315 of the Federal Power Act (16 U.S.C. 825n) is amended by striking ''subsection'' and inserting ''section''.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. BAUCUS, Mr. DAYTON, Mr. BINGAMAN, Mr. CHAFEE, Mr. CRAIG, Mr. JOHNSON, and Mrs. MURRAY):

S. 950. A bill to allow travel between the United States and Cuba; to the Committee on Foreign Relations.

Mr. ENZI. Mr. President, today I offer a bill that will make a very small change in our Cuba policy. It deals only with travel provisions to Cuba.

I have been watching Cuba since the 1960s. I went to George Washington University, and I was there at the time of the Cuban missile crisis. I have had the opportunity to watch what has happened with Cuba throughout the years. I am reminded of something my dad used to say, which was that if you keep on doing what you always have been doing, you are going to wind up getting what you already got. That is kind of the situation with Cuba. We have been trying the same thing for over 40 years, and it hasn't worked.

I am suggesting just a small change to maybe get a few more people in there to increase conversation with people who understand the way the United States works and the way Cuba works and how they ought to drift more rapidly toward where we are.

In recent weeks, as we shared the joy of the Iraqi people as they were liberated from the ruthless regime of Saddam Hussein, we also felt the pain of those in Cuba who had dared to speak out in a vain but valiant effort to demand those same freedoms for themselves. As they did, 75 Cuban citizens were arrested and received harsh sentences—some for more than 20 years—all for the crime of yearning to be free. Once again, Castro has shown himself to be his own worst enemy when it comes to Cuba's image overseas, and so, when faced with an outcry from around the world about his actions, he quickly tried to blame the United States for his own actions. It was a hard sell at best, and, given the reactions we've seen from all sides of this issue, I don't think anyone is buying it.

Still, Castro's cruelty might tempt us to tighten the already strong restrictions on the relations between our two countries, but I hope we will not do that. If we increase the diplomatic pressure on the Cuban government that is now emanating from every corner of the world, we might be successful in bringing about a better way of life for the Cuban people.

If, however, we stop Cuban-Americans from bringing financial assistance to their families in Cuba, and end the people to people exchanges that have been so successful, and stop the sale of agricultural and medicinal products to Cuba, we will not be hurting the Cuban government nearly as badly as we will be hurting the Cuban people by diminishing their faith and trust in the United States and reducing the strength of the ties that bind the people of our two countries.

If we allow more and freer travel to Cuba, if we increase trade and dialogue, we take away Castro's ability to blame the hardships of the Cuban people on the United States. In a very real sense, the better we try to make things for the Cuban people, the more we will reduce the level and the tone of the rhetoric used against us by Fidel Castro.

I have often heard it said that it is foolish to do the same thing over and over again and expect different results. In a way, that is what we are doing in Cuba. We are continuing to try to exert pressure from our side and, as we do, we are giving Castro a scapegoat to blame for the poor living conditions in his country in the process. It's time for a different policy, one that goes further than embargoes and replaces a restrictive and confusing travel policy with a new one that will more effectively help us to achieve our goals in that country.

Today, Senators DORGAN, BAUCUS, and BINGAMAN and I are introducing the Freedom to Travel to Cuba Act.

Our bill is very straightfoward. It states that the President shall not prohibit, either directly or indirectly, travel to or from Cuba by United States citizens or transactions incident to such travel.

In 1958 the Supreme Court affirmed or Constitutional right to travel, but the U.S. government then prohibited Americans from spending money in Cuba. We simply said, okay, you have a right to travel, but try traveling without spending a dime.

Most of us know that certain people can and do continue to travel to Cuba. Cuban Americans can apply for a license to travel for humanitarian reasons to visit ailing family members and such, but not always conveniently.

The way I got involved in this whole process was a Cuban American from Jackson, WY, who had been in Cuba visiting his family, doing his one visit a year. As he left and was on the plane coming back to Wyoming, one of his

parents died. He could not go back there for a year. That is not a good situation for any family.

Educational groups can apply for licenses to travel for scholarly reasons, for educational opportunities and conferences. Members of the U.S. Government can travel for fact-finding reasons, but for the average American, that process is too complicated.

Even with the proper licenses, the regulations on where you can go and whom you can talk to are confusing, misleading, and frustrating. Each year the Office of Foreign Assets Control levies fines on travelers who followed the law to the best of their ability. Fines and punishments were imposed without guidelines and seemingly at the whim of a nameless bureaucrat.

I must ask my colleagues, why are we continuing to support a policy that was basically implemented 40 years ago? Why are we supporting a policy that has had little effect on the Government we oppose? Why do we not improve our policy so that it will improve conditions for the Cuban people and their image of the United States?

The bill we are introducing today makes real change in our policy toward Cuba that will lead to a real change for the people of Cuba. What better way to let the Cuban people know of our concern for their plight than for them to hear it from their friends and their extended family in the United States, or let them hear it from the American people who will go there?

The people of this country are our best ambassadors, and we should let them show the people of Cuba what we as a nation are all about. One thing we should not do is to play into Castro's hand by enacting stricter and more stringent regulations and create a situation where the United States is easy to blame for the problems in Cuba. Unilateral sanctions will not improve human rights for Cuban citizens. The rest of the world is not doing what we are doing. Cuba is being supplied by the rest of the world with everything they need.

Open dialog and exchange of ideas and commerce can move a country toward democracy. What better way to share the rewards of democracy than through people-to-people exchanges? We cannot stop that program. If the United States Government continues on its current course to put an economic stranglehold on the Cuban Government, the people of Cuba will suffer. Unilateral sanctions stop not just the flow of goods but the flow of ideas. Ideas of freedom and democracy are the keys to change in any nation.

Some may ask why we want to increase dialog right now, why open the door to Cuba when Castro is behaving so poorly? No one is denying that the actions of Castro and his government are deplorable, as is his refusal to provide basic human rights to his people. But if we truly believe Castro is a dictator with no good intentions, how can we say we should wait for him to behave before we engage? He controls the entire media in Cuba. The entire message that is coming out, unless we have people interacting, is his message. Keeping the door closed and hollering at Castro on the other side does not do anything.

Mr. DORGAN. Mr. President, this morning, my colleague from Wyoming, Senator ENZI, has introduced a piece of legislation I am an original cosponsor of. I want to make a point about the legislation.

The legislation deals with the freedom of the American people to travel in the country of Cuba. I want to talk about that just for a moment. I support that legislation. The legislation has nothing to do with supporting Fidel Castro. We do not support Fidel Castro. It has nothing to do with making life easier for Fidel Castro. This issue is not about Fidel Castro; it is about the American people.

Ninety miles off our shores sits a country ruled by communists, a communist government run by Fidel Castro. We have a communist government in the country of China, with 1.3 billion people half way around the globe. We have a communist government in the country of Vietnam. I have visited both.

In both of those countries, we have an American Chamber of Commerce. They are doing business in those countries. We have engaged in trade and tourism. People travel there. People do business there. Why? Because our country thinks engagement is the right way to move these communist countries in the right direction toward greater personal freedom and greater liberty for the people of China and Vietnam.

But Cuba is 90 miles off the coast of Florida, and we are told that Cuba is different. Instead of engagement being constructive for Cuba, we are told a 40-year embargo, which has not worked, should be retained. That embargo includes not only an embargo on trade with Cuba, but it also includes a restriction on the American people's ability to travel to Cuba. And the restriction is so absurd and so byzantine, here is what it has provoked.

I had a hearing on this about a year and a half ago. We have people down in the Treasury Department who are spending their days, with taxpayers' money, tracking Americans who have traveled to Cuba, so they can levy a civil fine on those Americans.

Let me tell you of one: A retired school teacher in Illinois. She is a cyclist, loves to bicycle. She answered an ad in a cycling magazine and signed up for a 10-day cycling trip in Cuba. This retired school teacher—I hope she won't mind me saying, a little, old, retired schoolteacher—from Illinois, bicycles in Cuba for 10 days with a cycling group, organized by a Canadian cycling company, and she gets back to this country only to receive in the mail a notice by the U.S. Treasury Department that she has been fined $9,600 for traveling in Cuba.

She would not be fined for traveling in China, a communist country. She would not be fined for traveling in Vietnam, a communist country. But she is fined for traveling in Cuba.

Or do you want one better? How about the guy whose dad died, who was a Cuban citizen who came to this country, and the last thing he wanted was for his ashes to be taken back to Cuba and spread on Cuban soil. So his son did that. But guess what? That son gets caught in the net of the U.S. Treasury Department, because at a time when we are worried about terrorism, we have people down at the Treasury Department who are chasing retired school teachers and sons of deceased American citizens who used to live in Cuba who want to take their parents' ashes back to Cuba.

We have people down there spending the taxpayers' dollars and their time, their effort, and energy to see if we can't levy a civil fine against Americans who travel in Cuba. My colleague, Senator ENZI, has introduced legislation, with myself and others, to say it is not hurting Fidel Castro by limiting the freedom and choice of the American people to travel in Cuba. Cuba and the Cuban people would be much better off with additional travel by Americans and expanded trade. The same circumstances that lead people to believe that engagement with China and Vietnam is helpful ought to understand that it would be helpful with Cuba as well.

I have been to Cuba. I have visited with the dissidents. Frankly, they believe the embargo is counterproductive, and they believe lifting the embargo and the travel restrictions would be helpful to their cause.

Fidel Castro is a Communist and a dictator. What he has done in recent weeks is appalling to me. He has thrown people in jail, dissidents, for what they have said and what they think. He has executed several people in recent weeks who attempted to allow others to escape. Shame on him. But it makes no sense for us to continue a policy that is counterproductive.

Again, talk to the dissidents in Cuba and they will tell you that allowing people to travel to Cuba and allowing our family farmers to sell grain to Cuba is constructive.

We are finally for the first time able to sell some products into the Cuban marketplace because I and then former Senator John Ashcroft, now Attorney General, offered legislation that opened that embargo of 40 years that did not work, and for the first time in 40 years, 22 train carloads of dried peas left North Dakota to go to the Cuban market, purchased by the Cubans.

Our farmers for the first time in 42 years sold some food to Cuba. That makes good sense. We should never use food as a weapon. Travel is the same circumstance. Limiting the freedom of the American people makes no sense to me.

The Enzi bill, which I am proud to cosponsor, moves in the direction of eliminating that limitation on travel by the American people.

Mr. BAUCUS. Madam President, I rise today to offer legislation, along with my colleagues Senator ENZI and Senator DORGAN, that would end the restrictions placed on travel to Cuba.

I understand our colleagues in the House will introduce companion legislation in the coming weeks. I look forward to working with my colleagues in both chambers, and on both sides of the aisle, as we move forward.

With this legislation, we are undertaking a serious cause. Repeal of the travel ban is long overdue.

There are numerous reasons to introduce this legislation, but I want to focus today on just two: first, the current situation in Cuba; and second, our troubled economy here at home.

Introduction of this legislation comes at a crucial time in U.S.-Cuba relations. Last month, nearly 80 Cuban dissidents were arrested. All of them have been sentenced to an average of almost 20 years in prison.

Democratic governments around the world, as well as human rights organizations and others, including myself and my colleagues in the Senate and House Cuba Working Groups, have harshly criticized the Castro regime for these appalling acts of repression. Yet, throughout all of this, the Castro regime has remained defiant and undaunted.

Why? In my view it is because Castro wants the embargo to continue. Observers have noted an emerging pattern: every time we get close to more open relations, Castro shuts the process down with some repressive act, designed to have a chilling effect on U.S.-Cuban relations.

Castro fears an end to the embargo. He knows the day the embargo falls is the day he runs out of excuses. Without the embargo, Castro would have no one to blame for the failing Cuban economy.

Nor would his way of governing be able to survive the influx of Americans and democratic ideas that would flood his island if the embargo were lifted.

Now, some Cuba watchers have predicted that the dissident arrests and the resulting decline of U.S.-Cuba relations are a death knell to the engagement debate in Washington.

I strongly disagree. And I think now, more than ever, a genuine, honest debate about the merits of the embargo is needed.

Some people seem to think tightening the embargo is a rational response to the Castro regime. I guess if you think an embargo can hurt Castro without hurting the Cuban people, then tightening the embargo might make some sense.

But it does not work that way. The embargo actually hurts the Cuban people much more than it hurts Castro.

This is why many Cuban dissidents, including Oswaldo Paya, the founder of the Varela Project, oppose our embargo and support engagement.

Indeed, after 43 years, it ought to be clear to everyone that the embargo has failed to weaken Castro. A better approach is to reach out to the Cuban people. Ending the travel ban is the first and best way to do this.

If Castro fears contact between the Cuban people and the American people, the rational American response is to send more Americans, not fewer.

Of course, ending the travel ban would have benefits not only for the Cuban people, but also for Americans. Ending the travel ban would have an immediate and direct economic impact, beyond even the immediate travel sector.

Most importantly for my home state of Montana, ending the travel ban would help farmers and ranchers.

Americans are currently allowed to sell food and medicine to Cuba on a cash basis. But there is a lot of red tape thrown in their way. And without the ability to travel to Cuba and develop the business contacts, the full potential of these sales is not realized.

In fact, one study has suggested that lifting the travel ban could result in an additional quarter billion dollars of agricultural sales, and create thousands of new jobs.

Ending the travel ban would bring benefits to both Cubans and to Americans. And that, after all, is what this debate should be about. Supporters of the embargo are so focused on hurting Castro that they actually strengthen him—at the expense of the Cuban people, and at the expense of our own economy.

I hope my colleagues will join me in co-sponsoring this important legislation. I believe it is the best way to show that we truly care about the Cuban people

And indeed, if we truly care about democracy, then let us send Cuba exactly that. Let us travel to Cuba and show them democracy in action.

I yield the floor.

Mr. DAYTON. I commend my colleague from Wyoming and his leadership in relationship to Cuba, which is of strong interest to businesses and farmers in my home State of Minnesota. I ask unanimous consent to be added as a cosponsor to his legislation. I look forward to working with him as part of his caucus to further those relationships. I again commend the Senator for his leadership in this important area and look forward to working with him.

By Mr. WARNER (for himself, Mr. DAYTON, and Ms. COLLINS):

S. 951. A bill to amend the Internal Revenue Code of 1986 to allow medicare beneficiaries a refundable credit against income tax for the purchase of outpatient prescription drugs; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce this morning a bill on which my distinguished colleagues from Minnesota and Maine and I have collaborated. That is the Older Americans Prescription Drug Tax Relief Act. I will speak a minute or two on it, then should the Senator from Minnesota desire to speak to this, I will yield to the Senator and then resume the balance of my statement.

By way of introduction, all Members of this body have heard the tragic stories about older Americans who must choose between paying for their groceries and paying for their medicines. Many older Americans are forced into this choice because, unbelievably, the Medicare program still lacks an outpatient prescription drug benefit. America's seniors deserve much better.

Our President, the House of Representatives, and every single Member of this Senate, all 100 Members, share the common goal of enacting a comprehensive Medicare prescription drug benefit. Over the years, we worked diligently to achieve those goals but have yet not reached what I would consider, and I think others would consider, success. We have all worked in support of this vitally important goal, but, again, success has alluded us. Unfortunately, we have not been able to reach a consensus.

I hope this bill might be a new initiative that would merit the attention of my colleagues, and that it might provide a basis for that consensus. As we here in the Nation's Capital debate how best to add a Medicare prescription drug benefit and continue to debate the specifics of such benefits such as premiums, co-pays, deductibles, formularies, and whether to run the program through the existing Medicare system or through a public-private partnership, our seniors continue to suffer. Medicare beneficiaries have waited far too long for Congress to provide some sort of relief for their prescription drug costs.

I remain committed, as are my distinguished colleagues from Minnesota and Maine, to working with our colleagues on creating a comprehensive prescription drug benefit in the Medicare program. I believe we must act now, however, to provide some relief at this point in time. We cannot defer this decision any longer. The Warner-Dayton-Collins proposal will provide real relief to Medicare beneficiaries. The legislation is simple and can be described in three points.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank the senior Senator from Virginia, a leader on this measure. I will be brief because I am scheduled to meet in my office in just a few moments with the nominee for the new superintendent of the Air Force Academy, which is a matter on which the Senator from Virginia has also exhibited great leadership on behalf of this country.

I am very proud to join with Senator WARNER in sponsoring this legislation. I agree and associate myself with everything the Senator has said regarding this matter.

I came to the Senate a little over 2 years ago, believing the most urgent matter facing our country in the area of social legislation was to provide prescription drug coverage for all of our elderly. I have been dismayed at our inability—all of us—to reach necessary agreements so such legislation could be enacted.

I could not agree more with the Senator from Virginia that this is something I hope our colleagues will consider. If there is a better approach that we can all agree on this year, then so be it. But in the absence of that, as there has been that failure during the last 2 years, I hope our colleagues will look at this as a very feeling alternative. Even if long-term legislation is enacted, I believe it will be at least a year or two before that is available to our senior citizens, before that program is set up. This is an approach that could be implemented very swiftly, could be available almost immediately, and could provide, on an interim basis if not a long-term basis, the financial assistance our elderly citizens desperately need.

I thank the senior Senator from Virginia. I am proud to associate myself with this legislation.

I yield the floor.

Mr. WARNER. I thank my distinguished colleague for responding. I wish to emphasize a very important point the Senator from Minnesota made.

This may not be the final resolution of this complex set of issues. But given the desperate circumstances of so many who have to make the choice between food and drugs, I think it is a very carefully crafted interim step that could be enacted into law and later quickly superseded should that hoped-for event occur in the future of a more comprehensive piece of legislation.

I think the emphasis on that is very important.

I would say, all of us here in the Senate benefit greatly by professional staff. On my staff, Chris Yianilos really worked diligently to bring this legislation into being and he collaborated with a distinguished member of your staff, Mr. Bob Hall. I also thank Priscilla Hanley, who worked with Senator COLLINS on the legislation.

The first is that the Warner-Dayton-Collins bill provides Medicare beneficiaries with a refundable—I repeat—a refundable tax credit of 50 cents on every dollar of out-of-pocket prescription drug costs. Whether you actually pay income taxes or not, you are eligible to get the benefit of this tax credit.

The benefit is capped at $500 for the expenses of an individual senior. Married seniors would be eligible for a credit up to $1,000. The cap is based on a recent study by the Kaiser Family Foundation that estimates that the average senior's out-of-pocket prescription drug costs is almost $1,000. Thus the proposal will cover 50 percent of the out-of-pocket drug costs for the average senior.

To take advantage of this refundable tax credit, Medicare beneficiaries will not have to worry about whether their drug is covered under some formulary. In addition, there are no premiums, no deductibles. Medicare beneficiaries will simply take their prescriptions, get them filled, and then apply for their refundable tax credit.

Second, in recognition that a generous but necessary refundable tax credit such as this can be costly, we have imposed a responsible income phase-out on older Americans who can benefit from this tax credit. The phase-out level begins for individuals who earn $75,000 per year. Married Medicare beneficiaries begin to phase-out of the benefit at $150,000 a year. This cost containment mechanism will affect less than 10 percent of all Medicare beneficiaries but allows us to responsibly provide a refundable tax credit that will cover about 50 percent of the average Medicare beneficiary's out-of-pocket drug costs.

Again 90 percent of all Medicare beneficiaries will not be affected by the phase-out. In other words, they are beneath the phase-out caps. Only those individuals who are blessed with a larger income among America's seniors, who can afford in large measure to pay for their prescription drugs, will be phased-out.

Third, the legislation will sunset once a comprehensive Medicare prescription drug benefit is signed into law. Again, as my colleague from Minnesota mentioned, and others, this is an interim proposal. Therefore, it can be superseded by a more comprehensive bill.

We wholeheartedly agree this legislation is not a substitute for a comprehensive prescription drug Medicare benefit, and we will continue to work with the President and our colleagues from both sides of the aisle in the Senate who support a more comprehensive piece of legislation. But as I stated earlier, America's seniors cannot wait any longer for relief, and this proposal provides a real benefit to America's seniors.

I am pleased to be joined by Senator DAYTON and Senator COLLINS in introducing the Older Americans Prescription Drug Tax Relief Act. I urge my colleagues to give this matter consideration and, hopefully, it can be enacted into law.

Let us do something. Let us open the door and talk to the Cuban people.

Travel and other policies that deal with Cuba will continue to be a top priority for those of us in the newly formed Senate Cuba Working Group. The working group members have expressed their support for changes in our policies toward Cuba, and we will continue to be a part of the dialogue. I do encourage all of my colleagues to join us in that effort.

I encourage all of my colleagues to take a look at this bill that has been introduced today. I know there are people looking at it. I expect a lot more cosponsors on it. This is the most reasonable provision dealing with Cuba that has been presented during the 6 years I have been here. We have tried some bigger bites at the apple. They have not worked. So we are moving back to the travel restrictions, a bill that is very limited. It allows one to travel and to have those things that are necessary for travel. For instance, the right to take baggage to Cuba cannot be cut off. That is another way the law can be subverted. So it is a very straightforward travel policy that will get Americans into Cuba to talk to Cubans to promote the ideas we believe in. I ask my colleagues to join me in this effort.

By Mr. CORZINE:

S. 952. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to reintroduce my legislation, the Patient and Physician Safety and Protection Act of 2003, to limit medical resident work hours to 80 hours a week and to provide real protections for patients and resident physicians who are negatively affected by excessive work hours. I feel strongly that as Congress begins to consider proposals to reduce medical malpractice premiums and improve quality of care, we must consider the role that excessive work hours play in exacerbating medical liability problems and reducing quality of care.

It is very troubling that hospitals across the Nation are requiring young doctors to work 36 hour shifts and as many as 120 hours a week in order to complete their residency programs. These long hours lead to a deterioration of cognitive function similar to the effects of blood alcohol levels of 0.1 percent. This is a level of cognitive impairment that would make these doctors unsafe to drive—yet these physicians are not only allowed but in fact are required to care for patients and perform procedures on patients under these conditions.

The Patient and Physician Safety and Protection Act of 2003 will limit medical resident work hours to 80 hours a week. Not 40 hours or 60 hours. 80 hours a week. It is hard to argue that this standard is excessively strict. In fact, it is unconscionable that we now have resident physicians, or any physicians for that matter, caring for very sick patients 120 hours a week and 36 hours straight with fewer than 10 hours between shifts. This is an outrageous violation of a patient's right to quality care.

In addition to limiting work hours to 80 hours a week, my bill limits the length of any one shift to 24 consecutive hours, while allowing for up to three hours of patient transition time, and limits the length of an emergency room shift to 12 hours. The bill also ensures that residents have at least one

out of seven days off and ''on-call'' shifts no more often that every third night.

Since I first introduced the Patient and Physician Safety and Protection Act in the 107th Congress, the medical community and the Accreditation Council for Graduate Medical Education, ACGME, specifically have taken critical steps to address the problem of excessive work hours. The ACGME's recommendations to reduce resident work hours are commendable. If appropriately enforced, these new work hour guidelines will go a long way toward reducing the number of hours that residents must work, thereby improving the health of our Nation's medical residents and ensuring the safety of the patients.

Despite the medical community's best intentions to reduce work hours, however, I am very concerned that the ACGME's policy lacks the enforcement mechanisms that are essential to ensure compliance with the new work hour rules. Too many hospitals failed to comply with previous work hour requirements mandated by the ACGME because there was insufficient oversight and enforcement. While the new policy establishes more stringent work hours reductions, it fails to create effective enforcement and oversight tools. These rules are meaningless without enforcement.

That is why Federal legislation is necessary. The Patient and Physician Safety and Protection Act of 2003 not only recognizes the problem of excessive work hours, but also creates strong enforcement mechanisms. The bill also provides funding support to teaching hospitals to implement new work hour standards. Without enforcement and financial support efforts to reduce work hours are not likely to be successful.

Finally, my legislation provides meaningful enforcement mechanisms that will protect the identity of resident physicians who file complaints about work hour violations. The ACGME's guidelines do not contain any whistleblower protections for residents that seek to report program violations. Without this important protection, residents will be reluctant to report these violations, which in turn will weaken enforcement.

My legislation also makes compliance with these work hour requirements a condition of Medicare participation. Each year, Congress provides $8 billion to teaching hospitals to train new physicians. While Congress must continue to vigorously support adequate funding so that teaching hospitals are able to carry out this important public service, these hospitals must also make a commitment to ensuring safe working conditions for these physicians and providing the highest quality of care to the patients they treat.

In closing I would like to read a quote from an Orthopedic Surgery Resident from Northern California, which I think illustrates why we need this legislation.

I quote, ''I was operating post-call after being up for over 36 hours and was holding retractors. I literally fell asleep standing up and nearly faceplanted into the wound. My upper arm hit the side of the gurney, and I caught myself before I fell to the floor. I nearly put my face in the open wound, which would have contaminated the entire field and could have resulted in an infection for the patient.''

This is a very serious problem that must be addressed before medical errors like this occur. I hope every member of the Senate will consider this legislation and the potential it has to reduce medical errors, improve patient care, and create a safer working environment for the backbone of our Nation's health system.

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. 952

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 ''Patient and Physician Safety and Protection Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal Government, through the medicare program, pays approximately $8,000,000,000 per year solely to train resident-physicians in the United States, and as a result, has an interest in assuring the safety of patients treated by resident-physicians and the safety of resident-physicians themselves.

(2) Resident-physicians spend as much as 30 to 40 percent of their time performing activities not related to the educational mission of training competent physicians.

(3) The excessive numbers of hours worked by resident-physicians is inherently dangerous for patient care and for the lives of resident-physicians.

(4) The scientific literature has consistently demonstrated that the sleep deprivation of the magnitude seen in residency training programs leads to cognitive impairment.

(5) A substantial body of research indicates that excessive hours worked by resident-physicians lead to higher rates of medical error, motor vehicle accidents, depression, and pregnancy complications.

(6) The medical community has not adequately addressed the issue of excessive resident-physician work hours.

(7) The Federal Government has regulated the work hours of other industries when the safety of employees or the public is at risk.

(8) The Institute of Medicine has found that as many as 98,000 deaths occur annually due to medical errors and has suggested that 1 necessary approach to reducing errors in hospitals is reducing the fatigue of resident-physicians.

SEC. 3. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION REGARDING WORKING HOURS OF MEDICAL RESIDENTS, INTERNS, AND FELLOWS.

(a) IN GENERAL.—Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) by striking ''and'' at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting '', and''; and

(C) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of a hospital that uses the services of postgraduate trainees (as defined in subsection (j)(4)), to meet the requirements of subsection (j).''; and

(2) by adding at the end the following new subsection:

''(j)(1)(A) In order that the working conditions and working hours of postgraduate trainees promote the provision of quality medical care in hospitals, as a condition of participation under this title, each hospital shall establish the following limits on working hours for postgraduate trainees:

''(i) Subject to subparagraphs (B) and (C), postgraduate trainees may work no more than a total of 24 hours per shift.

''(ii) Subject to subparagraph (C), postgraduate trainees may work no more than a total of 80 hours per week.

''(iii) Subject to subparagraph (C), postgraduate trainees—

''(I) shall have at least 10 hours between scheduled shifts;

''(II) shall have at least 1 full day out of every 7 days off and 1 full weekend off per month;

''(III) subject to subparagraph (B), who are assigned to patient care responsibilities in an emergency department shall work no more than 12 continuous hours in that department;

''(IV) shall not be scheduled to be on call in the hospital more often than every third night; and

''(V) shall not engage in work outside of the educational program that interferes with the ability of the postgraduate trainee to achieve the goals and objectives of the program or that, in combination with the program working hours, exceeds 80 hours per week.

''(B)(i) Subject to clause (ii), the Secretary shall promulgate such regulations as may be necessary to ensure quality of care is maintained during the transfer of direct patient care from 1 postgraduate trainee to another at the end of each shift.

''(ii) Such regulations shall ensure that, except in the case of individual patient emergencies, the period in which a postgraduate trainee is providing for the transfer of direct patient care (as referred to in clause (i)) does not extend such trainee's shift by more than 3 hours beyond the 24-hour period referred to in subparagraph (A)(i) or the 12-hour period referred to in subparagraph (A)(iii)(III), as the case may be.

''(C) The work hour limitations under subparagraph (A) and requirements of subparagraph (B) shall not apply to a hospital during a state of emergency declared by the Secretary that applies with respect to that hospital.

''(2) The Secretary shall promulgate such regulations as may be necessary to monitor and supervise postgraduate trainees assigned patient care responsibilities as part of an approved medical training program, as well as to assure quality patient care.

''(3) Each hospital shall inform postgraduate trainees of—

''(A) their rights under this subsection, including methods to enforce such rights (including so-called whistle-blower protections); and

''(B) the effects of their acute and chronic sleep deprivation both on themselves and on their patients.

''(4) For purposes of this subsection, the term 'postgraduate trainee' means a postgraduate medical resident, intern, or fellow.''.

(b) DESIGNATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall designate an individual within the Department of Health and Human Services to handle all complaints of violations that arise from a postgraduate trainee (as defined in paragraph (4) of section 1886(j) of the Social Security Act, as added by subsection (a)) who reports that the hospital operating the medical residency training program for which the trainee is enrolled is in violation of the requirements of such section.

(2) GRIEVANCE RIGHTS.—A postgraduate trainee may file a complaint with the Secretary concerning a violation of the requirements under such section 1886(j). Such a complaint may be filed anonymously. The Secretary may conduct an investigation and take such corrective action with respect to such a violation.

(3) ENFORCEMENT.—

(A) CIVIL MONEY PENALTY ENFORCEMENT.—Subject to subparagraph (B), any hospital that violates the requirements under such section 1886(j) is subject to a civil money penalty not to exceed $100,000 for each medical residency training program operated by the hospital in any 6-month period. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this paragraph in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(B) CORRECTIVE ACTION PLAN.—The Secretary shall establish procedures for providing a hospital that is subject to a civil monetary penalty under subparagraph (A) with an opportunity to avoid such penalty by submitting an appropriate corrective action plan to the Secretary.

(4) DISCLOSURE OF VIOLATIONS AND ANNUAL REPORTS.—The individual designated under paragraph (1) shall—

(A) provide for annual anonymous surveys of postgraduate trainees to determine compliance with the requirements under such section 1886(j) and for the disclosure of the results of such surveys to the public on a medical residency training program specific basis;

(B) based on such surveys, conduct appropriate on-site investigations;

(C) provide for disclosure to the public of violations of and compliance with, on a hospital and medical residency training program specific basis, such requirements; and

(D) make an annual report to Congress on the compliance of hospitals with such requirements, including providing a list of hospitals found to be in violation of such requirements.

(c) WHISTLEBLOWER PROTECTIONS.—

(1) IN GENERAL.—A hospital covered by the requirements of section 1866(j) of the Social Security Act, as added by subsection (a), shall not penalize, discriminate, or retaliate in any manner against an employee with respect to compensation, terms, conditions, or privileges of employment, who in good faith (as defined in paragraph (2)), individually or in conjunction with another person or persons—

(A) reports a violation or suspected violation of such requirements to a public regulatory agency, a private accreditation body, or management personnel of the hospital;

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by such requirements;

(C) informs or discusses with other employees, with a representative of the employees, with patients or patient representatives, or with the public, violations or suspected violations of such requirements; or

(D) otherwise avails himself or herself of the rights set forth in such section or this subsection.

(2) GOOD FAITH DEFINED.—For purposes of this subsection, an employee is deemed to act ''in good faith'' if the employee reasonably believes—

(A) that the information reported or disclosed is true; and

(B) that a violation has occurred or may occur.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first July 1 that begins at least 1 year after the date of enactment of this Act.

SEC. 4. ADDITIONAL FUNDING FOR HOSPITAL COSTS.

There are hereby appropriated to the Secretary of Health and Human Services such amounts as may be required to provide for additional payments to hospitals for their reasonable additional, incremental costs incurred in order to comply with the requirements imposed by this Act (and the amendments made by this Act).

By Mr. SHELBY (for himself, Mr. MILLER, Mr. LOTT, Ms. LANDRIEU, Mr. SESSIONS, Mr. COCHRAN, and Mr. CHAMBLISS):

S. 954. A bill to amend the Federal Power Act to provide for the protection of electric utility customers and enhance the stability of wholesale electric markets through the clarification of State regulatory jurisdiction; to the Committee on Energy and Natural Resources.

Mr. SHELBY. Mr. President, on July 31, 2002, the Federal Energy Regulatory Commission, FERC, issued a notice of proposed rulemaking to create a one-size-fits-all template for electric markets referred to as ''standard market design,'' SMD.

The SMD rule would bring about numerous sweeping changes, the degree and consequences of which are still being assessed. The proposed rule would require customers to pay for transmission facility upgrades caused by new generators, even if the customer does not need or use the power from those generators.

FERC's proposal would also usurp State authority to obligate utilities to serve customers, set generation reserve margins, centrally control generation dispatch, and set rates for retail transmission service. FERC's proposed rulemaking will effectively eliminate a State's ability to make decisions on issues specific to their State. Such sweeping changes to the energy industry should only be made after careful consideration of all potential consequences. After hearing these concerns, FERC promised a white paper to speak to the many concerns of myself and many others.

On April 28, the Federal Energy Regulatory Commission released its long-awaited white paper on Wholesale Power Markets and Standard Market Design. I and others had hoped that the release of that paper would signal a shift in the approach that the Commission has been taking with respect to the ''federalization'' of electricity regulation and markets. Disappointingly, despite some modest changes in approach, the Commission and Chairman Pat Wood have decided to move away from a partnership with the States toward Federal domination of the electricity system and electricity regulation.

In the document, the Commission reasserts its authority to regulate the terms and conditions of retail transmission, mandates the formation of Regional Transmission Organizations, and limits State authority to protect existing native load customers from the loss of transmission rights. The paper promises more ''technical conferences'' and consultation with the States, but does not change the premise upon which the Commission's Standard Market Design, ''SMD'', Notice of Proposed Rulemaking rests—that the States and regions serve only as adjuncts to the Commission as it devises new wholesale market rules that directly impinge upon retail markets.

In light of the Commission's white paper and the Senate's intention of quickly addressing energy policy, my colleagues and I present legislation today to ensure the concerns of my constituents and the constituents of my colleagues are addressed. This crucial legislation will ensure that States maintain their jurisdiction over retail utilities, that native load customers can be assured of reliability of service, that customers are not forced to socialize the cost of new transmission developed in their area but intended for other regions, and finally the legislation will prohibit the FERC from implementing its current SMD rule nor any rule that is of similar substance.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. DAYTON, and Mr. LEAHY):

S. 956. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, as millions of public school students and teachers around the country prepare to complete their first school year under the No Child Left Behind Act, NCLB, I am introducing a bill that would help to return a measure of local control that was taken from school districts and States by its enactment last year.

I am pleased to be joined in this effort by Senators JEFFORDS, DAYTON, and LEAHY.

I have heard a lot of concern from my constituents about various aspects of the President's education bill. Following the enactment of the bill last year, the drumbeat of concern has continued to reverberate throughout my

State, and has gotten even louder, as students, teachers, parents, administrators, school counselors and social workers, and others are learning firsthand about the effect of the NCLB.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. I also believe that the Federal Government has an important role to play in supporting our State educational agencies and local school districts as they carry out their most important responsibility—the education of our children.

I voted against the President's education bill in large part because of the new annual testing mandate for students in grades 3–8. While I agree that there should be a strong accountability system in place to ensure that public school students are making progress, I strongly oppose over-testing students in our public schools. I agree that some tests are needed to ensure that our children are keeping pace, but taking time to test students has to take a back seat to taking the time to teach students in the first place.

I have heard a lot about these new annual tests from the people of Wisconsin, and their response has been almost universally negative. My constituents are concerned about this additional layer of testing for many reasons, including the cost of developing and implementing these tests, the loss of teaching time every year to prepare for and take the tests, and the extra pressure that the tests will place on students, teachers, schools, and school districts.

I share my constituents' concerns about this new Federal mandate. I find it interesting that proponents of the NCLB say that it will return more control to the States and local school districts. In my view, however, this massive new Federal testing mandate runs counter to the idea of local control.

Many States and local school districts around the country, including Wisconsin, already have comprehensive testing programs in place. The Federal Government should leave decisions about the frequency of using high quality assessments to measure and increase student academic achievement up to the States and local school districts that bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have heard from many education professionals in my State that this new testing requirement is a waste of money and a waste of time. These people are dedicated professionals who are committed to educating Wisconsin's children, and they don't oppose testing. I think we can all agree that testing has its place. What they oppose is the magnitude of testing that is required by this law.

Beginning in the 2005–2006 school year, the NCLB will pile more tests on our Nation's public school students. And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

This kind of teaching, sometimes called ''teaching to the test,'' is becoming more and more prevalent in our schools as testing has become increasingly common. The dedicated teachers in our classrooms will now be constrained by teaching to yet more tests, instead of being able to use their own judgment about what subject areas the class needs to spend extra time studying. This additional testing time could also reduce the opportunity for teachers to create and implement innovative learning experiences for their students.

Teachers in my State are concerned about the amount of time that they will have to spend preparing their students to take the tests and administering the tests. They are concerned that these additional tests will disrupt the flow of education in their classrooms. One teacher said the preparation for the tests Wisconsin already requires in grades 3, 4, 8, and 10 can take up to a month, and the administration of the test takes another week. That is five weeks out of the school year. And now the Federal Government is requiring teachers to take a huge chunk out of instruction time each year in grades 3–8. In my view, and in the view of the people of my state, this time can be better spent on regular classroom instruction.

The legislation that I am introducing today, the Student Testing Flexibility Act of 2003, would give States and local school districts that have demonstrated academic success the flexibility to apply to waive the new annual testing requirements in the NCLB. States and school districts with waivers would still be required to administer high quality tests to students in, at a minimum, reading or language arts and mathematics at least once in grades 3–5, 6–9, and 10–12 as required under the law.

This bill would allow States and school districts that meet the same specific accountability criteria outlined for school-level excellence under the State Academic Achievement Award Program to apply to the Secretary of Education for a waiver from the new annual reading or language arts and mathematics tests for students in grades 3–8. The waiver would be for a period of three years and would be renewable, so long as the state or school district meets the criteria.

To qualify for the waiver, the State or school district must have significantly closed the achievement gap among a number of subgroups of students as required under Title I, or must have exceeded their adequate yearly progress, AYP, goals for two or more consecutive years. The bill would require the Secretary to grant waivers to states or school districts that meet these criteria and apply for the waiver. Individual districts in states that have waivers would not be required to apply for a separate waiver.

The Federal Government should not impose an additional layer of testing on states that are succeeding in meeting or exceeding their AYP goals or on closing the achievement gap. Instead, we should allow those States that have demonstrated academic success to use their share of Federal testing money to help those schools that need it the most.

The bill I am introducing today would do just that by allowing states with waivers to retain their share of the Federal funding appropriated to develop and implement the new annual tests. These important dollars would be used for activities that these States deem appropriate for improving student achievement at individual public elementary and secondary schools that have failed to make AYP.

I am pleased that this legislation is supported by the American Association of School Administrators, the National PTA, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the School Social Work Association of America, the Wisconsin Department of Public Instruction, the Wisconsin Education Association Council, the Wisconsin Association of School Boards, the Milwaukee Teachers' Education Association, and the Wisconsin School Administrators Alliance, which includes the Association of Wisconsin School Administrators, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Business Officials, and the Wisconsin Council for Administrators of Special Services.

While this bill focuses on the overtesting of students in our public schools, I would like to note that my constituents have raised a number of other concerns about the NCLB that I hope will be addressed by Congress. My constituents are concerned about, among other things, the new AYP requirements, the effect that the Act will have on rural school districts, and about finding the funding necessary to implement all of these provisions of this new law. I share these concerns.

I regret that, for the second year in a row, the President's budget request did not fully fund NCLB requirements and failed to provide any funding to crucial programs such as rural education and school counseling. If we are to truly leave no child behind, we must provide adequate funding for programs such as Title I, special education and professional development in order to ensure that all students have the means to succeed. To do less sets up some of our most vulnerable students for failure.

I hope that my bill, the Student Testing Flexibility Act, will help to focus attention on the perhaps unintended consequences of the ongoing implementation of the President's education bill for states, school districts, and individual schools, teachers, and students.

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. 956

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 ''Student Testing Flexibility Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) State and local governments bear the majority of the cost and responsibility of educating public elementary school and secondary school students;

(2) State and local governments often struggle to find adequate funding to provide basic educational services;

(3) the Federal Government has not provided its full share of funding for numerous federally mandated elementary and secondary education programs;

(4) underfunded Federal education mandates increase existing financial pressures on States and local educational agencies;

(5) the cost to States and local educational agencies to implement the annual student academic assessments required under section 1111(b)(3)(C)(vii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(vii)) remains uncertain;

(6) public elementary school and secondary school students take numerous tests each year, from classroom quizzes and exams to standardized and other tests required by the Federal Government, State educational agencies, or local educational agencies;

(7) multiple measures of student academic achievement provide a more accurate picture of a student's strengths and weaknesses than does a single score on a high-stakes test; and

(8) the frequency of the use of high quality assessments as a tool to measure and increase student achievement should be decided by State educational agencies and local educational agencies.

SEC. 3. WAIVER AUTHORITY.

Section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

''(E) WAIVER AUTHORITY.—

''(i) STATES.—Upon application by a State educational agency, the Secretary shall waive the requirements of subparagraph (C)(vii) for a State if the State educational agency demonstrates that the State—

''(I) significantly closed the achievement gap among the groups of students described in paragraph (2)(C)(v); or

''(II) exceeded the State's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(ii) LOCAL EDUCATIONAL AGENCIES.—Upon application of a local educational agency located in a State that does not receive a waiver under clause (i), the Secretary shall waive the application of the requirements of subparagraph (C)(vii) for the local educational agency if the local educational agency demonstrates that the local educational agency—

''(I) significantly closed the achievement gap among the groups of students described in paragraph (2)(C)(v); or

''(II) exceeded the local educational agency's adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

''(iii) PERIOD OF WAIVER.—A waiver under clause (i) or (ii) shall be for a period of 3 years and may be renewed for subsequent 3-year periods.

''(iv) UTILIZATION OF CERTAIN FEDERAL FUNDS.—

''(I) PERMISSIVE USES.—Subject to subclause (II), a State or local educational agency granted a waiver under clause (i) or (ii) shall use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to carry out educational activities that the State educational agency or local educational agency, respectively, determines will improve the academic achievement of students attending public elementary schools and secondary schools in the State or local educational agency, respectively, that fail to make adequate yearly progress (as defined in paragraph (2)(C)).

''(II) NONPERMISSIVE USE OF FUNDS.—A State or local educational agency granted a waiver under clause (i) or (ii) shall not use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to pay a student's cost of tuition, room, board, or fees at a private school.''.

By Mrs. BOXER:

S. 957. A bill to amend title 49, United States Code, to improve the training requirements for and require the certification of cabin crew members, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. REID, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. MILLER, and Mr. BREAUX):

S. 958. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

Mrs. BOXER. Mr. President, I am pleased to introduce the ''Flight Attendant Certification Act.''

Since September 11, flight attendants have become a last line of defense against terrorist attacks. As we all know, the terrorists hijacked four commercial jets—all of which were heading to California. That day forever changed air travel in this country, and in turn forever changed the security functions of flight attendants.

No one can forget that it was a flight attendant who discovered that Richard Reid was trying to ignite a bomb on his shoe. If not for the aware flight attendant, the bomb could have gone off over the Atlantic and all the passengers and crew would have been lost.

Today, I can say with certainty that air travel is more secure than it was a year and a half ago. But that does not mean that more should not be done. We must continue to take the appropriate steps to ensure that we are doing everything in our power to prevent terrorist attacks and protect the American people. That is why I am proud to offer this legislation.

This bill would make American air travel safer by requiring that flight attendants be certified by the Federal Aviation Administration, FAA. Currently, flight attendants are not required to receive formal certification even though they have the responsibility for safety, security, and emergency response.

In addition, the legislation would close the growing gap in the quality and content of training programs between airlines by creating a single training standard across the industry. This bill would require uniform training standards and establish a central approval process for certification of flight attendants at the FAA.

The FAA already recognizes the training of other airline personnel by issuing certification to pilots, mechanics, air-traffic controllers and others. Flight attendants deserve the same recognition and certification.

Mr. KOHL. Mr. President, I rise today to reintroduce the Patient Abuse Prevention Act, which will go a long way in protecting patients in long-term care from abuse and neglect. This legislation will establish a National Registry of abusive long-term care workers and require criminal background checks for potential employees. It is necessary so we can ensure that people with violent and abusive backgrounds cannot find work in nursing homes and home health and prey on our elderly relatives. After many years of refinement so that the background checks will run smoothly, and with the strong support of both patient advocates and the American Association of Homes and Services for the Aging, I sincerely hope that this is the year when we will finally take action and enact these common-sense protections.

There is absolutely no excuse for abuse or neglect of the elderly and disabled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult circumstances. But it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

Current State and national safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that long-term care facilities conduct criminal background checks on prospective employees. People with violent criminal backgrounds—people who have already been

convicted of murder, rape, and assault—could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working with patients.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. Unfortunately, these news reports have tragically become commonplace over the years. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem, including a Green Bay employee who was convicted of sexually assaulting a disabled woman, an Oshkosh employee who physically and emotionally abused nursing home residents, and a Milwaukee employee who charged more than $2,000 on a home health client's credit card. All had prior criminal convictions. A 1999 Bergen Record study of home health workers found that in nearly every county, criminals were working in the homes of the elderly and infirm. Many aides had committed offenses against patients in their care, but they were still listed as certified and eligible for work in State records. Most recently, the Chicago Sun-Times ran an article on November 1, 2002, in which a home care aide beat his disabled client to death with a hammer. That caregiver had previously been convicted of shooting a man in the face.

In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two States they studied, between 5 to 10 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15 to 20 percent of them had at least one conviction in their past.

In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

And on July 30, 2001, the House Government Reform Committee's Special Investigations Division of the Minority staff issued a report which found that in the past two years, over 30 percent of nursing homes in the U.S. were cited for a physical, sexual, or verbal abuse violation that had the potential to harm residents. Even more striking, the report found that nearly 10 percent of nursing homes had violations that caused actual harm to residents.

Let me say again that despite this evidence, I know that the vast majority of caregivers in nursing homes and home health care do an excellent job and have their patients' best interests at heart. But clearly, a national background check system is a critical tool that all long-term care providers should have—after all, they don't want abusive caregivers working for them any more than families do. I am pleased that the nursing home industry has worked with me over the years to refine this legislation, and I greatly appreciate their continued support of the bill. This bill reflects their input and will help ensure a smooth transition to an efficient, accurate background check system. This is a common-sense, cost-effective step we can and should take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat again that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don't.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates—who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in this effort. Protecting our nation's seniors and disabled deserves our full attention.

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. 958

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 ''Patient Abuse Prevention Act''.

SEC. 2. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) SCREENING OF SKILLED NURSING FACILITY AND NURSING FACILITY EMPLOYEE APPLICANTS.—

(1) MEDICARE PROGRAM.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following:

''(8) SCREENING OF SKILLED NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a skilled nursing facility worker, a skilled nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(6); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any skilled nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a provisional period of employment for a skilled nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to clauses

(iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a skilled nursing facility that—

''(I) knowingly continues to employ a skilled nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) SKILLED NURSING FACILITY WORKER.—The term 'skilled nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a skilled nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(2) MEDICAID PROGRAM.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a provisional period of employment for a nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the worker during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that a nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about a nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(8) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a nursing facility that—

''(I) knowingly continues to employ a nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) NURSING FACILITY WORKER.—The term 'nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(3) FEDERAL RESPONSIBILITIES.—

(A) DEVELOPMENT OF STANDARD FEDERAL AND STATE BACKGROUND CHECK FORM.—The Secretary of Health and Human Services, in consultation with the Attorney General and representatives of appropriate State agencies, shall develop a model form that an applicant for employment at a nursing facility may complete and Federal and State agencies may use to conduct the criminal background checks required under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section).

(B) PERIODIC EVALUATION.—The Secretary of Health and Human Services, in consultation with the Attorney General, periodically shall evaluate the background check system imposed under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section) and shall implement changes, as necessary, based on available technology, to make the background check system more efficient and able to provide a more immediate response to long-term care providers using the system.

(4) NO PREEMPTION OF STRICTER STATE LAWS.—Nothing in section 1819(b)(8) or 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)) (as so added) shall be construed to supersede any provision of State law that—

(A) specifies a relevant crime for purposes of prohibiting the employment of an individual at a long-term care facility (as defined in section 1128E(g)(6) of the Social Security Act (as added by section 3(f) of this Act) that is not included in the list of such crimes specified in such sections or in regulations promulgated by the Secretary of Health and Human Services to carry out such sections; or

(B) requires a long-term care facility (as so defined) to conduct a background check prior to employing an individual in an employment position that is not included in the positions for which a background check is required under such sections.

(5) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 941 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–585), as enacted into law by section 1(a)(6) of Public Law 106–554, sections 1819(b) and 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)), as amended by such section 941 (as so enacted into law) are each amended by redesignating the paragraph (8) added by such section as paragraph (9).

(b) FEDERAL AND STATE REQUIREMENTS CONCERNING BACKGROUND CHECKS.—

(1) MEDICARE.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

''(6) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO SKILLED NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the skilled nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(2) MEDICAID.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following:

''(8) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or

employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(c) APPLICATION TO OTHER ENTITIES PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES.—

(1) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

''SEC. 1897. (a) IN GENERAL.—The requirements of subsections (b)(8) and (e)(6) of section 1819 shall apply to any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services to an individual entitled to benefits under part A or enrolled under part B, including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C (in this section referred to as a 'medicare beneficiary').

''(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

''(1) IN GENERAL.—With respect to an entity that provides home health services, such entity shall be considered to have satisfied the requirements of section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the entity meets such requirements for supervision of provisional employees of the entity as the Secretary shall, by regulation, specify in accordance with paragraph (2).

''(2) REQUIREMENTS.—The regulations required under paragraph (1) shall provide the following:

''(A) Supervision of a provisional employee shall consist of ongoing, good faith, verifiable efforts by the supervisor of the provisional employee to conduct monitoring and oversight activities to ensure the safety of a medicare beneficiary.

''(B) For purposes of subparagraph (A), monitoring and oversight activities may include (but are not limited to) the following:

''(i) Follow-up telephone calls to the medicare beneficiary.

''(ii) Unannounced visits to the medicare beneficiary's home while the provisional employee is serving the medicare beneficiary.

''(iii) To the extent practicable, limiting the provisional employee's duties to serving only those medicare beneficiaries in a home or setting where another family member or resident of the home or setting of the medicare beneficiary is present.''.

(2) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (64), by striking ''and'' at the end;

(B) in paragraph (65), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (65) the following:

''(66) provide that any entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title XVIII), or long-term care services for which medical assistance is available under the State plan to individuals requiring long-term care complies with the requirements of subsections (b)(8) and (e)(8) of section 1919 and section 1897(b) (in the same manner as such section applies to a medicare beneficiary).''.

(3) EXPANSION OF STATE NURSE AIDE REGISTRY.—

(A) MEDICARE.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of skilled nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a skilled nursing facility employee of a resident in a skilled nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).'';

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility'';

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE'';

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(B) MEDICAID.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of an entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title XVIII), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a nursing facility employee of a resident in a nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).''; and

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility''; and

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE''; and

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(d) REIMBURSEMENT OF COSTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall reimburse nursing facilities, skilled nursing facilities, and other entities for costs incurred by the facilities and entities in order to comply with the requirements imposed under sections 1819(b)(8) and 1919(b)(8) of such Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)), as added by this section.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

''(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient's or resident's property.''.

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting '', and includes any individual of a long-term care facility or provider (other than any volunteer) that has access to a patient or resident of such a facility under an employment or other contract, or both, with the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, providing services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants)'' before the period.

(c) REPORTING BY LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) IN GENERAL.—Section 1128E(b)(1) of the Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(2) CORRECTION OF INFORMATION.—Section 1128E(c)(2) of the Social Security Act (42 U.S.C. 1320a–7e(c)(2)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(d) ACCESS TO REPORTED INFORMATION.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended by striking ''and health plans'' and inserting '', health plans, and long-term care facilities or providers''.

(e) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—Section 1128E(d) of the Social Security Act (42 U.S.C. 1320a–7e(d)) is amended by adding at the end the following:

''(3) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—A long-term care facility or provider shall check the database maintained under this section prior to hiring under an employment or other contract, or both, any individual as an employee of such a facility or provider who will have access to a patient or resident of the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, that will provide services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants).''.

(f) DEFINITION OF LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g) of the Social Security Act (42 U.S.C. 1320a–7e(g)) is amended by adding at the end the following:

''(6) LONG-TERM CARE FACILITY OR PROVIDER.—The term 'long-term care facility or provider' means a skilled nursing facility (as defined in section 1819(a)), a nursing facility (as defined in section 1919(a)), a home health agency, a provider of hospice care (as defined in section 1861(dd)(1)), a long-term care hospital (as described in section 1886(d)(1)(B)(iv)), an intermediate care facility for the mentally retarded (as defined in section 1905(d)), or any other facility or entity that provides, or is a provider of, long-term care services, home health services, or hospice care (including routine home care and other services included in hospice care under title XVIII), and receives payment for such services under the medicare program under title XVIII or the medicaid program under title XIX.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section, $10,200,000 for fiscal year 2003.

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management, and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by the Act shall take effect on the date that is 6 months after the effective date of final regulations promulgated to carry out this Act and such amendments.

By Mr. INHOFE (for himself, Mr. KYL, Mr. BURNS, Mr. THOMAS, and Mr. GRASSLEY):

S. 959. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INHOFE. Mr. President, as the Senate's only commercially licensed pilot, I rise today, along with my colleagues, Senator KYL, Senator BURNS, Senator THOMAS and Senator GRASSLEY, to introduce a bill that will help end age discrimination among airline pilots.

This bill will abolish the Federal Aviation Administration's, FAA, Age 60 Rule—the regulation that for 43 years has forced the retirement of airline pilots the day they turn 60—and replace it with a rational plan that raises the retirement age to 63 immediately and then incrementally increases the age limit to 65.

Most nations have abolished mandatory age 60 retirement rules. The United States is one of only two countries in the Joint Aviation Authorities that requires its commercial pilots to retire at the age of 60. Some countries, including Canada, Australia, and New Zealand have no upper age limit at all.

The Age 60 Rule has no basis in science or safety and never did. FAA data shows that pilots over age 60 are as safe as, and in some cases safer than, their younger colleagues. In 1981, the National Institute of Aging stated that ''the Age 60 Rule appears indefensible on medical grounds'' and ''there is no convincing medical evidence to support age 60, or any other specific age, for mandatory pilot retirement.''

This bill will allow our most experienced pilots—demonstrably healthy, and fit for duty—to retain their jobs, a step that will benefit pilots, the financially burdened airlines, and most importantly, passengers. Now, more than ever before, we need to keep our best pilots flying.

Again, there is no scientific justification for requiring pilots to retire at age 60. Our pilots, our airlines, and our passengers deserve our consideration. I urge the rest of my colleagues to support this important legislation.

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. 959

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

SECTION 1. LIMITATION ON AGE RESTRICTIONS.

Section 44703 of title 49, United States Code, is amended by adding at the end the following:

''(k) LIMITATION ON AGE RESTRICTIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may not, solely by reason of a person's age, if such person is 65 years of age or younger—

''(A) refuse to issue to, or renew for, such person an airman certificate for the operation of aircraft engaged in operations under part 121 or part 135 of title 14, Code of Federal Regulations; or

''(B) require an air carrier to terminate the employment of, or refuse to employ, such person as a pilot on such an aircraft owned or operated by the air carrier.

''(2) APPLICABILITY.—Paragraph (1) shall only apply to persons who have not reached the age of 64 as of the date of enactment of this subsection.''.

By Mr. AKAKA:

S. 960. A bill to amend the reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce legislation to authorize three important water reclamation projects in the State of Hawaii. In addition, this bill increases the amount authorized for the Federal share of the activities under P.L. 106–566, the Hawaii Water Resources Act of 2000.

The Hawaii Water Resources Act of 2000 was an important first step in addressing Hawaii's irrigation and water delivery systems. It allowed the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii. It also instructed the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes. In addition, the Act included Hawaii in the Bureau of Reclamation's wastewater reclamation program and extended drought relief programs to Hawaii. While this was an important beginning, more needs to be done, particularly since the Honolulu Board of Water Supply predicts that even with improved conservation methods, the island of Oahu will run out of potable water by 2018. This means that the use rate exceeds the recharge rate and Oahu residents and visitors will be ''mining'' for water. Even more disconcerting is the fact that Oahu will run out of fresh water by 2018. It is vitally important for the State of Hawaii to begin working on water reclamation projects.

This legislation authorizes three water reclamation projects. The first project, in Honolulu, will provide reliable potable water through resource diversification to meet existing and future demands, particularly in the Ewa area of Oahu where water demands are outpacing the availability of drinking water. The second project, in North Kona, will address the issue of effluent being discharged into a temporary disposal sump from the Kealakehe Wastewater Treatment Plant. The third project, in Lahaina, will reduce the use of potable water by extending the County of Maui's main recycled water pipeline. The legislation also authorizes an additional $1.7 million for the Bureau of Reclamation to complete its study of Hawaii's irrigation and water delivery systems. This is a challenging task as the Bureau is reviewing the water systems in the State.

I urge my colleagues to support this legislation which is vital to the people of Hawaii.

By Ms. MURKOWSKI:

S. 961. A bill to expand the scope of the HUBzone program to include difficult development areas; to the Committee on Small Business and Entrepreneurship.

Ms. MURKOWSKI. Mr. President, I rise today to introduce legislation to correct an inequity in the HUBzone contracting program administered by the Small Business Administration, SBA. This bill amends the criteria by which areas are designated as HUBzone under the Small Business Act by adding a new category designated as ''Difficult Development Areas.'' These ''Difficult Development Areas'' are already recognized by the Internal Revenue Service and the Department of Housing and Urban Development. For reasons I will explain, the businesses and people in the community of Ketchikan, AK have been wrongly denied participation in the HUBzone program. This bill will take care of that problem.

The current HUBzone qualifications have two tiers. The first is that the county in which a business seeking to participate in the program must not be located in a Metropolitan Statistical Area, MSA. The second level has three separate criteria. If an area meets any one of the second level criteria, it qualifies as a HUBzone area. One of the criteria simply relates to whether a business is located in an Indian Reservation. The other two are correlated to the characteristics of the resident population.

The first of the characteristic is that the area is not located in a metropolitan statistical area at the time of the most recent census. the second criterion is that the unemployment rate in the area is not less than 140 percent of the statewide average unemployment. In the case of Ketchikan, the community is not located in a metropolitan statistical area. In February of this year the Alaska statewide unemployment rate was 7.1 percent almost 2 percent higher than the national average. But Ketchian's preliminary unemployment rate for February is 11 percent and the reviewed rate for January was 11.9 percent. The Ketchikan figure currently exceeds the requirement. In June of 2002 the rate was 8.6 percent in the Ketchikan Gateway Borough in comparison to 7.4 percent statewide at that same time. But because of the timing of the compiling of the information by the Census Bureau, Ketchikan has been denied participation in the program although it routinely exceeds the statewide rate. The anomaly is that for a few short months in the summer Ketchikan does not exceed 140 percent of the statewide average due to the influx of workers from the area related to the tourism industry.

The SBA has the best intentions and understands the problems. However, the SBA has stated to me that nothing short of a legislative change can fix the problem. Part of the problem as I understand it is that the SBA's current use of the median income and unemployment rate criteria makes the assumption that the populations are relatively immobile. Further, the SBA criterion assumes that the area in question has a fully developed labor market. The criteria assume a community model more closely aligned to the traditional urban areas.

In Alaska, our largest community, Anchorage is rightfully not considered a HUBzone area. But the SBA's criteria based on the use of the Census Bureau statistics fails to accurately reflect the true unemployment and labor market in one place in particular in Alaska—Ketchikan. The program now uses a Qualified Census Tract.

Ketchikan is a small coastal community that was highly dependent on the timber industry which has been shut down as a result of changes in Federal policies and activities of the U.S. Forest Service. As a result, the population has become highly dependent on the tourism industry. Further, the labor pool is highly transient and leaves to collect unemployment after the summer tourist season is over.

The Census Bureau data taken when the summer population is higher and more fully employed does not reflect the reality of the area. As a result the Ketchikan Gateway Borough is not considered a HUBzone. There is a drydock and ship repair facility located in Ketchikan that could provide year round employment. But it cannot compete for government vessel repair contracts offered by the U.S. Coast Guard and the NOAA that have been set aside for HUBzone. These vessels operate in Alaska and could be better repaired near where they operate. Now they must leave the State and perhaps be out of service longer.

The bill adds a fourth area to qualify as a HUBzone. The Deptartment of Housing and Urban Development already has a program that recognizes not only the Qualified Census Tracts but also denotes a ''Non-metropolitan Difficult Development Area.'' The amendment simply adds this Difficult Development Area. Many of these areas already qualify as HUBzones under the prior three criteria. I have asked the SBA to advise me how much this would expand their program but in reality I expect the addition to be only a minor expansion of the HUBzone program. However small the change is, the change will be significant to the people and businesses located in Ketchikan, AK.

Mr. President, I ask unanimous consent that a copy 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. 961

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

SECTION 1. EXPANSION OF HUBZONE PROGRAM.

Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding after subclause (II) the following:

''(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986.''.

By Mrs. LINCOLN (for herself, Mr. ROCKEFELLER, Mr. BINGAMAN, and Mr. BREAUX):

S. 962. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand refundability of such credit, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to cosponsor legislation being introduced today that will dramatically improve the child tax credit. I thank my friend and colleague, Senator LINCOLN, for her hard work on behalf of our Nation's working families.

In the 6 years since the child tax credit was first enacted, it has provided important tax relief to families across the country. Income taxes can be particularly burdensome to moderate income families who are facing increased costs for food, housing, medicine, education, and other basic needs for their children. Indeed, almost half of the benefits of this credit are enjoyed by families with taxable income under $50,000 per year. This is important in States like mine; in West Virginia, almost 80 percent of the taxpayers have annual incomes below $50,000.

While the current child tax credit is excellent—it could be even better. The $600 credit, which is available only for children under the age of 17, does not truly recognize the costs that face many families raising children. Moreover, many working families do not have enough income to qualify for the credit. Make no mistake, I am talking about hard-working parents who go to

their jobs every day and take their responsibilities to their children very seriously. These parents are paying payroll taxes, but cannot provide for some of the basic needs of their children. The legislation introduced today would improve the law so that a greater portion of the child tax credit could be refunded to these admirable parents.

Specifically, this legislation includes two important improvements to the current child tax credit that will benefit all families who claim the credit. First, the legislation would increase the amount of the tax credit from $600 to $1,000 immediately. Second, the bill increases the age of children who are eligible for the credit from 16 to 18. We know that 17- and 18-year-old children are facing enormous educational expenses in order to attend college or technical school. We ought to help parents pay for this education by allowing them to continue to receive the child tax credit until their child is a legal adult. The bill also includes two important improvements to the eligibility criteria for the refundable credit. By lowering the income threshold for the refundable credit and increasing the percentage of income eligible for the refundable credit, we can ensure that more of the families most in need of assistance can benefit from this credit.

The child tax credit is one of the most important ways that Congress can demonstrate its support for America's families. And I hope that my colleagues will support this legislation which would dramatically improve the child tax credit.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 963. A bill to require the Commandant of the Coast Guard to convey the United States Coast Guard Cutter *Bramble*, upon its decommissioning, to the Port Huron Museum of Arts and History, Port Huron, Michigan, for use for education and historical display, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. STABENOW. Mr. President, I rise today to speak on behalf of a bill I am introducing to turn the historic United States Coast Guard Cutter *Bramble*, into a floating maritime museum in Port Huron, MI, after she is decommissioned later this year.

Once you hear the history of the *Bramble*, I am sure you will all agree that not only should she be preserved, but the Port Huron Museum of Arts and History will be able to provide the ideal home.

The *Bramble* has been part of many important missions since it was first launched on October 23, 1943.

But—along with her sister ships, *Spar* and *Storis*—the *Bramble* is best known for being part of the first mission by United States vessels to steam from the Pacific Ocean to the Atlantic Ocean via the Northwest Passage. Upon completing this mission, *Bramble* and her sister ships went on to become the first to circumnavigate the North American continent—a dream of sailors for more than 400 years.

The *Bramble* set out on this historic mission from Miami, Florida, on May 24, 1957. Steaming through the Panama Canal to the Pacific Ocean, the *Bramble* then headed to Seattle.

On July 1, 1957, the *Bramble* left Seattle and headed toward the Atlantic Ocean via the Bering Straights and the Arctic Ocean. Sixty-four days and 4,500 miles later, the *Bramble* and her sister ships reached the Atlantic and on December 2, 1957, she tied up again in Miami—completing the first circumnavigation of the North American continent.

For that reason alone, the *Bramble* would be worth saving as a museum of maritime history.

But over her 60 year history, the *Bramble* has seized tons of illegal drugs, saved hundreds of lives in search and rescue missions, helped train maritime police in 10 Caribbean nations, maintained buoys and other aids to navigation, performed icebreaking duties in the Great Lakes and been the recipient of numerous awards, service ribbons and commendations.

The *Bramble* also has a long history with Michigan and Port Huron and that is why I believe my State would make an excellent home once this historic ship is retired.

The *Bramble* first came to Detroit, MI, in 1962, where she performed search and rescue, icebreaking, law enforcement and navigation missions throughout the Great Lakes.

Since 1975, the *Bramble*'s homeport has been Port Huron. And that is where I think she should stay after she is decommissioned.

The Coast Guard motto is Semper Paratus—or Always Ready.

For 60 years the *Bramble* has been there—always ready to serve our country in waters close to home and far away.

And I believe that as a museum of maritime history, she can continue serving us for years to come—still Semper Paratus—still Always Ready.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 963

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

SECTION 1. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER BRAMBLE.

(a) IN GENERAL.—Upon the scheduled decommissioning of the United States Coast Guard Cutter BRAMBLE (WLB 406), the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to the Port Huron Museum of Arts and History, a nonprofit corporation organized under the laws of the State of Michigan, located in Port Huron, Michigan, without consideration, if—

(1) the Museum agrees—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the United States harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel under this subsection, except for claims arising from the use by the United States under subparagraph (C);

(2) the Museum has funds available, in the form of cash, liquid assets, or a written loan commitment, in the amount of at least $700,000 that the Museum agrees to commit to operate and maintain the vessel in good working condition; and

(3) the Museum agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practicable, and subject to other Coast Guard mission requirements, maintain the integrity of the vessel and its equipment until the delivery to the Museum.

(c) DELIVERY.—If a conveyance of the United States Coast Guard Cutter BRAMBLE is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the United States.

(d) CONVEYANCE NOT A DISTRIBUTION IN COMMERCE.—The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the Museum any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the operability and function of the United States Coast Guard Cutter BRAMBLE as an historical display.

By Mr. LOTT (for himself and Mr. ROCKEFELLER):

S. 964. A bill to reauthorize the essential air service program under chapter 471 of title 49, United States Code, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LOTT. 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. 964

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 Community and Rural Air Service Revitalization Act of 2003''.

SEC. 2. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.

Section 41742(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service under this subchapter, $113,000,000 for each of fiscal years 2004 through 2007, $50,000,000 of which for each such year shall be derived from amounts received by the Federal Aviation Administration credited to the account established under section 45303

of this title or otherwise provided to the Administration.''.

SEC. 3. INCENTIVE PROGRAM.

(a) IN GENERAL.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

''Sec. 41781. Purpose.
''Sec. 41782. Marketing program.
''Sec. 41783. State marketing assistance.
''Sec. 41784. Definitions.
''Sec. 41785. Authorization of appropriations.

''§ 41781. Purposes

''The purposes of this subchapter are—

''(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

''(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

''(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

''§ 41782. Marketing program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible essential air service communities receiving assistance under subchapter II under which the airport sponsor in such a community may receive a grant of not more than $50,000 to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

''(b) MATCHING REQUIREMENT; SUCCESS BONUSES——

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with the marketing plan shall come from non-Federal sources. For purposes of this paragraph—

''(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

''(B) State or local matching contributions may not be derived, directly or indirectly, from Federal funds, but the use by a state or local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

''(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

''(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

''§ 41783. State marketing assistance

The Secretary of Transportation may provide up to $50,000 in technical assistance to any State within which an eligible essential air service community is located for the purpose of assisting the State and such communities to develop methods to increase boardings in such communities. At least 10 percent of the costs of the activity with which the assistance is associated shall come from non-Federal sources, including contributions in kind.

''§ 41784. Definitions

''In this subchapter:

''(1) ELIGIBLE PLACE.—The term 'eligible place' has the meaning given that term in section 41731(a)(1).

''(2) ELIGIBLE ESSENTIAL AIR SERVICE COMMUNITY.—The term 'eligible essential air service community' means an eligible place that—

''(A) submits an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including a detailed marketing plan, or specifications for the development of such a plan, to increase average boardings, or the level of passenger usage, at its airport facilities; and

''(B) provides assurances, satisfactory to the Secretary, that it is able to meet the non-Federal funding requirements of section 41782(b)(1).

''(3) PASSENGER BOARDINGS.—The term 'passenger boardings' has the meaning given that term by section 47102(10).

''(4) SPONSOR.—The term 'sponsor' has the meaning given that term in section 47102(19).

''§ 41785. Authorization of appropriations

''There are authorized to be appropriated to the Secretary of Transportation $12,000,000 for each of fiscal years 2004 through 2007, not more than $200,000 per year of which may be used for administrative costs.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41767 the following:

''SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

''41781. Purpose.
''41782. Marketing program.
''41783. State marketing assistance.
''41784. Definitions.
''41785. Authorization of appropriations.''.

SEC. 4. PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''§ 41745. Other pilot programs

''(a) IN GENERAL.—If the entire amount authorized to be appropriated to the Secretary of Transportation by section 41785 is appropriated for fiscal years 2004 through 2007, the Secretary of Transportation shall establish pilot programs that meet the requirements of this section for improving service to communities receiving essential air service assistance under this subchapter or consortia of such communities.

''(b) PROGRAMS AUTHORIZED.—

''(1) COMMUNITY FLEXIBILITY.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which the airport sponsor of an airport serving the community or consortium may elect to forego any essential air service assistance under preceding sections of this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the annual essential air service assistance received for the most recently ended calendar year. Under the program, and notwithstanding any provision of law to the contrary, the Secretary shall make a grant to each participating sponsor for use by the recipient for any project that—

''(A) is eligible for assistance under chapter 471;

''(B) is located on the airport property; or

''(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

''(2) EQUIPMENT CHANGES.—

''(A) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which, upon receiving a petition from the sponsor of the airport serving the community or consortium, the Secretary shall authorize and request the essential air service provider for that community or consortium to use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment. Before granting any such petition, the Secretary shall determine that passenger safety would not be compromised by the use of such smaller equipment.

''(B) ALTERNATIVE SERVICES.—For any 3 aiport sponsors participating in the program established under subparagraph (A), the Secretary may establish a pilot program under which—

''(i) the Secretary provides 100 percent Federal funding for reasonable levels of alternative transportation services from the eligible place to the nearest hub airport or small hub airport;

''(ii) the Secretary will authorize the sponsor to use its essential air service subsidy funds provided under preceding sections of this subchapter for any airport-related project that would improve airport facilities; and

''(iii) the sponsor may make an irrevocable election to terminate its participation in the pilot program established under this paragraph after 1 year.

''(3) COST-SHARING.—The Secretary shall establish a pilot program under which the sponsors of airports serving a community or consortium of communities share the cost of providing air transportation service greater than the basic essential air service provided under this subchapter.

''(4) EAS LOCAL PARTICIPATION PROGRAM.—

''(A) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 3-year period.

''(B) DESIGNATION OF COMMUNITIES.—

''(i) IN GENERAL.—The Secretary may not designate any community under this paragraph unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

''(ii) ONE COMMUNITY PER STATE.—The Secretary may not designate—

''(I) more than 1 community per State under this paragraph; or

''(II) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program.

''(C) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this paragraph based on—

''(i) the airport sponsor's ability to pay; or

''(ii) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

''(D) NON-FEDERAL SHARE.—

''(i) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, pre-purchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

''(ii) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

''(E) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this paragraph affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this paragraph may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

''(i) without regard to any limitation on the number of communities that may participate in that program; and

''(ii) without reducing the number of other communities that may participate in that program.

''(F) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

''(i) the economic condition of communities designated under this paragraph before their designation;

''(ii) the impact of designation under this paragraph on such communities at the end of each of the 3 years following their designation; and

''(iii) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this paragraph.

''(c) CODE-SHARING.—Under the pilot program established under subsection (a), the Secretary is authorized to require air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports (as defined in section 41731(a)(3)) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services. The Secretary may not require air carriers to participate in such arrangements under this subsection for more than 10 such communities.

''(d) TRACK SERVICE.—The Secretary shall require essential air service providers to track changes in service, including on-time arrivals and departures.

''(e) ADMINISTRATIVE PROVISIONS.—In order to participate in a pilot program established under this section, the airport sponsor for a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41744 the following:

''41745. Other pilot programs''.

SEC. 5. EAS PROGRAM AUTHORITY CHANGES.

(a) RATE RENEGOTIATION.—If the Secretary of Transportation determines that essential air service providers are experiencing significantly increased costs of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may increase the rates of compensation payable under that subchapter within 30 days after the date of enactment of this Act without regard to any agreements or requirements relating to the renegotiation of contracts. For purposes of this subsection, the term ''significantly increased costs'' means an average monthly cost increase of 10 percent or more.

(b) RETURNED FUNDS.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy needs for essential air service under that subchapter shall remain available to the Secretary and may be used by the Secretary under that subchapter to increase the frequency of flights at that airport.

(c) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.—Section 41743(h) of such title is amended by striking ''an airport'' and inserting ''each airport''.

Mr. ROCKEFELLER. Mr. President, the continuing economic crisis facing the U.S. airline industry also imperils the future of hundreds of small and rural communities across our country as air carriers drastically reduce service to small and rural communities. While small and rural communities have long had to cope with limited and unreliable service, these problems have been exacerbated by the weakened financial condition of most major U.S. airlines.

Faced with declining revenues brought on by the Nation's economic downturn, the events of September 11, 2001 and the war in Iraq most carriers have substantially reduced or eliminated service to many communities. In the last month, United Air Lines, US Airways and Continental Airlines announced significant service cuts to West Virginia.

Last month, this Congress provided $3.5 billion in direct and indirect benefits to the Nation's airlines. I strongly supported this package because our economy requires a strong and vibrant airline industry. In my own aviation relief package, I had provided resources to the airlines to continue to provide air service to small and rural communities. Even in the best of times, these communities face a difficult time maintaining and developing new air service options. Today, their challenge is preventing the complete loss of air service. In these difficult economic and uncertain times, I strongly believe that the Federal Government must continue to assist our most vulnerable communities stay connected to the Nation's aviation network—a network paid for by all Americans.

The reduction or elimination of air service had a devastating effect on the economy of a community. Having adequate air service is not just a matter of convenience, but a matter of economic survival. Without access to reliable air service, no business is willing to locate their operations in these areas of the country no matter how attractive the quality of life. Airports are economic engines that attract critical new development opportunities and jobs.

West Virginia has been able to attract firms from around the world because corporate executives know they can visit their operations with ease. Rural and small town America must continue to be adequately linked to the Nation's air transportation network if its people and businesses are to compete economically with larger urban areas in this country and around the world.

In the Aviation Investment and Reform Act for the 21st Century, we began to address the need to improve air service in small and rural communities. I, along with many of my colleagues, supported the creation of the Small Community Air Service Development Pilot Program, a competitive grant program to provide communities with the resources they needed to attract new air service to their communities. The program is an enormous success. Over 180 communities applied for 40 grants in the first year funds were available. The Department of Transportation has announced the next round of funding.

In West Virginia, Charleston received money under the program and has used it to successfully attract a new service connection to Houston, an important gateway to the markets of Latin America. This program gave local communities the ability and flexibility to meet local air transportation needs.

The Aviation Investment and Revitalization Vision Act, cosponsored by myself and Senator LOTT, reauthorizes the expands the successful Small Community Air Service Development Program. The bill authorizes the participation of 120 communities over 3 years.

Many of our most isolated and vulnerable communities whose only service is through the Essential Air Service Program have indicated that they would like to develop innovative and flexible programs that communities who received Small Community Air Service Development grants to improve the quality of their air service.

It is for this reason that I, along with Senator LOTT, have introduced the Small Community and Rural Air Service Revitalization Act of 2003. The legislation reauthorizes the Department of Transportation's Essential Air Service, EAS, program and creates a series of pilot programs for EAS communities to participate to stimulate passenger demand for air service in their communities.

Under the bill, communities are given the option on continuing their EAS as is or they may apply to participate in new incentive programs to help them develop new and innovative solutions to increasing local demand for air

service. The EAS Marketing and Community Flexibility Programs would provide communities new resources and tools to implement locally developed plans to improve their air service. By providing communities the ability to design their own air service proposals, a community has the ability to develop a plan that meets it locally determined needs, improves air service choices, and gives the community a greater stake in the EAS program.

Specifically, these new EAS pilot programs include authorization for the use of smaller planes to decrease cost or increase frequency, communities to cost-share for service above base EAS subsidy level, alternative service at up to 3 EAS points if a community applies, an opt out of the EAS program with a one-time infusion of funding to assist in transition out of the program, and DOT to mandate multiple codesharing arrangements for EAS providers.

A pilot program added at the request of Senator LOTT would allow DOT to require a cost-share for up to 10 communities within 100 miles of a hub. I have significant reservations about forcing communities to pay for a service the Federal Government promised them.

In addition, the communities that participate in EAS are small and isolated and have lower than average per captia incomes than urban or suburban communities. Cash-strapped communities will have to provide anywhere between $50,000 and $120,000 in local funds to continue their EAS service. I worked with Senator LOTT to make sure DOT considers a variety of relevant factors when selecting communities, to provide communities appeal rights, and to make sure they have access to all other pro-active pilot programs. I will monitor DOT's implementation of this pilot program closely.

Small and rural communities are the first to bear the brunt of bad economic times and the last to see the benefits of good times. The general economic downturn and the dire straits of the aviation industry have placed exceptional burdens on air service to our most isolated communities. The Federal Government must provide additional resources and tools for small communities to help themselves attract adequate air service. The Federal Government must make sure that our most vulnerable towns and cities are linked to the rest of the Nation. My legislation builds on existing programs and strengthens them. If these bills are enacted, our constituents will have the tools and resources necessary to attract air service, related economic development, and most importantly expand their connections to the national and global economy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 126—COMMENDING THE UNIVERSITY OF MINNESOTA GOLDEN GOPHERS FOR WINNING THE 2002–2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I NATIONAL COLLEGIATE MEN'S ICE HOCKEY CHAMPIONSHIP

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 126

Whereas on Saturday, April 12, 2003, the defending NCAA Division I National Collegiate Men's Ice Hockey Champions, the University of Minnesota Golden Gophers, won the National Championship for the second straight year;

Whereas the University of Minnesota defeated the University of New Hampshire in the championship game by the score of 5 to 1, having defeated the University of Michigan 3 to 2 in overtime in the semifinals;

Whereas the Golden Gophers reached the 56th Annual Frozen Four by defeating Mercyhurst College 9 to 2 and Ferris State University 7 to 4;

Whereas the University of Minnesota received an automatic bid to the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Tournament by defeating Colorado College 4 to 2 in the Western Collegiate Hockey Association Tournament Championship;

Whereas the Golden Gophers became the first repeat NCAA National Collegiate Men's Ice Hockey Champion in 31 years;

Whereas the University of Minnesota won their fifth NCAA National Collegiate Men's Ice Hockey title;

Whereas the team displayed academic excellence by maintaining an average grade point average above the university-wide average; and

Whereas all the team's players showed dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Golden Gophers for winning the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Minnesota for appropriate display, and to transmit an enrolled copy of this resolution to every coach and member of the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Championship Team.

SENATE RESOLUTION 127—EXPRESSING THE SENSE OF THE SENATE THAT THE SECRETARY OF AGRICULTURE SHOULD REDUCE THE INTEREST RATE ON LOANS TO PROCESSORS OF SUGAR BEETS AND SUGARCANE BY 1 PERCENT TO A RATE EQUAL TO THE COST OF BORROWING TO CONFORM TO THE INTENT OF CONGRESS

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 127

Whereas section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) established the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation at 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995;

Whereas the interest rate formula in effect on October 1, 1995, for agricultural commodity loans reflected the interest rate charged to the Commodity Credit Corporation by the Treasury for the applicable month;

Whereas the interest rate charged to the Commodity Credit Corporation by the Treasury for a month is based on the 4- to 5-week average price of 1-year constant maturity securities sold on the market by the Treasury in the previous month;

Whereas the Commodity Credit Corporation had used such cost of borrowing interest rates for all commodity loans since January 1, 1982, and this practice was understood by Congress when enacting section 163 of the Federal Agriculture Improvement and Reform Act of 1996;

Whereas section 1401(c)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) amended section 163 of the Federal Agriculture Improvement and Reform Act of 1996 to provide that raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 156 of that Act (7 U.S.C. 7272) shall not be considered an agricultural commodity for the purposes of section 163 of that Act;

Whereas Congress intended that loans to processors of sugar be exempted from the 100-basis point surcharge and that the loans should be subject to interest at the rate that is charged to the Commodity Credit Corporation by the Treasury for the applicable month;

Whereas, during deliberations on the Farm Security and Rural Investment Act of 2002, the Congressional Budget Office estimated the cost of eliminating the interest rate surcharge on loans to processors of sugar at $5,000,000 per year in reduced revenues and Congress enacted the amendment to section 163 of the Federal Agriculture Improvement and Reform Act of 1996 with this understanding of its purpose and effect;

Whereas the final regulations of the Commodity Credit Corporation to implement the sugar loan program recognized that the amendment of section 163 of the Federal Agriculture Improvement and Reform Act of 1996 by section 1401(c)(2) of the Farm Security and Rural Investment Act of 2002 eliminated the requirement that the Commodity Credit Corporation add 1 percentage point to the interest rate as calculated by the procedure in place prior to October 1, 1995; and

Whereas the Commodity Credit Corporation regulations require that a loan to a processor of sugar beets or sugarcane be subject to interest at rates equal to those applicable to all other agricultural commodities, including the 100-basis point surcharge, notwithstanding the clear intent of Congress in enacting section 1401(c)(2) of the Farm Security and Rural Investment Act of 2002: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should reduce the interest rate on loans to processors of sugar beets and sugarcane by 100 basis points to a rate equal to the cost of borrowing from the Treasury to conform to the

intent of Congress in enacting the Farm Security and Rural Investment Act of 2002 (Public Law 107–171).

SENATE RESOLUTION 128—TO COMMEND SALLY GOFFINET ON THIRTY-ONE YEARS OF SERVICE TO THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 128

Whereas Sally Goffinet became an employee of the United States Senate in 1972, and has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate;

Whereas Sally Goffinet created the position of Parliamentary Assistant in the Parliamentarian's Office in the Office of the Secretary of the Senate;

Whereas Sally Goffinet has ably assisted the last four Senate Parliamentarians in a host of clerical, administrative and substantive matters;

Whereas Sally Goffinet has faithfully discharged the difficult duties and responsibilities of Parliamentary Assistant of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas she has earned the respect, affection, and esteem of the United States Senate; and

Whereas Sally Goffinet will retire from the United States Senate on April 30, 2003, with 31 years of Service to the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Sally Goffinet for her exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for her long, faithful, and outstanding service.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sally Goffinet.

SENATE RESOLUTION 129—RECOGNIZING AND COMMENDING THE MEMBERS OF THE NAVY AND MARINE CORPS WHO SERVED IN THE U.S.S. ''*ABRAHAM LINCOLN*'' AND WELCOMING THEM HOME FROM THEIR RECENT MISSION ABROAD

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 129

Whereas the U.S.S. Abraham Lincoln (CVN–72) is the fifth Nimitz-class aircraft carrier of the United States and has its homeport at Naval Station Everett in Washington;

Whereas the U.S.S. Abraham Lincoln serves as home to 5,000 brave members of the Navy and Marine Corps and carries approximately 70 combat and support aircraft;

Whereas the U.S.S. Abraham Lincoln is scheduled to return to its homeport on May 6, 2003, after nearly ten months on deployment in support of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Southern Watch;

Whereas the deployment of the U.S.S. Abraham Lincoln was the longest for a nuclear-powered aircraft carrier since 1973;

Whereas in December 2002, the U.S.S. Abraham Lincoln completed a six-month deployment in the Persian Gulf conducting operations in support of the Global War on Terrorism and was returning to its homeport when it was ordered back to the Persian Gulf in January 2003 to support what was to become Operation Iraqi Freedom;

Whereas during the nearly ten-month deployment of the U.S.S. Abraham Lincoln, there were 12,700 takeoffs and trap landings and 16,500 sorties from the U.S.S. Abraham Lincoln, 265,118 pounds of ordinance were expended from the U.S.S. Abraham Lincoln during Operation Enduring Freedom and Operation Southern Watch, and 1,600,000 pounds of ordinance were expended from U.S.S. Abraham Lincoln during Operation Iraqi Freedom;

Whereas the deployment of the U.S.S. Abraham Lincoln featured numerous firsts, including the first use of the Super Hornet and the first operational availability of the ''Man Overboard Indicator'' onboard the U.S.S. Abraham Lincoln; and

Whereas the citizens of the City of Everett, the County of Snohomish, the State of Washington, and the United States are proud of the members of the Navy and Marine Corps who serve on the U.S.S. Abraham Lincoln: Now, therefore, be it

Resolved, That the Senate recognizes and commends the members of the Navy and Marine Corps who serve on the U.S.S. Abraham Lincoln (CVN–72) and welcomes them home from their recent mission abroad.

SENATE CONCURRENT RESOLUTION 40—DESIGNATING AUGUST 7, 2003, AS ''NATIONAL PURPLE HEART RECOGNITION DAY''

Mrs. CLINTON (for herself and Mr. HAGEL) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 40

Whereas the Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force, or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force, or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit, or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary war, but was revived out of respect for the memory and military achievements of George Washington in 1932, the 200th anniversary of his birth; and

Whereas the designation of August 7, 2003, as ''National Purple Heart Recognition Day'' is a fitting tribute to General Washington, and to the over 1,535,000 recipients of the Purple Heart Medal, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates August 7, 2003, as ''National Purple Heart Recognition Day'';

(2) encourages all Americans to learn about the history of the Order of the Purple Heart for Military Merit and to honor its recipients; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for the Order of the Purple Heart for Military Merit.

SENATE CONCURRENT RESOLUTION 41—DIRECTING CONGRESS TO ENACT LEGISLATION BY OCTOBER 2005 THAT PROVIDES ACCESS TO COMPREHENSIVE HEALTH CARE FOR ALL AMERICANS

Mr. KENNEDY (for himself, Mr. CORZINE, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 41

Whereas the United States has the most expensive health care system in the world in terms of absolute costs, per capita costs, and percentage of gross domestic product (GDP);

Whereas despite being first in spending, the World Health Organization has ranked the United States 37th among all nations in terms of meeting the needs of its people;

Whereas 42,000,000 Americans, including 8,000,000 children, are uninsured;

Whereas tens of millions more Americans are inadequately insured, including medicare beneficiaries who lack access to prescription drug coverage and long term care coverage;

Whereas racial, income, and ethnic disparities in access to care threaten communities across the country, particularly communities of color;

Whereas health care costs continue to increase, jeopardizing the health security of working families and small businesses;

Whereas dollars that could be spent on health care are being used for administrative costs instead of patient needs;

Whereas the current health care system too often puts the bottom line ahead of patient care and threatens safety net providers who treat the uninsured and poorly insured; and

Whereas any health care reform must ensure that health care providers and practitioners are able to provide patients with the quality care they need: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress shall enact legislation by October 2005 to guarantee that every person in the United States, regardless of income, age, or employment or health status, has access to health care that—

(1) is affordable to individuals and families, businesses and taxpayers and that removes financial barriers to needed care;

(2) is as cost efficient as possible, spending the maximum amount of dollars on direct patient care;

(3) provides comprehensive benefits, including benefits for mental health and long term care services;

(4) promotes prevention and early intervention;

(5) includes parity for mental health and other services;

(6) eliminates disparities in access to quality health care;

(7) addresses the needs of people with special health care needs and underserved populations in rural and urban areas;

(8) promotes quality and better health outcomes;

(9) addresses the need to have adequate numbers of qualified health care caregivers, practitioners, and providers to guarantee timely access to quality care;

(10) provides adequate and timely payments in order to guarantee access to providers;

(11) fosters a strong network of health care facilities, including safety net providers;

(12) ensures continuity of coverage and continuity of care;

(13) maximizes consumer choice of health care providers and practitioners; and

(14) is easy for patients, providers and practitioners to use and reduces paperwork.

Mr. KENNEDY. Mr. President, I submit this measure today to call attention to one of the most serious injustices in our country. 42 million Americans lack access to quality, affordable health care because they have no health insurance. Most of these Americans work in full-time jobs, but still cannot afford the high cost of health care. As a result, hospital emergency rooms are their only doctor. They face impossible choices in paying for the medicine they need on top of paying the rent, or putting food on the table. As a result, they die younger. Yet, the richest and most powerful Nation in the world looks the other way.

For half a century, the United States has led the world in scientific and medical advances. We have more Nobel Prize winners in medicine than any other Nation. We were the first to successfully decode the entire human genome. And yet, we cannot see that every American child gets vaccinated against deadly and disabling diseases. We fail to guarantee that all Americans can obtain the medical treatments that could save their lives.

Every year, 8 million uninsured Americans fail to take their medications because they can't afford to pay for their prescriptions. 300,000 children with asthma never get treated by a doctor. Uninsured women diagnosed with breast cancer are 50 percent more likely to die from the disease, because their cancer is diagnosed too late. 32,000 Americans with heart disease go without life-saving bypass surgery or other treatments.

And the problem is getting worse. For most of the past 16 years, the number of people without health insurance has increased. Now, when our economy is weak, health care costs are rising at double-digit rates. People are losing jobs and their health insurance too. States are cutting back on Medicaid care for the poor. If we do nothing, the number of uninsured could reach more than 52 million by 2010. Clearly, the time to act is now.

We must pass legislation to ensure that every man, woman, and child in the United States has access to high quality, affordable health care. And we must do it soon.

Some say we cannot afford the cost of covering the uninsured. But as a country, we are already paying the much higher costs of failing to provide good care for all. We pay for it when we fail to detect cancer early by using the preventive screening that we know is effective. We pay for it in every person with diabetes who becomes blind because of a disease we know how to control. We pay for it by failing to give every child the same opportunity for good health and a productive life.

We know that the battle for affordable health care has never been easy. But to solve this problem, we must commit to working together to find a solution. That is why I am submitting this resolution. This measure does not endorse a specific plan to cover the uninsured, but it does state unequivocally that universal health care is our goal, and it sets a time for Congress to get the job done.

A similar resolution has already been submitted in the House of Representatives and has received the strong support of our 470 organizations, including many groups representing patients, health providers, and faith-based organizations.

Democrats are leading the charge in Congress in the fight for quality health care for all Americans—and, as Congressman GEPHARDT has shown with his recent proposal, Democrats are prepared to take this issue to the White House as well.

I urge my colleagues to join in supporting this resolution to enact bipartisan legislation to provide health care for all Americans by the end of the year 2005. Perhaps we can do it earlier, but at least we are setting a realistic goal—the end of the first session of the Congress elected in 2004. The time is long overdue for the United States of America to join the rest of the industrial world in recognizing this fundamental right.

AMENDMENTS SUBMITTED & PROPOSED

SA 532. Mr. ALLEN (for himself, Mr. HOLLINGS, and Mr. MCCAIN) proposed an amendment to the bill S. 196, to establish a digital and wireless network technology program, and for other purposes.

TEXT OF AMENDMENTS

SA 532. Mr. ALLEN (for himself, Mr. HOLLINGS, and Mr. MCCAIN) proposed an amendment to the bill S. 196, to establish a digital and wireless network technology program, and for other purposes; as follows:

On page 2, strike lines 2 and 3, and insert the following:

This Act may be cited as the ''Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003''.

On page 2, line 6, insert ''Minority Serving Institution'' before ''Digital''.

On page 2, line 7, strike ''Network''.

On page 3, strike lines 1 through 5, and insert the following:

(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;

On page 3, line 18, after ''development'' insert ''in science, mathematics, engineering, or technology''.

On page 4, line 18, after ''accept'' insert ''and review''.

On page 4, line 24, strike ''section 3.'' and insert ''section 3, and for reviewing and evaluating proposals submitted to the program.''.

On page 5, line 7, after ''issues.'' insert ''Any panel assembled to review a proposal submitted to the program shall include members from minority serving institutions. Program review criteria shall include consideration of—

(1) demonstrated need for assistance under this Act; and

(2) diversity among the types of institutions receiving assistance under this Act.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 30, 2003, at 9:30 a.m., on the Fire Research Act in SR–253

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. TALENT. 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 Wednesday, April 30, 2003, at 10 a.m., to consider comprehensive energy legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 30, 2003, at 10 a.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 30, 2003, at 2:30 p.m., to hold a hearing on ''U.S. Energy Security: Russia and the Caspian.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. TALENT. Mr. President, I ask unanimous consent thta the Committee on Indian affairs be authorized to meet on Wednesday, April 30, 2003, at 2 p.m., in room 485 of the Russell Senate Office Building to conduct a hearing on S. 519, the Native American Capital Formation and Economic Development Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Wednesday, April 30, 2003, at 10 a.m., in the Dirksen Senate Office Building Room 226.

Panel I: [Senators].

Panel II: John G. Roberts, Jr., to be United States Circuit Judge for the District of Columbia Circuit.

Panel III: David G. Campbell to be United States District Judge for the District of Arizona, and S. Maurice Hicks, Jr., to be United States District Judge for the Western District of Louisiana.

Panel IV: William Emil Moschella to be Assistant Attorney General, Office of Legislative Affairs, United States Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a roundtable entitled ''SBA Re-Authorization: Credit Program, Part I,'' and other matters on Wednesday, April 30, 2003, beginning at 9:30 a.m., in Room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Mr. President, I ask unanimous consent that Katie Pass of my staff be permitted the privilege of the floor during my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDING SALLY GOFFINET

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 128 which was submitted earlier today by majority leader FRIST and minority leader DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 128) to commend Sally Goffinet on Thirty-One Years of Service to the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 128) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 128

Whereas Sally Goffinet became an employee of the United States Senate in 1972, and has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate;

Whereas Sally Goffinet created the position of Parliamentary Assistant in the Parliamentarian's Office in the Office of the Secretary of the Senate;

Whereas Sally Goffinet has ably assisted the last four Senate Parliamentarians in a host of clerical, administrative and substantive matters;

Whereas Sally Goffinet has faithfully discharged the difficult duties and responsibilities of Parliamentary Assistant of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas she has earned the respect, affection, and esteem of the United States Senate; and

Whereas Sally Goffinet will retire from the United States Senate on April 30, 2003, with 31 years of Service to the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Sally Goffinet for her exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for her long, faithful, and outstanding service.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sally Goffinet.

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126 which was submitted earlier today by Senators COLEMAN and DAYTON.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 126) commending the University of Minnesota Golden Gophers for winning the 2002–2003 National Collegiate Athletic Association Division I National Collegiate Men's Ice Hockey Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 126) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 126

Whereas on Saturday, April 12, 2003, the defending NCAA Division I National Collegiate Men's Ice Hockey Champions, the University of Minnesota Golden Gophers, won the National Championship for the second straight year;

Whereas the University of Minnesota defeated the University of New Hampshire in the championship game by the score of 5 to 1, having defeated the University of Michigan 3 to 2 in overtime in the semifinals;

Whereas the Golden Gophers reached the 56th Annual Frozen Four by defeating Mercyhurst College 9 to 2 and Ferris State University 7 to 4;

Whereas the University of Minnesota received an automatic bid to the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Tournament by defeating Colorado College 4 to 2 in the Western Collegiate Hockey Association Tournament Championship;

Whereas the Golden Gophers became the first repeat NCAA National Collegiate Men's Ice Hockey Champion in 31 years;

Whereas the University of Minnesota won their fifth NCAA National Collegiate Men's Ice Hockey title;

Whereas the team displayed academic excellence by maintaining an average grade point average above the university-wide average; and

Whereas all the team's players showed dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Golden Gophers for winning the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Minnesota for appropriate display, and to transmit an enrolled copy of this resolution to every coach and member of the 2002–2003 NCAA Division I National Collegiate Men's Ice Hockey Championship Team.

CONGRATULATING THE U.S. CAPITOL POLICE ON THE OCCASION OF ITS 175TH ANNIVERSARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 156.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 156) extending congratulations to the United States Capitol Police on the occasion of its 175th anniversary and expressing gratitude to the men and women of the United States Capitol Police and their families for their devotion to duty and service in safeguarding the freedoms of the American people.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (H. Con. Res. 156) was agreed to.

The preamble was agreed to.

Mr. REID. Mr. President, I believe I am the only former Capitol Policeman serving in the Senate. I am quite sure that is true. I didn't serve 175 years ago, although it seems like it. I have great affection and a real soft spot in my heart for the Capitol Police, having been a former Capitol Policeman.

The men and women of the Capitol Police today are different than during the years I served. Now they do very extraordinary things in protecting this beautiful Capitol, the employees here, the tourists, and the Members of the Senate. When I was a Capitol Policeman, the most dangerous thing I did was direct traffic. I didn't have their qualifications, but I am certainly just as proud as I think they are, having been a Capitol Policeman.

Mr. FRIST. Mr. President, there is not an hour that goes by that we don't either pass in the hallway or on the Capitol grounds our Capitol Police. On the occasion of this 175th anniversary, it gives us this formal opportunity to express our gratitude to the men and women of the Capitol Police. It is nice to be able to put H. Con. Res 156 forward because we have a lot to be thankful for each and every day for their tremendous work.

MEASURE READ THE FIRST TIME—S. 14

Mr. FRIST. Mr. President, I understand that S. 14, introduced earlier today, is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Mr. FRIST. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

MEASURE READ THE FIRST TIME—H. J. RES. 51

Mr. FRIST. Mr. President, I understand that H.J. Res. 51 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the joint resolution for the first time.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 51) increasing the statutory limit on the public debt.

Mr. FRIST. Mr. President, I ask for its second reading and object to further proceeding on this matter.

The PRESIDING OFFICER. Objection is heard. The joint resolution will remain at the desk.

MEASURE INDEFINITELY POSTPONED—S. 760

Mr. FRIST. Mr. President, I ask unanimous consent that Calendar No. 62, S. 760, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108–5 AND TREATY DOCUMENT 108–6

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on April 30, 2003, by the President of the United States: Amendments to Constitution and Convention of International Telecommunication Union, Geneva 1992, Treaty Document No. 108–5, and Protocol of Amendment to International Convention on Simplification and Harmonization of Customs Procedures, Treaty Document 108–6.

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification, the amendments to the Constitution and Convention of the International Telecommunication Union (ITU) (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), together with declarations and reservations by the United States as contained in the Final Acts of the Plenipotentiary Conference (Minneapolis 1998). I transmit also, for the information of the Senate, the report of the Department of State concerning these amendments.

Prior to 1992, and as a matter of general practice, previous Conventions of the ITU were routinely replaced at successive Plenipotentiary Conferences held every 5 to 10 years. In 1992, the ITU adopted a permanent Constitution and Convention. The Constitution contains fundamental provisions on the organization and structure of the ITU, as well as substantive rules applicable to international telecommunications matters. The ITU Convention contains provisions concerning the functioning of the ITU and its constituent organs.

Faced with a rapidly changing telecommunication environment, the ITU in 1994 adopted a few amendments to the 1992 Constitution and Convention. These amendments were designed to enable the ITU to respond effectively to new challenges posed.

The pace at which the telecommunication market continues to evolve has not eased. States participating in the 1998 ITU Plenipotentiary Conference held in Minneapolis submitted numerous proposals to amend the Constitution and Convention. As discussed in the attached report of the Department of State concerning the amendments, key proposals included the following: amendments to clarify the rights and obligations of Member States and Sector Members; amendments to increase private sector participation in the ITU with the understanding that the ITU is to remain an intergovernmental organization; amendments to strengthen the finances of the ITU; and amendments to provide for alternative procedures for the adoption and approval of questions and recommendations.

Consistent with longstanding practice in the ITU, the United States, in signing the 1998 amendments, made certain declarations and reservations. These declarations and reservations are discussed in the report of the Department of State, which is attached hereto.

The 1992 Constitution and Convention and the 1994 amendments thereto entered into force for the United States on October 26, 1997. The 1998 amendments to the 1992 Constitution and Convention as amended in 1994 entered into force on January 1, 2000, for those states, which, by that date, had notified the Secretary General of the ITU of their approval thereof. As of the beginning of this year, 26 states had notified the Secretary General of the ITU of their approval of the 1998 amendments.

Subject to the U.S. declarations and reservations mentioned above, I believe the United States should ratify the 1998 amendments to the ITU Constitution and Convention. They will contribute to the ITU's ability to adapt to a rapidly changing telecommunication environment and, in doing so, will serve the needs of the United States Government and U.S. industry.

I recommend that the Senate give early and favorable consideration to these amendments and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, *April 30, 2003.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to accession, the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures done at Brussels on June 26, 1999. The Protocol amends the International Convention on the Simplification and Harmonization of Customs Procedures done at Kyoto on May 18, 1973, and replaces the Annexes to the 1973 Convention with a General Annex and 10 Specific Annexes (together, the ''Amended Convention''). I am also transmitting, for the information of the Senate, the report of the Department of State on the Amended Convention.

The Amended Convention seeks to meet the needs of international trade and customs services through the simplification and harmonization of customs procedures. It responds to modernization in business and administrative methods and techniques and to the growth of international trade, without compromising standards of customs control. Accession by the United States would further the U.S. interest in reducing non-tariff barriers to international trade.

By acceding to the Protocol, a state consents to be bound by the amended 1973 Convention and the new General Annex. At the same time, or anytime thereafter, Parties have the option of accepting any of the Specific Annexes (or Chapters thereof), and may at that time enter reservations with respect to any Recommended Practices contained in the Specific Annexes. In accordance with these terms, I propose that the United States accept seven of the Specific Annexes in their entirety and all

the Chapters, but one of each of two other Specific Annexes (A–E, G, and H, as well as Chapters 1, 2, and 3 of F, and Chapters 1, 3, 4, and 5 of J), and enter the reservations proposed by the Bureau of Customs and Border Protection as set forth in the enclosure to the report of the Department of State. The provisions for which reservation is recommended conflict with current U.S. legislation or regulations. With these proposed reservations, no new implementing legislation is necessary in order to comply with the Amended Convention.

Accession to the Protocol by the United States would contribute to important U.S. interests. First, accession by the United States would benefit the United States and U.S. businesses by facilitating greater economic growth, increasing foreign investment, and stimulating U.S. exports through more predictable, standard, and harmonized customs procedures governing cross-border trade transactions. Setting forth standardized and simplified methods for conducting customs business is important for U.S. trade interests in light of the demands of increased trade flows, as is the use of modernized technology and techniques for customs facilitation. These achievements can best be pursued by the United States as a Party to the Amended Convention. Second, through early accession, the United States can continue to take a leadership role in the areas of customs and international trade facilitation as the U.S. accession would encourage other nations, particularly developing nations, to accede as well.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to accession.

GEORGE W. BUSH.
THE WHITE HOUSE, *April 30, 2003.*

ORDERS FOR THURSDAY, MAY 1, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m., Thursday, May 1. I further ask that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day, and there then be 1 hour for debate equally divided in the usual form prior to the vote on cloture on the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit. I further ask unanimous consent that if cloture is not invoked, the Senate immediately proceed to the consideration of Executive Calendar No. 105, the nomination of Edward Prado to be a circuit judge for the Fifth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, the Senate will vote on the motion to invoke cloture on the nomination of Priscilla Owen at 10:15 tomorrow. If cloture is not invoked, the Senate will begin consideration of the nomination of Edward Prado to be a circuit judge for the Fifth Circuit. It is my hope that we can reach a short time agreement, with the vote on the nomination to occur by early afternoon. I also hope the Senate can vote on the Cook nomination during tomorrow's session.

In addition to those executive matters, the Senate may also consider the FISA legislation, the State Department authorization bill, the bioshield legislation, or additional judicial nominations during tomorrow's session. Therefore, Senators should expect rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, May 1, 2003, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 30, 2003:

DEPARTMENT OF STATE

ROBERT W. FITTS, OF NEW HAMPSHIRE, 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 PAPUA NEW GUINEA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOLOMON ISLANDS AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VANUATU.

JOHN E. HERBST, 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 UKRAINE.

WILLIAM B. WOOD, OF NEW YORK, 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 COLOMBIA.

HARRY K. THOMAS, JR., OF NEW YORK, 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 PEOPLE'S REPUBLIC OF BANGLADESH.

TRACEY ANN JACOBSON, OF THE DISTRICT OF COLUMBIA, A FOREIGN SERVICE OFFICER OF CLASS ONE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TURKMENISTAN.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

LISA GENEVIEVE NASON, OF ALASKA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2004, VICE THOMAS A. THOMPSON, TERM EXPIRED.

GEORGIANNA E. IGNACE, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2004, VICE KENNETH BLANKENSHIP, TERM EXPIRED.

JOHN RICHARD GRIMES, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2006, VICE JAYNE G. FAWCETT.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. BEN F. GAUMER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MICHAEL U. RUMP, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

WILLIAM A. DAVIES, 0000
GARY S. TOLLERENE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DOUGLAS W. FENSKE, 0000
MICHAEL J. KAUTZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

BRIAN H. MILLER, 0000
DAVID N. RIDLEY, 0000
PERRY T. TUEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GERALD W. CLUSEN, 0000
KAREN J. HARD, 0000
CHERYL A. LOCKE, 0000
VICTORIA E. MAZZARELLA, 0000
DANIEL L. SCHAFER, 0000
MARK A. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

KENNETH J. BRAITHWAITE, 0000
GORDON J. DELCAMBRE JR., 0000
MARY E. HANSON, 0000
TERRI KAISH, 0000
PHILLIP B. MCGUINN, 0000
FRANK A. MERRIMAN, 0000
ANDREW H. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

CHRISTOPHER M. BALLISTER, 0000
THOMAS BARANEK, 0000
JAMES J. BILLMAN, 0000
JEFFREY G. CANCLINI, 0000
CHRISTOPHER L. CROSS, 0000
JEANNE E. FRAZIER, 0000
CARL M. M. LEE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JEFFREY D. ADAMSON, 0000
JOSEPH F. AHLSTROM, 0000
CHRISTOPHER S. BEGLEY, 0000
WARREN J. BRAGG, 0000
EUGENE M. DAWYDIAK, 0000
MICHAEL B. JEWELL, 0000
PAUL A. LONDYNSKY, 0000
MARCUS K. NEESON, 0000

EXTENSIONS OF REMARKS

HONORING JOE SHOVELS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. KILDEE. Mr. Speaker, I rise today to congratulate Joseph Shovels as he retires from Big Brothers Big Sisters of Greater Flint. Joe has worked for the organization for 39 years. A party in his honor will be held on April 30th in my hometown of Flint, Michigan.

Joe began his career working for Big Brothers Big Sisters of Greater Flint after graduating from Michigan State University. A lifelong caseworker with the organization, Joe stayed dedicated to this vital job ever since his graduation. His dedication to ensuring that the children are provided for is legendary. Going above and beyond has been a hallmark of his career. The longest serving employee with Big Brothers Big Sisters of Greater Flint, Joe has characterized his work as a ministry instead of a job.

His attitude toward children has garnered recognition from his peers and from the community. Big Brothers Big Sisters has named him Caseworker of the Year. In February, Priority Children gave him the Roy E. Peterson Caring Adult Award for his steadfastness to bettering the lives of the children in the Flint community.

Big Brothers Big Sisters of Greater Flint will inaugurate an award to be given to their employees and volunteers called the ''Good Joe Award'' in his honor. The kickoff for this award will take place at a dinner to be held later this month.

I ask the House of Representatives to join me in congratulating Joe Shovels on an exceptional career and a job well done. The children of Genesee County have benefited from his conscientiousness, his compassion, and his commitment to improving their lives.

A PROCLAMATION RECOGNIZING ELIZABETH GREAVES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. NEY. Mr. Speaker,

Whereas, Elizabeth Greaves has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Elizabeth Greaves has shared her time and talent with the community in which she resides; and

Whereas, Elizabeth Greaves has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Elizabeth Greaves must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Granville and the entire 18th Congressional District in congratulating Elizabeth Greaves as she receives the Girl Scout Gold Award.

NATIONAL ASSOCIATION OF LETTER CARRIERS' 11TH ANNUAL NATIONAL FOOD DRIVE

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to encourage my constituents and everyone across America to participate in the National Association of Letter Carriers' 11th Annual National Food Drive, which will take place on May 10th of this year. Every year, on the second Saturday of May, the National Association of Letter Carriers (NALC) collects non-perishable goods that generous people have donated to those in need.

Those interested in donating should place a non-perishable food item near their mailboxes or bring it to their local post office. All of the donations will be distributed to local food banks, shelters, and pantries to help people in need in the local community. This is a great opportunity to share with people right in our local communities.

Over the past ten years, the NALC has collected over half of a billion pounds of food for those less fortunate. In 2002 alone, over 60 million pounds of food was collected. Nearly 1,500 offices of the NALC—in every state in the nation—will be involved in the drive. In fact, it is part of the largest one day food drive in the nation. This is an impressive record. I hope that everyone who is able to participate will contribute what they can, and that this year's food drive will be the most successful ever.

IN RECOGNITION OF THE 22ND ANNUAL CONGRESSIONAL ART COMPETITION WINNER, MS. ELISE BAKER

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SHAW. Mr. Speaker, I rise today in recognition of Miss Elise Baker, first-place winner of the 2003 Congressional Art Competition, ''An Artistic Discovery''. This unique competition provides Members with the opportunity to showcase the artistic achievements of high school students within their districts, thereby acknowledging our Nation's gifted young artists. Since the first competition in 1982, nearly 5,000 local contests have been conducted, involving more than 650,000 high school students. In its 22nd year, the competition has recognized Ms. Elise Baker for her outstanding artistic talent.

Elise was born at Holy Cross Hospital in Fort Lauderdale, Florida, on March 31, 1986. The daughter of Don and Susan Baker, Elise also has a 12-year-old brother, Robby. For her elementary education, she attended St. Paul Lutheran School, where she developed a serious interest in art. Since enrolling at A.D. Henderson University School of Florida Atlantic University for middle school, she has taken a number of honors art classes and has been awarded as an outstanding art student on several occasions. Elise is currently a Junior at Grandview Preparatory School in Boca Raton, Florida.

Elise's interests are not limited to the realm of art, and she has energetically pursued numerous extra-curricular activities. Fostering a lifelong love of dance, Elise began her formal dance education at the Dance Academy of Boca Raton during pre-school. She has studied ballet, jazz, tap, and modern dance and has performed in many student talent competitions over the years. She has furthermore been a member of the South Florida Youth Ballet, a repertory company which put on many performances in Palm Beach County, and has danced with the Miami City Ballet in ''The Nutcracker'' at the Kravis Center in West Palm Beach. Her colorful dancing background undoubtedly contributed to her leadership as captain of the Grandview Cheerleading Team during the past two years of high school. She has attended several Universal Cheerleading Association (UCA) instructional camps, from which she has been honored with various awards, including the opportunity to perform a cheerleading routine during the New Year's Day Parade in London, England in 2003. Last summer, Elise completed Culver Military Academy's six-week program in Culver, Indiana and earned her Tuxis Medal.

Today, Elise enjoys babysitting and performing volunteer work in her spare time. She is a member of the First United Methodist Church of Boca Raton and actively participates in their Youth Group, as well as other youth-oriented activities in the area.

Elise's natural gift for art runs in her family, as she is the great grand-niece of Edward Buyck, a famous artist from Albany, New York, who is renowned for his pre-inaugural portrait of Franklin D. Roosevelt in 1933 and for his countless works presently on display at the Governor's office in Albany and in the Smithsonian American Art Museum in Washington, D.C.

As Elise's art teacher at Grandview, Mr. Robert Williams, said, '''A' talent and hard work pay off.'' We would like to recognize both Elise's talent and hard work and congratulate her on winning this year's competition. We also wish her the best of luck in her pursuit of artistic studies in college, which she plans on continuing, particularly in the fields of decorating and fashion design.

QUOTA CLUBS INTERNATIONAL IN TEMPLE CITY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Temple City chapter of the Quota Clubs International and the men and women who have shaped the club into the influential force that it is today in the San Gabriel Valley. For over 50 years, the Quotarians of Temple City have provided immeasurable support to the city, fully living up to their stated purpose: ''To serve country and community.''

Among the many events in which the Quota Club has participated is the City's annual Camellia festival and youth parade, an event that celebrates Temple City's rich history and culture. Other events demonstrate the Quotarians' commitment to excellence in our youth: they have sponsored student trips to Washington, D.C., supported teacher exchanges, and have helped in the purchase of band uniforms.

The main focus of the Quota Club has been its service in education, testing, and aid to the hearing impaired. Over the years, they have provided no less than five help dogs to the deaf and have immeasurably improved the lives of those they have assisted.

These incredible achievements have been made possible by the upstanding members of the Quota Club, who exemplify the best in our communities. The club boasts among its members five former Temple City Chamber of Commerce presidents, including Penny Graham, the first woman to hold that office, Mary Lou Swain, another member, was the first woman to be elected to the City Council of Temple City.

Through the efforts of such organizations as the Quota Club and the individuals that comprise them, we can make real the ideals set forth in the Quota Club's charter: righteousness, justice, international understanding, and good will. It is for their tremendous efforts toward realizing these ideals that I ask all Members of Congress to stand with me today and salute the men and women of the Quota Club of Temple City.

A PROCLAMATION RECOGNIZING KELLY HELLER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. NEY. Mr. Speaker,

Whereas, Kelly Heller has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Kelly Heller has shared her time and talent with the community in which she resides; and

Whereas, Kelly Heller has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Kelly Heller must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Coshocton and the entire 18th Congressional District in congratulating Kelly Heller as she receives the Girl Scout Gold Award.

RUMOR MILL BAKERY

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. OTTER. Mr. Speaker, I rise today to acknowledge and praise the singular vision of a family business in my district whose proprietors understand the value of service. John and Tona Henderson own The Rumor Mill Bakery at 4th and Washington Streets in Emmett, Idaho. Tona does all the baking for the shop, which has become known for its patriotic spirit as well as its pastries.

One day in July 2002, six gentlemen from the community met for their usual coffee and conversation when the idea came up of putting photographs on the walls of local veterans and active duty military personnel. Tona approved, and made theirs the first photographs to go up. More than 100 photos have since been added to the walls of The Rumor Mill Bakery, and Tona has a story to go with each and every one. The tears in her eyes reveal the heartfelt patriotism and pride she feels in sharing each tale. Tona hopes someday to completely cover the walls of her business with the images of American heroes, past and present. Her expression of support for community and country is an inspiration to everyone who stops by The Rumor Mill Bakery. I'm proud to represent the Hendersons, as well as the men and women of our Armed Forces who are honored on their walls.

TRIBUTE TO OATS VOLUNTEERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to pay tribute to OATS, Inc., an organization that provides transportation to Missouri's rural areas through the use of volunteer service. Founded in 1971, OATS has continued to rely heavily on volunteers for fund raising, scheduling, and publicity.

The nation will commemorate the 30th annual National Volunteer Week, April 27–May 3, 2003, in recognition and celebration of volunteers at the state, local, and national level. The Week's theme, ''Celebrate Volunteers—The Spirit of America!'' reflects Americans' resolve to maintain the tradition of neighbor helping neighbor. Sponsored by the Points of Light Foundation, this annual event is an opportunity for organizations to take a moment to thank the many millions of volunteers all over America who donate their time to worthy causes.

In each of the counties that OATS serves, there is a County Support Committee comprised of 8–20 people in the community who volunteer on behalf of OATS. These volunteers serve as contacts, taking phone calls in their home from people who wish to schedule a ride; raise much of the funding needed to replace vehicles; and serve as media contacts, helping get the word out about OATS and getting the bus schedules printed in the local papers. Last January, 639 people reported over 4,200 hours to OATS, which would cost $46,634.16 if dollar value was assessed for the hours they gave.

Mr. Speaker, the OATS organization provides a valuable service to the people of rural Missouri. I know the Members of the House will join me in recognizing OATS and their volunteers for their many hours of commendable service.

CONGRATULATIONS TO ANGIE BRIGGS OF GIRL SCOUT TROOP 4017

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. EVANS. Mr. Speaker, today I would like to salute an outstanding young woman who has been honored with the Girl Scouts of the USA Gold Award by Girl Scouts of the Mississippi Valley, Inc. in Rock Island, Illinois. She is Angie Briggs of Girl Scout Troop 4017.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls ages 14–17 or in grades 9–12.

Girl Scouts of the USA, an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration Pin, earn the Senior Girl Scout Leadership Award, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Girl Scouts of the Mississippi Valley, Inc., Angie began working toward the Girl Scout Gold Award in August 2001. Angie created handmade books and toys for the children in a homeless shelter.

The earning of the Girl Scout Gold Award is a major accomplishment for Angie and I believe she should receive the public recognition due her for this significant service to her community and her country.

IN HONOR OF THE CITY OF ALHAMBRA'S CENTENNIAL CELEBRATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the people of the City of Alhambra, California, as the city celebrates its centennial anniversary. Located eight miles east of downtown Los Angeles, Alhambra is often referred

to as the ''Gateway to the San Gabriel Valley.'' The site on which the city now rests was first included in a 1771 land grant that led to the establishment of the nearby San Gabriel Mission.

While Alhambra's history and origins retain a heavy Spanish influence, the City's current population of 85,804 consists of a wide range of ethnic groups and many businesses in and around Alhambra have ties to international commerce. The dramatic population growth in Alhambra over the past two decades has been largely attributable to well-educated and highly skilled immigrants, who have brought both material wealth and cultural resources to the City of Alhambra.

Alhambra is first and foremost a residential community, characterized by its charming, well-manicured residential neighborhoods. It lies within the ''Sixty Mile Circle'' that centers on Los Angeles, putting it at the heart of a dynamic concentration of population, employment, business, industry, and finance; two-thirds of the state's 100 largest corporations are headquartered within this circle. High quality educational, medical and transportation services abound and Alhambra has some of the region's strongest retail centers, drawing sales from auto dealerships and shopping districts. Numerous boutiques and restaurants line the downtown landscape, providing an attractive destination for persons to shop, dine and be entertained locally. Numerous recreational and sporting venues are also available.

In recent years, Alhambra has been an economic powerhouse as well, aggressively seeking to bring new business to the city, leading to more than 30 new businesses in the downtown area alone. The renaissance of Downtown Main Street has been a top priority. According to a national survey, Alhambra ranks first among 15 surrounding cities in terms of cost of doing business and level of development. Its largest venture, a $30 million entertainment complex—the Alhambra Renaissance Cineplex opened in November 2002.

In the last century, the City of Alhambra has come to be one that exemplifies everything that we expect our communities to be. It is one that we can look to for an example for other communities to follow, and one that will continue to enrich the San Gabriel Valley's cultural diversity for years to come. I ask all Members of Congress to join me in recognizing the City of Alhambra on its centennial.

A PROCLAMATION RECOGNIZING ROXANA CAPPER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. NEY. Mr. Speaker,

Whereas, Roxana Capper has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Roxana has shared her time and talent with the community in which she resides; and

Whereas, Roxana Capper has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Roxana Capper must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Granville and the entire 18th Congressional District in congratulating Roxana Capper as she receives the Girl Scout Gold Award.

IN HONOR OF ROBERT R. SNASHALL

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. REYNOLDS. Mr. Speaker, I rise today to pay tribute to a good friend and an outstanding public servant.

There's no doubt that in my home state of New York, there remain to this day many unsung heroes who provided aid, comfort and support to the victims of September 11th's vicious and cowardly attacks on New York. Ordinary people rose to extraordinary challenges and through their service, helped both in the rescue and recovery of a great city.

One of those unsung heroes is the man I rise to honor today, Robert R. Snashall, Chairman of the state's Workers' Compensation Board. First appointed to that post by Governor George Pataki in 1995, Chairman Snashall will soon retire from that post.

And perhaps the defining moment of Mr. Snashall's tenure at the Workers' Compensation Board was in his handling of the crisis arising from the September 11th terror attacks in New York City.

The attacks on the World Trade Center on September 11, 2001 created unprecedented challenges for the Workers' Compensation Board. In a single day, New York suffered 5 years' worth of workers' compensation death claims. In fast response, Chairman Snashall and the Workers' Compensation Board established new regulations to accelerate the processing of claims and created a special World Trade Center adjudication team to process claims emanating from the terror attacks while enabling the Board to maintain a focus on other claims from across the state.

Chairman Snashall acted quickly to contact and in some cases visit various insurers, legislators, claimant organizations and employer associations to discuss the challenges facing the workers' compensation system as a result of the attacks. In doing so, he was successful in impressing upon the various parties of interest the urgency of providing assistance to the families in need. As a result the Board has, to date, fully resolved 92 percent of death claims, 80 percent of injury claims and has conducted more than 7,000 hearings to resolve WTC claims.

Since 1995, the Workers' Compensation Board has undergone the most sweeping reforms in the history of the Board including the landmark 1996 reforms, which have led to unprecedented reductions in workers' compensation costs. In addition, since 1996, under the leadership of Chairman Snashall, the Board has reformed its administrative processes and become more accessible to the people of New York State.

Through Bob Snashall's leadership, New York State's Workers' Compensation Board has become a nationwide model, and I ask that this Congress join me in saluting his commitment, leadership and hard work; and that this Honorable Body further extend to him our thanks for a job well done.

IN HONOR OF MARINE CPL. KEMAPHOOM A. CHANAWONGSE

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to bring to my colleagues' attention the tragic death of a young man from my home state of Connecticut, Marine Cpl. Kemaphoom Chanawongse, known as ''Ahn.''

On March 23, 2003, Marine Cpl. Chanawongse came under fire during a heroic attempt to secure a bridge over the Euphrates River near An Nasiriyah and was killed when the vehicle he commanded took a direct hit. ''Ahn'' was just 22 years old when he sacrificed his life for his new country.

Ahn's family immigrated to the United States from Thailand when he was 9 years old. He was an excellent student and skilled artist, and developed a keen interest in law enforcement. Following the steps of his grandfather who was a Group Commander in the Royal Thai Air Force, Marine Corporal Chanawongse was dedicated to his mission and proud of being a U.S. Marine. Both his grandfather and his brother, who is a student and teaches English in Thailand, have traveled here for the funeral services at Arlington National Cemetery.

Nicknamed ''Chuckles'' for his sense of humor, Ahn was highly respected and well-liked by his fellow marines. He served the United States in the 2nd Assault Amphibious Battalion, 2nd Marine Division of Camp Lejeune, North Carolina.

News of Marine Corporal Chanawongse's death reached his family and friends after three painful weeks of waiting while he was listed as missing in action. The Town of Waterford, Connecticut quickly rallied in support in many ways, including the establishment of a memorial fund and a scholarship fund at Waterford High School for students with high aspirations like Ahn's.

In honor of Ahn, Connecticut Governor John Rowland ordered the state and national flags to fly at half-staff from Wednesday, April 16 until sunset tomorrow, April 30, when Ahn will be buried at Arlington. Today, a traditional Thai merit-making ceremony is being held in his memory at the Thai Buddhist temple ''Wat Thai Washington D.C.'' after which his remains will be cremated.

Mr. Speaker, I urge my colleagues to join me in paying tribute to Marine Cpl. Kemaphoom A. Chanawongse, who sacrificed his life for the just causes of our war on terrorism. Let us wish for him, according to the Thai sentiment, ''kor joang pai su sukah-ti tert.

IN COMMEMORATION OF YOM HASHOAH, HOLOCAUST REMEMBRANCE DAY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to join with millions throughout the

world to commemorate the tragic and horrific events of the Holocaust as we observe Yom HaShoah. It has been 59 years to the day since the Jews of the Warsaw Ghetto rose in revolt against the Nazis. Perhaps now more than ever, the courage of these individuals to fight against anti-Semitism, racism, and prejudicial discrimination is to be honored and remembered.

On April 23, 1943, Jewish resistance fighters in the Warsaw Ghetto made their final appeal to the international community for assistance in their struggle against the Nazis. They wrote, ''A battle is being waged for your freedom as well as ours. For you and our human, civic, and national honor and dignity.'' Indeed, these brave and courageous men, women, and children were correct, and we were wrong for allowing their appeals to go unanswered.

Sadly, the fight against bigotry is an ongoing struggle, as I well know from my own personal experience. I have experienced racism all over the world—in Europe, in the Middle East, in Asia and, of course, here in the United States. Today, anti-Semitism, racism, and xenophobia continue to plague humanity. Those of us who preach and practice tolerance recognize that the fight for equality and acceptance continues in the 21st century.

Jews throughout the world, more than 50 years after the Holocaust, are forced to combat insidious acts of anti-Semitism on a regular basis. Likewise, here in the U.S., we have come a long way since the blatant and institutionalized discrimination that was the norm for African-Americans a generation ago. However, in each case, we are certainly not home yet.

A few years ago, many believed that anti-Semitism was gradually declining and restricted to fringe elements of our society. However, recent developments suggest that there is a resurgent anti-Semitism with a much broader base that includes elements of the far right, the far left, and components of immigrant communities from North Africa and the Middle East.

In the Middle East itself, it appears that the stalled peace process has been a convenient excuse to allow anti-Semitism to become a staple of the media and mainstream politics. Also, in Europe, there has been a resurgence of anti-Semitic and race-based attacks and murders. While European governments have begun to crack down on this unfortunate reality, their initial smugness toward the problem was quite troubling. Now is not a time for us to be silent, and Europe and the Middle East are not places where we can afford to be complacent.

Mr. Speaker, we shall never forget the horrific crimes of murder and destruction committed by the Nazis; and we must commit ourselves to ensuring that future generations shall never be forced to endure the suffering, humiliation, and ultimate death experienced by the victims of the Holocaust. As this body honors these memories, we must commit ourselves—as a country and as human beings—to never allow the pleas of those in need to ever again go unanswered.

We have but one world, and we have been given the great responsibility to make it ours. People of all shapes and sizes, colors and religions have been placed here by powers far beyond us to live together. It is up to us to decide what we make of our time and our world. Thus, as we craft a world in which our children and grandchildren will grow up, the days of religious and racial intolerance must be left behind. For I refuse to live in a day and age where it is acceptable for bigotry and intolerance to trump acceptance and coexistence.

We shall never forget.

GAY AND LESBIAN ACTIVISTS ALLIANCE OF WASHINGTON, DC 32ND ANNIVERSARY RECEPTION HONORING DISTINGUISHED SERVICE AWARD RECIPIENTS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. NORTON. Mr. Speaker, I rise today to recognize a Washington, DC institution that has been in the forefront of the lesbian, gay, bisexual, and transgendered civil rights movement, and that I have the distinct honor and pleasure of representing in this body: the Gay and Lesbian Activists Alliance of Washington, DC (GLAA), the oldest continuously active gay and lesbian rights organization in the United States.

Since its founding in April 1971, GLAA has been a respected and persistent advocate in District politics tirelessly asserting equal rights and social equality for lesbians and gay men living in the city.

GLAA has long fought to improve relations among the District's gay, lesbian, bisexual and transgendered communities and DC's public safety agencies. GLAA also has long been at the forefront of the efforts to strengthen enforcement of the DC Human Rights Act of 1977.

On April 15th, GLAA held its 32nd Anniversary Reception honoring the 2003 recipients of its Distinguished Service Awards: Councilmember Kathy Patterson; the Gay and Lesbian Liaison Unit of the Metropolitan Police Department; longtime District activist Karen Armagost; the Gay Men's Chorus of Washington, DC; and former GLAA President Bob Summersgill.

Councilmember Kathy Patterson has been an ally of gay citizens and a leading force for government reform and accountability. Councilmember Patterson wrote and secured passage of the law that established the DC Office of Human Rights as a separate, independent agency. She has supported strengthening diversity and sensitivity training in the police and fire departments and establishing an effective Office of Citizen Complaint Review.

DC Metropolitan Police Department Chief Charles Ramsey created the Gay and Lesbian Liaison Unit (GLLU) in June 2000. The work of Sgt. Brett Parson, head of the GLLU, and Ofc. Kelly McMurry, its founder, along with community volunteers, active, auxiliary and reserve police officers, has resulted in a dramatic improvement in community-police relations; an increase in the mutual respect of gay people and the police; and a focus on previously ignored problems in the community.

Karen Armagost has been an activist in Washington, DC for over fifteen years. As a professional canvasser, GLBT activist, and past President of the Gertrude Stein Democratic Club, Karen has exemplified the dedication and hard work that makes grassroots organizing a powerful political force. Karen works for the repeal of the ''Don't Ask, Don't Tell'' policy through the Servicemembers Legal Defense Network.

This year marks The Gay Men's Chorus of Washington, DC's 22nd Season. The Chorus has performed at inaugurals of a mayor and a president, and most recently performed in tribute to Elizabeth Taylor at the Kennedy Center Honors Gala before President and Mrs. Bush.

Bob Summersgill is the immediate past President of GLAA. He has led efforts to secure legal protection against harassment in our schools and workplaces; to open the DC HIV/AIDS Administration to public accountability; and to ensure the full rights of transgender and intersex people under the DC Human Rights Act.

GLAA's thirty-two year fight to secure equal rights for the LGBT citizens of Washington, DC is more poignant because it is being celebrated on April 15th. It is a reminder to us all that United States citizens living in our Nation's Capital, who have fought in every American war, including the present war in Iraq, are taxed without representation.

I ask the House to join me in congratulating the Gay and Lesbian Activists Alliance and its honorees.

PAYING TRIBUTE TO EDGEWOOD ELEMENTARY SCHOOL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to the Edgewood Elementary School in Okemos, Michigan for its 39 years of service to the community. This institution has continuously provided a nurturing atmosphere of learning and support for all the staff that serve there and the students who pass through its doors.

Edgewood Elementary School has a history of academic excellence. In both 2001 and 2002, it received the Golden Apple Awards for high achievement, an honor presented by the State of Michigan. Yet the school provides more than just a space to learn. It is a trusted pillar in the neighborhood, a place where students, staff, parents, and community members come together and build lifelong relationships.

Mr. Speaker, Edgewood Elementary School's dedication to promoting superior education while fostering an environment of care is an example to all institutions. I ask my colleagues to join me in recognizing its many achievements.

INTRODUCTION OF THE HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AMENDMENTS ACT OF 2003

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. EHLERS. Mr. Speaker, today, I am pleased to introduce the Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003. Harmful algal blooms and hypoxia are a significant threat to human health, commercial

fishing, and recreational water use throughout the United States. My legislation will authorize funding for research to improve our response to this threat and to develop a deeper understanding of these problems.

Harmful algal blooms occur in both marine and freshwater environments, and are often referred to as red tides or brown tides. These dense mats of algae produce toxins dangerous to aquatic life and to humans, some of which are so potent that eating just one contaminated mussel could result in anything from mild nausea to paralysis, and even death in some cases.

Hypoxia occurs when an algal bloom dies and is decomposed by bacteria in the water. This process depletes oxygen to levels so low they cannot support aquatic life, which decreases fisheries production and can produce terrible odors that make the water undesirable for recreational use.

It is estimated that harmful algal blooms cost the U.S. $50 million a year, while hypoxia causes severe conditions in many locations, including the Gulf of Mexico, where a ''dead'' zone the size of New Jersey develops each summer.

Harmful algal blooms and hypoxia are also causing problems closer to my home region, the Great Lakes, where these events are more frequently fouling the water. In the past 30 years, major advances were made to improve Great Lakes water quality, but recently scientists have observed an increase in both harmful algal blooms and hypoxia. The reasons for this are unclear, but may be related to invasive species changing the way nutrients are cycled in the lakes.

In 1998, Congress passed the Harmful Algal Bloom and Hypoxia Research and Control Act. The Act created a Task Force to examine these problems and authorized $19 million annually for research and monitoring activities related to harmful algal blooms and hypoxia. This March, the Subcommittee on Environment, Technology and Standards, of which I serve as chairman, held a hearing on this subject and found that we need to expand our research efforts to include freshwater blooms, update our assessments of these threats every five years, and improve communication with local resource managers about these efforts. The legislation I am introducing today seeks to address these findings.

More specifically, the legislation expands the authorization of funding to $30 million annually (over the next three years) for research and monitoring efforts on harmful algal blooms and hypoxia. It also requires the Task Force to develop research plans on previously overlooked aspects of harmful algal blooms and hypoxia, such as: Great Lakes harmful algal blooms; and prevention, control and mitigation methods to reduce the impact of harmful algal blooms.

This legislation also provides a mechanism for regional and local assessments of harmful algal blooms and hypoxia, because the causes of harmful algal blooms and hypoxia vary with regional water use, land use, and environment. Additionally, it increases the participation of local resource managers in this process, ensuring that our investment in research produces useful tools for the people dealing with the problems on a day-to-day basis.

The bill reauthorizes funding for programs that have been effective in improving our scientific understanding of harmful algal blooms and hypoxia, namely the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) program and the Monitoring and Event Response to Harmful Algal Blooms (MERHAB) program. It also requires scientific assessments of harmful algal blooms and hypoxia on a regular basis, providing a means to continuously target our resources in an effective manner.

In conclusion, my legislation provides a research framework for addressing the nationwide problem of harmful algal blooms and hypoxia. It improves our ability to understand and predict harmful algal bloom events, adds the Great Lakes as an important area for harmful algal bloom and hypoxia research, and ensures the participation of local resource managers in developing research plans so that the research can be fully utilized by everyone concerned with these important issues. I have been working with my colleague from Ohio, Senator GEORGE VOINOVICH, who is introducing companion legislation in the Senate today. I look forward to working with all of my colleagues to pass this important bill.

CONGRATULATIONS TO MOUNTAIN CREST HIGH SCHOOL ADVANCED PLACEMENT AMERICAN GOVERNMENT AND LAW CLASS

HON. ROB BISHOP

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. BISHOP of Utah. Mr. Speaker, I rise today to congratulate Mountain Crest High School's Advanced Placement American Government and Law class, in Hyrum Utah, for their achievement in the ''We the People: The Citizen and the Constitution'' competition. The class won their state competition in February and is currently preparing to participate on the National level soon.

In order to compete, the students had to establish a base knowledge of the Constitution and the workings of our government. They then prepared speeches concerning different aspects of the Constitution, the amendments, and significant Supreme Court cases. The topics range from the founding ideals of the young nation, to the values and principles embodied in the Constitution, Civil Rights, and the evolution of our current republican democracy.

In addition to acknowledging the hard work and dedication of these students, I would also like to recognize the work of their teacher Margaret Obray. She is an exemplary teacher who is devoted to educating all of her students. Together they represent Utah well.

As I believe the Constitution is a divinely inspired document I feel it is important for all Americans to know and defend its principles. The ''We the People'' program is an excellent way to get students involved in the Constitution and compete with others from around the country. Again, congratulations to the students of Mountain Crest.

VOLUNTEER SPIRIT IN COLUMBIA, TENNESSEE

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. DAVIS of Tennessee. Mr. Speaker, the backbone of a strong community is the people. I am proud to say that the volunteer spirit is alive and well in Columbia, Tennessee.

It was back in 1919 when Post 19 of the American Legion was established in Columbia. The following year Legion Auxiliary Unit 19 was chartered. Since their establishment both organizations have provided the city of Columbia, in Maury County, and many of the local citizens with a true sense of pride. Unit 19 was recently honored at the National Convention for their outstanding work in providing care to veterans.

The priorities of both organizations are not just associated with assisting our veterans. They also have a long history of providing services that directly benefit many youths. In the summer they sponsor different athletic events which helps foster teamwork and sportsmanship all while giving them a sense of self worth. They send individuals to attend Boy's State and Girl's State, which teaches leadership skills. They also award scholarships to individuals using funds they raise through bake sales, breakfasts, yard sales and so on.

During the 50th Anniversary of World War II legionnaires and auxiliary members made up a committee, appointed by the County Executive, to help celebrate the anniversary. They helped bring the history of those who served abroad and in the states to those generations who weren't alive during that period in our history. They are now doing the same to highlight the 50th Anniversary of the Korean War.

Recently, when the National Guard was called up for active duty these two organizations made sure they let the troops know they supported them. On the weekend before the Guard departed they hosted a breakfast and a lunch, and on the day of departure the members were at the armory to give them a proper sendoff.

I am proud to be a witness to the actions of Post and Unit 19 in Columbia, Tennessee. They are selfless in their pursuit of making our communities stronger and improving the lives of others.

HONORING SERGEANT FIRST CLASS RANDY REHN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I stand before you today to honor a man tragically taken from us while in the service of his country. Sergeant First Class Randy Rehn, a graduate of Niwot High School in Colorado, was killed while serving in the conflict in Iraq. In the Army, Randy directed a crew that operated a Multiple Launch Rocket System. I am truly humbled to honor him before this body of Congress and this nation. The sacrifice of Randy and his fellow soldiers will be long remembered by our grateful Nation.

Randy was known as an athlete and a prankster. In high school, he was a football player and an all-state wrestler. He was a loving husband and the new father of a six-month-old girl. I know that Randy's daughter, family and friends take pride in the uniform he wore and the ideals for which he fought. Our Nation will long endure due to the strength and character of the men and women like Randy who serve our country.

Each generation must renew its commitment to defend our liberties. Today in Iraq, a new generation of young Americans is fighting bravely for the freedom of others. I know that those who seek the true meaning of duty, honor, and sacrifice will find it in dedicated servants like Sergeant First Class Randy Rehn.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice of this soldier and his family. Throughout our history, men and women in uniform have fought our battles with distinction and courage. At the dawn of this new century, the United States military has once again been called to defend our freedom against a new and emerging threat. Soldiers like Randy embody America's determination to lead the world in confronting that threat, and Sergeant Rehn's devotion to that cause will not be forgotten. Randy has done all Americans proud and I know he has the respect, admiration and gratitude of all of my colleagues here today.

REMEMBERING JOSEPH FRED POWE

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. WATERS. Mr. Speaker, I rise today to pay tribute to a constituent of mine. Joseph Powe was a remarkable man. He was a fixture in our community and he will be missed by many. Joe passed on March 20, 2003. He leaves behind a wonderful wife, two daughters, five granddaughters and a host of friends and loved ones.

In many ways Joe was a pioneer. He was among the first African-American Certified Public Accountants. And, he was the only African-American ever to serve as Regional Audit Manager in the Department of Defense's Defense Contract Audit Agency. Joe served his country in the U.S. Air Force from 1954 through 1958. He also served on the Board of Directors of the United Defense Credit Union as well as several other positions. In 1982, he served the Association of Government Accountants (AGA) as the Regional Vice President, Western Region. I understand, as a tribute to his hard work and dedication to the CPA community, his certificate number will be retired. A terrific honor for this wonderful man.

My thoughts and prayers are with his wife, Opalane, his daughters, Valarie and Alison, and the rest of his family. I hope they are comforted by the fond memories they have of him with a fishing pole in hand or the smile that always seemed to be on his face. He will be missed but for those who knew him, he will always remain with us.

TRIBUTE TO MILNER-RUSHING DRUGS OF NORTHWEST ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. CRAMER. Mr. Speaker, I rise today to honor a landmark in my Congressional District, Milner-Rushing Drugs. This pharmacy celebrated its 150th anniversary on April 25, 2003. This milestone anniversary is quite a testament to the successful practice of caring, professional, and personal service that this pharmacy has provided to residents of the Shoals for 150 years.

Milner Drugs was founded in downtown Florence, Alabama in 1833 by Joseph Milner. After numerous owners and a name change to Milner-Rushing Drugs, it was purchased by John M. Lawson in 1995. And since, it has grown from two employees at one location to more than 40 employees at 4 different locations in the Shoals area today.

From compounding special prescription needs to delivering prescriptions to shut-in patients at their homes, Milner-Rushing Drugs is not just a business, but a part of the Northwest Alabama community. This fine staff at Milner-Rushing Drugs includes a Registered Pharmacist, a Registered Respiratory Therapist, and a complete durable medical equipment staff certified by the Alabama Durable Medical Equipment Association. This exceptional staff and history of unique and personalized service keep customers coming back to Milner-Rushing Drugs, which has become a cornerstone of the Shoals area.

Mr. Speaker, on the occasion of the pharmacy's 150th Anniversary, I rise to honor and commend this exceptional company and its staff. I send my best wishes for a happy 150th Anniversary to Milner-Rushing Drugs and for a long and successful future in the Shoals.

NO HURRY ON EXTENDING PATRIOT ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. UDALL of Colorado. Mr. Speaker, some of the most far-reaching provisions of the ''USA PATRIOT'' Act will expire at the end of 2005 unless Congress acts to extend them. That is nearly three years from now. But reports persist that some think the time has already come for an indefinite extension of those temporary provisions.

I disagree. I think the Denver Post got it just right in a recent editorial: ''Not so fast.''

For the information of our colleagues, here is the full text of that editorial:

KEEP PATRIOT ACT TEMPORARY

When Congress passed the Patriot Act in October 2001, it wisely included a ''sunset'' provision that would cause the sweeping legislation to expire on Dec. 31, 2005, unless lawmakers vote to extend it.

Now, Sen. ORRIN HATCH of Utah is leading Republicans in a push to make the legislation permanent.

Not so fast.

The legislation, passed in the emotional aftermath of the Sept. 11, 2001, terrorist attacks on the World Trade Center and Pentagon, gives the government unprecedented (civil libertarians would say excessive) powers to snoop on Americans, including eavesdropping on communications, surveillance, access to financial and computer records, and other constitutionally deleterious practices.

The U.S. Department of Justice claims the Patriot Act has given the FBI the ability to respond more quickly to stop terrorists before they can act, and given the still-potent threat posed by al-Qaeda and other terrorist organizations bent on doing harm to the United States, that might be a good thing. According to The New York Times, though, Justice wants the expiration date on the Patriot Act excised. And that may not be a good thing, especially considering that the Patriot Act was passed only because Democrats and moderate Republicans insisted on a sunset date.

From our perspective, the Patriot Act is an extreme measure meant to deal with a crisis—much in the same way that martial law can be proclaimed by a state's governor in time of emergency. Once the danger has passed, martial law is revoked. No one wants troops and tanks in their streets forever.

Another argument against extending the Patriot Act indefinitely is that we still don't know how its application ultimately will shake out. Will it be used to harass and intimidate unpopular groups expressing unpopular opinions? Will it be used against political enemies of this or future administrations?

Fact is, the feds have been playing their cards very close to the vest on how they've used the Patriot Act. And Congress still doesn't have a handle on how the FBI and other government agencies have used this extreme legislation that treads so heavily on the Bill of Rights.

Even if, in the final analysis, it's shown that the government hasn't abused the act, it should never become permanent. We repeat: Never.

American liberty is too precious a commodity bought at a too high price in blood and treasure to be tossed aside in a panic. What does it profit us to bring freedom to Iraq while throwing our own away?

CELEBRATING THE 31ST ANNIVERSARY OF ST. GENEVIEVE'S FRIENDSHIP CLUB

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. EMANUEL. Mr. Speaker, today I rise to recognize The Friendship Club of St. Genevieve's church. On April 23, 2003, the Friendship Club celebrated 31 years of service to Chicago's Northwest side. Led by Jean Juske, the group's president of the past 17 years, the club of 550 active members has worked to educate seniors on issues important to them. Throughout the years, the Friendship Club has held bi-monthly meetings on issues such as personal finance, public safety and politics. The group also helps seniors find safe and affordable housing. My friends at St. Gens, however, say that some of their most popular activities are the social ones such as dinner theatre trips. Whatever the activity, I salute the Friendship Club for their service to Chicago. Neighborhood organizations like this one form the backbone of communities, and Chicago is a much stronger place because of

the Friendship Club. Mr. Speaker, I thank the Friendship Club for all they have done in service to our community and wish them the best of luck for their next three decades and beyond.

10TH ANNIVERSARY OF THE SOUTHEAST TEXAS COMMUNITY DEVELOPMENT CORPORATION

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. LAMPSON. Mr. Speaker, I rise today to recognize the Southeast Texas Community Development Corporation, Inc. (SETCDC) on the occasion of its 10th Anniversary.

SETCDC which serves the Beaumont—Port Arthur area of Southeast Texas was founded and incorporated on May 20, 1993, by State Representative Al Price and received its tax-exempt status in January, 1994. SETCDC has contributed to neighborhood redevelopment and revitalization by eradicating blight and building new homes throughout Southeast Texas.

During these ten years, the Southeast Texas CDC has constructed 73 new homes and 19 units of multi-family housing and rehabilitated 28 existing homes. With the support and cooperation of local officials it has had a significant and positive impact on the lives of children and families of the region.

Mr. Speaker, SETCDC has had an economic and business impact of over $10 million in the local community through construction loans and mortgages, through purchase of construction materials and through contracts with local small businesses.

I ask my colleagues to join me in sending congratulations to Representative PRICE and all those associated with the Southeast Texas Community Development Corporation as they celebrate ten years of outstanding service to the citizens of Southeast Texas.

''IT MUST NOT BE FORGOTTEN, LEST IT BE REPEATED,'' A TRIBUTE TO THE LIFE OF MAX LEWIN ON NATIONAL HOLOCAUST REMEMBRANCE DAY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. RAHALL. Mr Speaker, ''It must not be forgotten, lest it be repeated.'' This is the message of the life of West Virginia Holocaust Survivor Max Lewin. Though Max left us this year, his community in southern West Virginia recently honored him. Today, on National Holocaust Remembrance Day I wish to share with my colleagues the story of Max Lewin, a proud West Virginian and a brave Survivor.

No phrase should ever weigh heavier upon our collective conscience than, ''it must not be forgotten, lest it be repeated,'' as we consider world history, and negotiate America's foreign policy and humanitarian priorities. The lesson of what happened during the Holocaust surely shows us that every day we live in a world of diversity, filled with respect for peoples of various religious, ethnic, and racial backgrounds is a day that assaults the vile teachings of the Nazi regime. Every day that as legislators of this great Nation we look across the globe and make certain no person or group of people are singled out to live lives of indignity, is a day we truly remember the lesson of the Holocaust. Today, on Holocaust Remembrance Day, let us come together to remember our great teachers of this lesson.

So that I may share with my colleagues the story of Max Lewin, I ask that this recent article in the Beckley Register-Herald be printed in the RECORD.

The article follows:

[From the Register-Herald Reporter, Apr. 7, 2003]

HOLOCAUST MEMORIAL TO HONOR MAX LEWIN

(By Mannix Porterfield)

Even before his health began to fail, Max Lewin made sure his tortured life as a Holocaust victim and the lessons of the 20th century's darkest hours were never forgotten.

What he did was make a pact with a 10-year-old girl to keep alive not only his excruciating memories but those of the Holocaust in general.

That promise was kept, and Margaux Siegel, now 11, will cover Lewin's heroic struggles Sunday in this year's Holocaust Memorial, set to begin at 1 p.m. in Mountain State University's Carter Hall.

''Max felt his greatest fear was that the story would die with him and its lessons wouldn't be learned,'' explained Margaux' father, Dr. Normal Siegel.

Lewin was the key figure in past Holocaust services in Beckley, a difficult assignment for a man who lost most of his family after German troops stormed into Poland in 1939, signaling the start of World War II.

''I think certainly he had an authentic voice, though sometimes it was difficult to hear precisely what he was saying,'' Siegel said.

''I think, through his accent and tears, everyone felt the pain.''

Lewin died last Aug. 24 at the age of 83.

A slight man with an ever-present smile belying the pain of surviving the murderous regime of the Nazis, he often sought to rekindle interest in the Holocaust by calling on schools in West Virginia to teach its lessons.

In several newspaper interviews, Lewin voiced a fear that future generations, as the adage holds, would be condemned to repeat history if such lessons were ignored.

This year's service, in fact, marks the first such occasion in which the Lewin story is told in the third person.

A gifted writer who won an award last year in elementary school competition, Margaux relied on numerous newspaper clippings chronicling Lewin's storied life from 1978 forward. In addition, an old friend of his, Helen Huzoski of Pax, provided access to his personal papers.

Affidavits also were researched, and a letter from a German court confirmed his concentration camp serial numbers.

Actually, Margaux has delivered her vivid account of Lewin's life on other occasions, where the audience was limited to two or three. Come Sunday, the audience will be considerably larger. ''She had promised him she would tell his story when he wasn't around, so this is sort of fulfilling it,'' her father said.

Strangers would never have guessed the kind, gentle Lewin, a fixture in Beckley's business community for years, had suffered unimaginable pain at the hands of the Nazis, although a trace of sorrow never quite escaped his smile.

Even those familiar with his story couldn't have stepped into his shoes for a full appreciation of his life.

In a eulogy at Lewin's funeral, Rabbi Victor Urecki put it succinctly: ''None of us could ever imagine what it was like to be Max Lewin. He always tried to smile. He never lost his respect for humanity, his love for humanity.''

For Lewin, the placid, country life of a farm family was shaken at the roots when his native land was invaded.

In a tear-laden 1996 interview, he recounted for The Register-Herald the horrific scenes that ensued.

Some 100 robust young men were gathered by the invaders, given shovels and ordered to dig a 4–foot-deep trench. Jews were lined on either side, then gunned down, and the youths were then directed to spread dirt over the victims, some still writhing in agony.

Lewin lost most of his family in a mass execution March 10, 1943. A sister succumbed in a concentration camp. A brother died in another mass murder a few weeks afterward.

Lewin's wife, Fruma, only 19, vanished, presumably a victim of the Nazi execution squads.

Arriving in America after surviving Auschwitz, he joined older brother Harry in launching Harry's Men's Shop, a business he inherited and kept running after Harry's death in 1982.

Lewin lent his experiences to the Governor's Commission for Holocaust Education that works to keep alive the tragic lessons of the past.

As she has done in past observances, Sam Armstein will serve as master of ceremonies at the Sunday memorial.

Amie Lamborn of Charleston and Michelle Levin, wife of Dr. Barry Levin, will conduct the ''Lighting of the Candles,'' followed by Huzoski's narrative, ''Understanding,'' another look at Lewin's life.

''Max, Mountain University and Me'' will be performed by James Silosky, the school's executive vice president and provost for extended learning.

Another tradition, this one embracing the audience, ''The Tearing of the Cloth,'' will be led by Mark Lamborn, also of Charleston. Dr. Joseph Golden of Beckley will offer a commentary on Holocaust prevention.

''Growing Up With Survivors'' will be presented by Dr. Levin, after which Tom Sopher will perform a poetic reading.

The Holocaust claimed a known 6 million Jews in Europe and some of them will be recalled personally with the traditional ''Reading of the Names,'' led this year by Beckley attorney Stan Selden. Members of the audience will be invited to help with the reading.

Rabbi Paul Jacobson, acting rabbi at Temple Beth-El, will perform a song, ''El Malei Rachamin,'' and say the kaddish, a Jewish mourner's prayer. Pianist for the program will be Becky Leach, also of Beckley.

Seven years ago, MSU dedicated a special section of its campus to the memory of the city's most renown Holocaust survivor with ''The Lewin Family Bell Tower.''

Inscribed on it are the names of Lewin's parents, Yechiel and Sarah; wife Fruma; and his siblings, Awner, Joseph, Harry, Leah, Hannah and Chaia.

Just above those names, a phrase captures the reason for revisiting the horrors of the Third Reich in such ceremonies:

''It must not be forgotten, lest it be repeated.''

CHARLOTTE REICKS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to honor an outstanding woman who has gone far out of her way to help others. Charlotte Reicks of Grand Junction, Colorado has ridden her bicycle all over the country to raise money and awareness for a number of charitable causes.

Charlotte began her adventures in 1997 with a 400-mile ride around Colorado for the Make-a-Wish Foundation. On another occasion, this intrepid grandmother pedaled 700 miles in 10 days and helped raise $7,000 for Habitat for Humanity. During the spring and summer of 1999, she rode from California to Maine, down the coast to Florida, and back across the country again. The 8,800 mile journey lasted six months and benefited the American Bible Society and the Lutheran Hour Ministries. So far, she has ridden about 14,000 miles for various organizations and has no plans to stop any time soon. This summer she is slated to ride across Texas to raise money and awareness for Huntington's disease.

Mr. Speaker, it is a great privilege to honor Charlotte for her outstanding service to humanity. Her courage, tenacity, and dedication to various worthwhile causes certainly deserve the praise of this body and this nation. She is an extraordinary woman who has truly gone to great lengths to help others.

HONORING THE LIFE OF NINA SIMONE

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. WATERS. Mr. Speaker, I rise tonight to honor a jazz artist who was truly inspiration both on stage and off

Nina Simone was a consummate artist who defied classification. A jazz singer, a pianist, a jazz-rock-pop-folk-black musician, an arranger, a composer and a protest singer—she was all of these and more.

She was a social activist, unafraid to speak out or sing out against the social ills of racism and war.

One of eight children, Nina Simone was born Eunice Kathleen Waymon on February 21, 1933 in Tryon, North Carolina. Early on, she demonstrated prodigious talent as a pianist and singer. She played and sang with her sisters in their mother's choir in the local church. It was not until the age of six that Eunice began formal training on the piano.

By the time she was 10, she had given her first recital in her hometown. This recital at the town library produced her first applause and her first encounter with racism. Her parents were forced to move from the first row to make room for whites to be seated. This incident formed the basis of her commitment to the fight for civil rights.

Eunice left North Carolina in 1950 to continue her musical education at the Juilliard School of Music in New York, after which, her family moved to Philadelphia. She applied for a scholarship at the prestigious Curtis Institute in Philadelphia, but was rejected. Her talent was cited as the reason for the rejection, but the Juilliard graduate believed it had more to do with her color than her musical skill.

Discouraged, she became an accompanist for a singing teacher and then, in 1954, she went to work as a singer-pianist in an Atlantic City, New Jersey bar. It was there she adopted the name Nina Simone: Nina, her boyfriend's pet name for her; and Simone, after French actress Simone Signoret, for its dignified sound. Three years later, in 1957, she had her first recording contract.

In 1958, her first album produced her first hit, George Gershwin's ''I Love You Porgy,'' a song that made her an international star and has been synonymous with the name Nina Simone ever since. Her star continued to shine through the '60s and '70s, as did her commitment to the civil rights struggle.

She performed in concert at the world's most prestigious houses of music, with a repertoire ranging from jazz, gospel, blues, folk and classical music to songs of protest against the injustice of racism.

She became a strong voice in the civil rights movement with her song ''Mississippi Goddam,'' which she wrote and performed in protest of the murders of Medgar Evers in Mississippi and four black schoolchildren in Alabama. Later, she wrote and performed the inspirational ''To Be Young, Gifted and Black.''

Like many American jazz artists before her, Nina Simone found a greater appreciation for her music and more freedom abroad than at home. Embittered by racism, she renounced the United States in 1969 and became a ''Citizen of the world.'' She left the United States in 1973 and lived in Liberia, Barbados, Switzerland, Africa, Trinidad, the Netherlands, Belgium and the United Kingdom before finally settling in France. In 1978, Nina Simone was arrested abroad for failing to pay taxes from 1971 to 1973 in protest of the war in Vietnam, but she was quickly released.

Nina Simone remained a top recording artist and concert draw throughout her life and performed at Carnegie Hall just two years ago in 2001. Nina Simone will always be remembered for her talent and her passion, her sultry, yet forceful voice, her incomparable style and a regal presence on stage.

Nina Simone, whose inimitable voice helped define the civil rights movement, died April 21, 2003 at her home in France at the age of 70. She is survived by her daughter, Lisa Celeste Stroud.

TRIBUTE TO BARBARA MURPHY AND THE EIGHTH GRADE GIFTED STUDENTS OF STONE MIDDLE SCHOOL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. CRAMER. Mr. Speaker, I rise today to recognize a group of 8th Grade students in my Congressional District who have been in Ms. Barbara Murphy's gifted class at Stone Middle School in Huntsville, Alabama since the 6th Grade. These outstanding girls and boys have written a book they aptly named ''Reality Street''.

The students have compiled their thoughts on various subjects that include their school, neighborhoods, families, conflicts and challenges. Stone Middle school is a Title I school, and these students hope to show people through their book that truly no child will be left behind in any community across the United States. The stories these students tell are powerful and eye opening and are an excellent insight into their community. Everyone can find inspiration in this book, including author Homer Hickam who wrote the Foreword and John L. Stallworth who contributed the Introduction.

Mr. Speaker, I would like to share with you an excerpt from a poem written by one of the students:

''My memories run deep like the sea,
From some of them I want to flee.
But deep in my heart, I truly know
That in the end they all help me to grow.''

These kinds of children, ones who decide to grow and learn from every level of their experiences, form the future leaders of our great country. These young folks are to be commended. On behalf of the people of North Alabama and the U.S. House of Representatives, I send them each my best wishes and hopes for a very bright future.

INDEFINITE DETENTION OF ASYLUM SEEKERS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. UDALL of Colorado. Mr. Speaker, many things have changed since the September 11, 2001 terrorist attacks on our country.

But one thing that has not changed is the importance of respecting the Constitution and its limits on the powers of the national government.

That is the point of a recent editorial in the Rocky Mountain News concerning the Attorney General's assertion of authority to indefinitely detain people seeking asylum in America, regardless of the rulings of the courts.

I am also troubled by the Attorney General's actions, and I share the editorial's view that ''The government has every right to deport illegal immigrants, but if it's going to detain them for any lengthy period, it has to accord them certain rights.

For the benefit of our colleagues, here is the full text of the editorial:

[From the Rocky Mountain News, April 29, 2003]

U.S. CAN'T JUST THROW AWAY THE KEY

Attorney General John Ashcroft has given himself the power to lock up indefinitely, without hearings, whole classes of illegal immigrants even if he does not deem them individually to be a threat to national security.

The decisions about which illegal aliens should be locked up properly belong to the immigration courts, and certainly should not be made on a wholesale basis.

In asserting this new power, Ashcroft overrode an appeals panel of immigration judges that had upheld a lower court decision granting bond to an 18–year-old Haitian who entered the country illegally last fall. Ashcroft said he wasn't trying to block the right to seek asylum, only to deter ''unlawful and dangerous mass migrations by sea.'' While the intent may be laudable, it's a

stretch to label it a matter of national security—even if Ashcroft is right in describing Haiti as a staging ground for some Muslim immigrants from the Mideast who are trying to get into the United States.

The Constitution says no person shall be deprived of life, liberty or property without due process of law. It doesn't make exceptions for noncitizens or people without the proper paperwork. Our protections for civil liberties are one of the reasons refugees are drawn to this country.

Some argue that the Founding Fathers never anticipated the war on terrorism and such issues as illegal immigration. Maybe so, but they had a lot of experience with arbitrary use of government authority. The government has every right to deport illegal immigrants, but if it's going to detain them for any lengthy period, it has to accord them certain rights.

HONORING THE 30TH ANNIVERSARY OF THE CHICAGO BOARD OPTIONS EXCHANGE

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. EMANUEL. Mr. Speaker, I rise today to recognize one of Chicago's most venerable and longstanding institutions, the Chicago Board Options Exchange, on its 30th anniversary. The CBOE began as a spin-off of the Chicago Board of Trade in 1973, and in short order revolutionized options trading by creating standardized, listed options and an exchange-based market. Individual investors the world over quickly adopted the concept of listed options, and the CBOE soon became the world's largest options exchange. As a result of superior management and cutting-edge product offerings, the CBOE has never looked back. Today, the CBOE is responsible for more than 51 percent of all options trading as well as 91 percent of all index options trading in the United States.

The CBOE has maintained its leadership position because of the dedicated efforts of all of those who work in its state-of-the-art 45,000 square foot facility, led by Chairman and CEO William J. Brodsky and Vice Chairman Mark F. Duffy. CBOE management has led the industry on issues ranging from corporate governance to investor education. In fact, Mr. Brodsky was recently commended by the Securities and Exchange Commission for his efforts at maintaining market integrity in the face of several recent corporate scandals. The CBOE is also a key employer in the Chicago region and an important driver of the local economy.

Mr. Speaker, I congratulate the Chicago Board Options Exchange on reaching the important milestone of its 30th anniversary, and I look forward to continuing to work together in the months and years ahead to ensure that the CBOE maintains its competitive superiority and remains a pillar of Chicago's business community.

STEVE MASSANO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. McINNIS. Mr. Speaker, I have the distinct honor and privilege today to honor a real-life hero from my district by the name of Steve Massano of Montrose, Colorado.

Steve serves as a Montrose County Sheriff's Deputy, but what I'm about to share with you here did not happen in the course of his duties, but rather as a concerned citizen. On December 2nd of last year, Steve came across an accident in the town of Olathe. After getting out of his truck to help, he came across an eight-year-old girl who had been ejected from her vehicle and had stopped breathing. Two adults hovered over her, pleading for the child to breathe.

Steve quickly and calmly assessed the situation, and after checking to be sure the child was not breathing, began to administer CPR. Less than a minute later, the girl began kicking and sputtering and breathing on her own. She returned home from the hospital a day or two later with no serious injuries and returned to school a short time later.

For his heroic actions, Montrose County Sheriff Warren Waterman recently presented Steve with the department's Life Saving Medal along with a letter of commendation from the Olathe Ambulance Service for ''going above and beyond the call of duty.''

Mr. Speaker, we rejoice in the life of that eight-year-old girl, and we are thankful that Steve came across the scene of the accident that day. His quick-thinking and life-saving heroics will be remembered everyday by the family and friends of that young girl. Steve is a true asset to the Montrose County Sheriffs Department, his community, and the state of Colorado, and I wish him all the best in his future endeavors.

NUEL BROWN

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor the achievements of Reverend Nuel Brown, who will be retiring after the close of the California State Association of Free Will Baptist Convention on May 2, 2003.

Nuel Brown has been the Free Will Baptist Ministries in California since 1953. He began his work as a pastor and community leader with youth in the California League Youth Organization of the Golden State in Mountain View, California. By selling diversified church bonds, he secured the property for the First Free Will Baptist Church of Mountain View, California where he served five years before moving to Kerman, California. Nuel served the Kerman Free Will Baptist Church for twenty years. He also worked as a chaplain for the Kerman Police Department, served on the Planning Commission and worked with youth. He continued to serve the community through the Ministerial Alliance, Kerman High School Boosters Club and serving youth throughout the surrounding areas. All of Nuel's children are graduates of Kerman High School.

In 1986, Reverend Brown accepted the position of Executive Secretary Promotional Director for the Free Will Baptist State Association. During his tenure, Reverend Brown served all the Free Will Baptist Churches in the State of California. Reverend Brown has served in the State Office for the past 17 years. He has continued to be an activist in the community and a voice for the people. He has great working relationships with elected officials throughout the region and is considered a source for information to the community.

Nuel will now enjoy his retirement with his wife, Yvonne, their children and their grandchildren. Please join me in honoring Reverend Nuel Brown's distinguished career as he enters the next chapter in his life.

HONORING THE LIFE OF ISADORE LOURIE

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. WILSON of South Carolina. Mr. Speaker, on April 24, 2003, a bright light went out in South Carolina. One of our state's favorite sons, Isadore Lourie, passed away. Isadore was a widely respected South Carolina legislator, admired for his passion and integrity. We will all miss his vibrant personality and our thoughts and prayers are with his family and friends.

I particularly will miss the wise counsel of Senator Isadore Lourie (D-Richland), because as a gentleman he very warmly welcomed me to the South Carolina State Senate in 1985. On the first day of my service I introduced several procedural reforms with my colleague Senator John Courson (R-Richland) and Senator Warren Giese (R-Richland). As each was debated no one was more civil in rejecting our arguments than Isadore Lourie.

On the last day of his service, I remember walking with Senator David Thomas (R-Greenville) and Senator Lourie to his car where he gave us the highest compliment of being proclaimed a ''mensch'' which is Yiddish for a respected friend. Isadore Lourie is indeed a Southern statesman as revealed in the following news article. It is taken from the Friday, April 25, 2003 edition of The State newspaper into the RECORD, and describes the extraordinary life of Isadore Lourie.

''ISADORE LOURIE DIES AT 70: RETIRED SENATOR HAILED AS 'SO GREAT BECAUSE HE WAS SO GOOD'''

(By Carolyn Click and Lee Bandy)

His great, good heart is what people remember.

Isadore Lourie's heart was soft enough to embrace people of all races and creeds, steely enough to buck the established order, gracious enough to forgive, and ask forgiveness, of his antagonists.

On Thursday, as word spread of his death from a rare brain disorder related to Parkinson's disease, people statewide hailed the attorney and former state senator from Richland County for his political courage and his personal integrity. He was 70.

''During the turbulent time of the '60s, Isadore was, for a time, the most meaningful voice that connected black people and white people,'' said Alex Sanders, the former College of Charleston president, who served with

Lourie in the Legislature. ''He was so great because he was so good.''

The son of Jewish immigrants, Lourie showed up Sunday after Sunday in black churches, Sanders recalled, serving as a bridge from the state's segregationist past to an as yet unknown future.

''Izzy was truly one of the great progressive leaders of South Carolina during a very difficult time, a time of integration, a time of trying to replace centuries of bad times for African-American citizens and poor white citizens,'' said former Gov. Dick Riley.

Lourie had great empathy for those who could not speak for themselves, in part because of his family's immigrant story.

''He saw the grand sweep of the American dream,'' said Charleston Mayor Joe Riley. ''He saw his part in it . . . and he wanted to extend that to everybody he possibly could.''

Lourie, along with a group of ''Young Turk'' Democrats that included Sanders, Joe Riley and Dick Riley, stormed the white, rural establishment that controlled life in South Carolina from the courthouse to the capitol.

In the House and later in the Senate, the Young Turks backed school integration and ''fought like hell,'' Lourie once recalled, to institute such reforms as compulsory school attendance and reapportionment.

Lourie was a freshman lawmaker in 1965 when he confronted the House speaker over what he deemed an egregious practice: the refusal to introduce black visitors sitting in the House gallery.

He held an ''an eyeball-to-eyeball'' session with the late Speaker Sol Blatt, Lourie later recalled, during a time when white lawmakers were reluctant to cede long-denied rights to African-Americans. But Lourie prevailed.

''WE KNEW WE WERE JEWISH''

Lourie grew up in St. George above the family department store founded by his father, Louis Lourie, a Russian immigrant who arrived in America knowing no English and with little money in his pockets.

But Louis Lourie had cousins in St. Matthews and Orangeburg and came to South Carolina to work for room and board. In 1920, he met Anne Friedman, a young Polish Jew who had come with her family to Charleston to escape European persecution. They were married in 1921 and moved to St. George.

Lourie's father established the L. Lourie Department Store in St. George and ran a wholesale shoe business out of Augusta, Ga. The family grew to include six children—Isadore was the youngest—but his mother continued to manage the household and the business after her husband suffered a heart attack in 1939.

Long after he was grown, Isadore Lourie remembered the quiet of Sunday mornings in the small town, his Christian friends packed off to Sunday school and church. By Sunday afternoon, he said, his solitude had ended and he was back running with his schoolboy chums.

''We knew we were Jewish—my mother strongly felt her Jewish identity—but we got along well with our non-Jewish neighbors,'' Lourie recalled in 2000.

His mother kept a kosher house, and the family would travel to Charleston for High Holy Days.

After Isadore completed high school in 1948, his mother closed the St. George store and, with her two eldest sons, Solomon and Mick, opened the new Lourie's Department Store in Columbia, now a fixture in the capital city.

Sen. Jake Knotts, R-Lexington, still buys his suits from Lourie's, recalling the kindness of the late senator in helping Knotts arrange credit to buy his first suit after becoming a Columbia detective.

''He looked out for the little man,'' said Knotts. ''I looked up to him for that.''

GREAT TIME TO BE A DEMOCRAT

Lourie, who earned his undergraduate and law degrees from USC, was first elected to the House in 1964. In 1971, he was elected to the Senate, where he battled the old crony system and served, many of his colleagues say, as the body's conscience.

He once described the administration of Gov. Dick Riley as ''eight glorious years.'' He said, ''It was a wonderful time to be a progressive Democrat in South Carolina.''

Lourie clashed later with former Republican Gov. Carroll Campbell. Their feud dated to Campbell's bitter 1978 congressional campaign against former Greenville Mayor Max Heller, who is Jewish.

Those deep-seated feelings surfaced in a keynote address to the Richland County Democratic convention in 1990, when Lourie urged the party faithful to fight against Campbell and his ''crew of thugs'' on every street corner.

Lourie apologized, saying he got carried away. The two later patched things up. Thursday, Campbell hailed Lourie as the consummate public servant.

He worked for and witnessed the election of the first black candidates to the Legislature. Today, 32 blacks serve in the Legislature.

Eventually, Lourie represented a redrawn, black-majority Senate district. He almost lost the seat in 1984. Then, after meeting with black leaders in 1992 at the height of his power, he decided to give up his seat voluntarily.

''He paid the ultimate political sacrifice. He gave up his political career,'' said state Sen. Darrell Jackson, D-Richland, who won Lourie's old seat.

After his retirement, Lourie continued his civic activities. In 1994, he was the founding president of the Jewish Historical Society of South Carolina and cleared the way for the development of the Jewish Heritage Collection at the College of Charleston, which already had a vibrant Jewish Studies program.

''The thing about him, he was a politician, a good politician,'' said Dale Rosengarten, curator of the collection. ''But he was what we call in Yiddish a 'mensch.' He had character, unimpeachable integrity and a heart as big as a house.''

He also had a running joke of 40 years that he shared with his old Turk buddy Sanders.

That joke won't be told again, Sanders said, but he did reveal this: Lourie ''was the straight man, and I'll miss him for the rest of my life.''

A service will be held at 3 p.m. today in Beth Shalom Synagogue, with burial in Hebrew Benevolent Society Cemetery.

KENT STATE UNIVERSITY'S WASHINGTON PROGRAM IN NATIONAL ISSUES: CELEBRATING 30 YEARS IN WASHINGTON, DC

HON. TIMOTHY J. RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of Kent State University's Washington Program in National Issues, known as WPNI. On May 1, 2003, WPNI will celebrate its 30th Anniversary. This anniversary not only marks WPNI's 30th year in Washington, D.C., but also symbolizes the impressive achievements of those faculty, staff, alumni and students who are and who have been dedicated to the success of WPNI. Dr. Carol Cartwright, President of Kent State University, has been a very strong supporter of the program and has contributed significantly to its continued success.

WPNI has three primary objectives: (1) to facilitate learning about the U.S. political system and its policy issues; (2) to develop an understanding of the interrelationship of public issues and structures of government; and (3) to encourage individual initiative and provide for experiences in internship and research. Dr. Carol Cartwright and Dr. Richard Robyn, Director of WPNI, have worked extremely hard to ensure that these objectives are met.

WPNI is a full 15-week academic program offered each Spring semester by Kent State University. Since its creation in 1973, WPNI has sent more than 600 selected juniors and seniors from various academic disciplines to Washington, D.C. to live, work and study. Throughout the course of the program, the students are required to participate in an academic curriculum and maintain an internship position in government, a company or an organization of their choice. The academic and professional benefits this program brings to its students are extraordinary. At the same time, government entities, companies and organizations benefit enormously. I know this first-hand as my Washington office had the good fortune to have Sarah Jones from Hubbard, Ohio, as a WPNI intern since February 2003. Sarah made an invaluable contribution to the day-to-day operation of my office and we will miss her greatly.

I commend Dr. Cartwright and those at Kent State involved in the foundation and the continuation of this meaningful program. I also congratulate all of the students who have taken part in this wonderful experience over the past 30 years. I am certain, that with continued support, the Washington Program in National Issues will celebrate many more anniversaries to come.

ASHLEY DURMAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding athlete and a pioneer from my district in the sport of woman's snowmobile racing. Ashley Durmas of Whitewater, Colorado is only 17 years old, though she is already an accomplished professional snowmobile racer.

Ashley started racing in junior competitions during the winter of 1999–2000 against a field of all boys. She crashed nearly every race, but Ashley is a winner, and she refused to give up. She continued riding and racing. She improved so much that last year she turned professional and finished second overall in the Colorado women's pro class. She still competes in the male division and usually finishes at or near the top. She recently entered the Colorado state championships in the sport class and beat 21 of the 23 men who competed against her.

Ashley is not only successful on the snow, but she excels in the classroom too. Even though her busy schedule often requires her to study while on the road to out-of-state

events, this high school junior still finds the time and energy to hit the books and earn As and Bs on her report cards.

Ashley's tenacity, hard work, and dedication have truly made her community and the state of Colorado proud. It is my privilege to bring her example to the attention of my colleagues here in this body today. Ashley embodies the old maxim, ''If at first you don't succeed, try, try again.'' Ashley not only tried again, but has developed into an outstanding athlete and an inspiration to us all. I congratulate her on her success and wish her the best with all of her future endeavors.

HONORING OFFICER MARYANN COLLURA OF THE FAIR LAWN POLICE DEPARTMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday April 29, 2003

Mr. PALLONE. Mr. Speaker, I rise today to honor the life and work of Officer MaryAnn Collura of the Fair Lawn Police Department in Fair Lawn, New Jersey.

Mr. Speaker, it pains me to report that on Thursday, April 17, 2003, at the age of 43, MaryAnn Collura was killed in the line of duty. Officer Collura is only the fifth female to be killed while serving as a police officer in the State of New Jersey. Her loss has sent shockwaves through the members of her department, the people of Fair Lawn, and the entire State of New Jersey.

MaryAnn Collura was borne in New York City, the youngest daughter of Pasquale and Helen Collura. MaryAnn was a lifelong resident of the Borough of Fair Lawn, New Jersey. She lived in the same home on Morlot Avenue in Fair Lawn where she and her siblings had grown up. She attended the same church where she had been baptized as a baby and taken her first holy communion as a young girl. The streets that MaryAnn patrolled each day as a police officer were the same streets that she ran as a child. Fair Lawn was home in every sense of the word.

MaryAnn was known for her devotion to the community and to its people. So, it came as no surprise when MaryAnn decided to join the Fair Lawn Police Department in 1985, after serving for two years as a special officer. MaryAnn broke new ground in the department, becoming the first female officer in the town's history.

It was her compassion for her neighbors, combined with her courage and skill as an officer, that made MaryAnn an inspiration to other young women and men who wished to dedicate their lives to becoming officers of the peace. MaryAnn cared about the details of her community. She went as far as to initiate a program for children to carry glow sticks on Halloween to make them more visible to cars. It goes without saying that MaryAnn was well liked and well respected, both by the members of her community and by her fellow police officers. But more importantly, during her eighteen years on the force, MaryAnn made a difference.

Although I am not the Representative in Congress for the community of Fair Lawn, the loss of Officer Collura is one that hits particularly close to home. MaryAnn Collura was the aunt of my longtime staff member and campaign manager, Scott Snyder. To Scott, I would like to take this opportunity to say that the thoughts and prayers of the entire Pallone family and the Pallone staff are with you and your family in your time of loss.

Mr. Speaker, it is at these times that we are reminded of the sacrifice that police officers and their families make in the name of community service. To a police officer, each call presents dangers and threats that we cannot begin to imagine. To the outside world, a police officer's uniform represents unwavering and selfless dedication to the protection of our community and the defense and enforcement of our nation's laws. This is something that all police officers understand, and something MaryAnn died upholding.

Mr. Speaker, I ask my colleagues to join with me in honoring the life and work of Officer MaryAnn Collura. I urge my colleagues to take a moment and recognize the bravery and selflessness of all of our nation's police officers, and all of our heroes in uniform.

To MaryAnn's family; her mother, Helen; her siblings Paul, Patricia, and Linda; and to Scott and his entire family—please know that MaryAnn's commitment and sacrifice will never be forgotten by the people of Fair Lawn, the State of New Jersey or by the Congress of the United States.

HONORING LIEUTENANT THOMAS A. PETRELLA, UNITED STATES NAVY

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SIMMONS. Mr. Speaker, during this time of war, our thoughts are constantly with our active duty military personnel overseas, and also with all of the men and women who wore the uniform of the United States military through the years. I rise today to honor an individual who will retire this month following a long tour of service to this country.

Lieutenant Thomas A. Petrella enlisted in the United States Navy in 1980 and served as an intelligence specialist aboard four different aircraft carriers, a cruiser, and a nuclear attack submarine. Thom served 10 great years of commissioned service using his knowledge and extensive experience to better his community.

Throughout his successful 23-year career, Thom focused on his duties to aid our Nation and the United States Navy. He concludes his spectacular career as a Vietnam War analyst at the Department of Defense where he analyzed cases of Americans missing from the Vietnam War, including that of Captain Arnold Holm, a resident of Connecticut's Second District of whose greatness I have spoken here before.

Lieutenant Petrella epitomizes the type of person we would like to have serving in our Armed Forces, someone who believes in this country, in its values, someone who believes in faith and family and hard work, and someone who has a great appreciation for the blessings of freedom and who worked during his years to promote the values that have made this country a great place to be.

I ask my colleagues to join me in thanking and congratulating Lieutenant Thomas Petrella for his dedicated and committed service to this Nation. Your best years are still to come. I would also like to extend these wishes to his wife Renee and their children Kara, Ryan and Cody.

IN HONOR OF WILLIAM T. ''BILL'' ROBINSON

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. LUCAS of Kentucky. Mr. Speaker, I rise to congratulate William T. (''Bill'') Robinson III for receiving the prestigious Themis Award. The criteria for this award is ''Extraordinary service by an attorney to the Cincinnati Bar Association, the legal profession and/or the general community, which displays a high level of commitment, dedication or courage.'' Bill Robinson has certainly met this criteria.

Bill currently serves as Chair of the Finance Committee and Member of the Executive Committee of the Board of Governors of the American Bar Association (ABA). He has served as State Delegate to the ABA Nominating Committee, President of the National Caucus of State Bar Associations, member of the Executive Committee of the National Conference of Bar Presidents and is chairing the ABA Standing Committee on Bar Activities and Services and the ABA Standing Committee on Substance Abuse. Bill served as 50th President of the Kentucky Bar Association, founding Chair of the Kentucky IOLTA Fund, President of the Kentucky Bar Foundation, Co-Founder & President of the Salmon P. Chase American Inn of Court. Bill is a Fellow of the International Society of Barristers, a Fellow of the American Academy of Appellate Lawyers, a Sustaining Member of the American Bar Foundation, Member of the Sixth Circuit Judicial Conference, and a Sustaining Member of The American Law Institute.

In addition to his significant accomplishments in his chosen profession, Bill has a distinguished history of serving our local business community. As a co-founder of the Metropolitan Growth Alliance of Greater Cincinnati, he played a key role in the creation of the ''Gallis Report'' which has become a catalyst for a multi-jurisdictional, regional approach toward a wide range of strategic policy, planning and development initiatives throughout our Tri-State region. Bill also was a Founding Board Member and Secretary/Treasurer of the Tri-County Economic Development Corporation, the Vice Chair for Economic Development for the Greater Cincinnati Chamber of Commerce, and the Chair of the Partnership for Greater Cincinnati, a multi-million dollar initiative for economic development in the region; and a Founding Board Member of CINCY–TECH USA, the new economy initiative of the Greater Cincinnati Chamber. Bill is the Vice Chair of the Board of Directors and Chair of the Finance Committee Board of Directors of the Cincinnati/Northern Kentucky International Airport where he has served on the Board and helped direct the airport's emergence as one of the world's most modern and efficient airports.

Bill grew up in Cincinnati, was educated at the Anthenaeum of Ohio and St. Gregory Seminary, Thomas More College and the College of Law at the University of Kentucky. He

is an educator and serves on the Board of Mount St. Joseph College. He has served on the Board of Thomas More College, the Board of the Anthenaeum of Ohio, the Board of Covington Latin School and on the Board of the Greater Cincinnati Literacy Task Force, the Visiting Committee at the College of Law, University of Kentucky, the Visiting Committee at Chase College of Law, Northern Kentucky University, Adjunct Professor at Chase, and President of Redwood School and Rehabilitation Center where he is currently Chair of the Dorothy Wood Foundation.

Bill has served and continues to serve the legal profession, the community, and the Cincinnati Bar Association with the highest level of dedication, professionalism, and commitment. Bill can be proud of the positive impact that he has had on the quality of life in our regional community and I commend him on his many accomplishments.

DONALD JOHNSTONE FINNIE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, it is with profound sadness that I take this opportunity to pay tribute to the life and memory of an outstanding resident of my state. Mr. Donald Johnstone Finnie of Lakewood, Colorado passed away recently at the age of 84. As we mourn his passing, I think it is fitting to remember this outstanding husband, father, and friend who spent a lifetime in service to others.

Mr. Finnie, like so many members of his great generation, contributed to the Allied victory in World War II. He fought for our country in New Guinea and Germany before returning home to Colorado, where in 1948 he joined the El Jebel Shrine, which does charity work with the Shriners Hospitals. He became president of the Jefferson County Shrine Club a decade later. Mr. Finnie and his beloved wife Doris also participated in a number of youth programs in support of their two daughters, including the Jefferson County YMCA and the Campfire Girls.

Donald Finnie knew the meaning of the word dedication. In his 43-year association with the Rotary Club, Mr. Finnie never missed a meeting. His good works also extended into the political arena as district chairman of the Republican Party and as a founding father of the city. In 1968, Mr. Finnie served on the incorporation committee for Jefferson City, which later changed its name to Lakewood.

Mr. Speaker, we are all saddened by the loss of Donald Johnstone Finnie, but take comfort knowing that our grief is overshadowed by the legacy of courage, selflessness, and generosity he left with all who knew him. Donald's life embodies the virtues that helped make this country great, and I am deeply honored for the opportunity to pay tribute to him today. Donald Johnstone Finnie will be missed by his family, friends and the many people in his community who were fortunate enough to have known him.

FAIRNESS FOR AMERICA'S HEROES ACT

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. GUTIERREZ. Mr. Speaker, I rise today to announce the introduction of my bill, the ''Fairness for America's Heroes Act.''

Currently, there are more than 37,000 non-citizens on active duty in our military and each year approximately 7,000 new non-citizens join the armed forces.

These brave men and women are willing to die defending our nation, and it is imperative that we recognize their selflessness and spirit—not only when someone is killed in battle, but from the moment they are called up for combat duty.

We need laws that reflect non-citizen soldiers' heroism and their patriotism. That say we are grateful for your sacrifice; we understand the risks and dangers of combat duty; and to honor your dedication and devotion, we are granting you citizenship. This is a right that these men and women have earned and deserve.

Throughout history non-citizen soldiers have stood shoulder-to-shoulder with native-born Americans in defense of our nation. They fight with vigor and valor to protect the American dream, and they risk their lives everyday for the safety and security of our country.

All of those who serve—regardless of race, regardless of gender, regardless of country of origin—are without hesitation recognized as America's heroes. The legislation I am introducing today will allow them, rightfully and justly, to also be recognized as Americans. This is a distinction they have certainly earned and deserve.

The ''Fairness for America's Heroes Act'' grants citizenship automatically to non-citizen soldiers assigned to combat duty.

The legislation says that no soldier will ever again have to come home in a body bag to be recognized as an American. No soldier's family will ever again have to sort through mounds of paperwork so their loved ones can receive citizenship posthumously. It also says that no soldier will ever again have to be preoccupied or worry what will happen to their family's immigration status if they are killed in battle.

It enables immediate family members of servicemen and servicewomen to receive expedited processing of their immigration status, and, perhaps most important, it honors the enormous contributions immigrants make to our military and to our society every day.

To understand these contributions, you have to look no further than the young men who heroically and valiantly served their adopted country in the war against Iraq: Lance Corporal Jose Gutierrez, Corporal Jose Garibay, Private First Class Francisco Martinez-Flores, Lance Corporal Jesus Suarez del Solar.

These brave young men, barely in their twenties, died fighting for our country, but the ideals and principles they fought for must not.

Those ideals can be summed up most eloquently with the words of Lance Corporal Gutierrez' brother, who said that Jose joined the Marines ''to pay a little back of what he'd gotten from the U.S.''

These young men, many of whom left war-torn, war-ravaged countries, understood that America is the type of place that permits you to dream as big as your heart will allow. They were willing to fight and die for that dream, and our immigration system should reflect and respect that sacrifice.

You see, Mr. Speaker, immigrants' presence in our military is nothing new. Immigrants have fought in every war since the American Revolution. In fact, immigrants account for 20 percent of the recipients of the Congressional Medal of Honor.

In Silvis, Illinois, just west of Chicago, Ill., there is a street called Hero Street U.S.A. This street stands as a tribute to honor eight young Latino men who lost their lives courageously defending our country during World War II and Korea. They went to war without hesitation even though people often ignored them or treated them as second-class individuals. The sacrifice and strength of these young men sparked an unrivaled and unmatched wave of service in their community.

The Department of Defense has documented that no street of comparable size has sent as many men and women to serve in the Armed Forces.

While tributes like these are important, and speeches are moving, we must back up our rhetoric with action. The swift passage of this legislation is an important place to begin.

It will say to these heroic young servicemembers that we recognize and respect your contributions; we honor your spirit and your service; and that you personify the pride and patriotism that makes this Nation so great.

I urge my colleagues to properly recognize these brave men and women by supporting the ''Fairness for America's Heroes Act.''

TRIBUTE TO JAMES L. FERMAN, SR.

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of the late James L. Ferman Sr., a pillar in the Tampa Bay society, whose devotion to his company was second only to his dedication to family and his remarkable commitment to strengthening his community.

A native of Tampa, Ferman joined the Navy in 1942 after graduating from H.B. Plant High School and Emory University. After serving his country in both the Atlantic and Pacific as an intelligence officer and commander of a submarine chaser, James Ferman Sr. came home to oversee the expansion of his father's automobile company. Under his watch, Ferman Motor Car Company became the oldest continuously operating dealership in the country and one of the biggest dealerships in the state.

Today Ferman Motor Car Company employs almost 1,000 people in four counties, and James Ferman Sr., the father of this company, was known for treating these employees like his own family. The integrity with which he led Ferman Motor explains why so many employees have stayed with the company for decades.

James Ferman Sr. was also known for his work outside of the company. The 1966 Civitan Club's Citizen of the Year dedicated

much of his life and wealth to charitable causes in Tampa Bay and beyond. Ferman served the community in countless capacities including as a board member of the Port Authority, the Chamber of Commerce, the United Way and the University of Tampa, and as an active member of the Hyde Park United Methodist Church.

James Ferman Sr.'s contributions to making Tampa Bay a better place to live will never be forgotten and will continue to inspire generations of citizens to serve and lead their communities as he did. On behalf of all of us, I would like to extend my deepest sympathies to his family.

PREVENTION OF PREDATORY LENDING THROUGH EDUCATION ACT

HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. SCOTT of Georgia. Mr. Speaker, thank you for the opportunity to discuss legislation that I am introducing today that will coordinate government agencies and non profit organizations that provide education counseling to consumers who have been victims of predatory lending practices. This legislation is intended to improve consumer literacy, reduce harmful mortgage lending practices, and provide borrowers with a nationwide toll-free telephone number to receive complaints regarding predatory lenders and create a resource database of information.

While expanded access to credit from both prime and subprime lenders has contributed to the highest homeownership rates in the nation's history, there is growing evidence that some lenders are engaging in predatory lending practices—excessive front-end fees, single premium credit life insurance, and exorbitant prepayment penalties—that make homeownership much more costly for families that can least afford it. Predatory loans are said to have grown rapidly in minority neighborhoods, often stripping away wealth that may have taken homeowners decades or a lifetime to accumulate. Some communities which lacked access to traditional institutions were being victimized by second mortgage lenders, home improvement contractors, and finance companies who peddled high interest rate home equity loans with high loan fees to cash-poor homeowners.

A joint report by the Department of Housing and Urban Development and the Treasury Department, issued June 21, 2000, Curbing Predatory Home Mortgage Lending, urged Congress to adopt legislation that would restrict abusive terms and conditions on high-cost loans, prohibit harmful sales practices in mortgage markets, improve consumer literacy and disclosures, and prohibit government-sponsored enterprises from purchasing loans with predatory features and establishing predatory lending as a factor in CRA evaluations.

Therefore, I urge my colleagues to support this legislation that will assist borrowers who already have predatory loans, educate consumers about the dangers and pitfalls of entering into a home loan, and refer consumers to appropriate governmental agencies or consumer protection organizations for assistance.

I ask unanimous consent that the text of the legislation and my statement are printed into the RECORD.

HONORING FLANNERY DAVIS AND GUS JOLLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Flannery Davis and Gus Jolley for their creativity in sharing their love of horses. Flannery and Gus run the Walk On Therapeutic Riding Center in Florence, Colorado and offer programs that give disabled people the opportunity to experience riding in Colorado's beautiful mountains. Today I want to honor their efforts before this body of Congress and this nation.

Gus began thinking about offering services for disabled riders when he was driving a shuttle van for the disabled as a part-time job in Santa Fe. Both he and Flannery spent two years volunteering with therapeutic riding centers and undergoing training as riding instructors before starting Walk On. Walk On Riding Center helps to make riding accessible to diverse groups of people by using adaptive teaching techniques and equipment to accommodate disabilities, both physical and mental. Their programs build independence, confidence, and self-esteem by introducing disabled citizens to the freedom and fun that riding can provide.

Mr. Speaker, it is a great privilege to recognize Flannery Davis and Gus Jolley for their outreach to the disabled in their community. On horseback and off, disabled riders can feel capable, empowered, independent, and healthy. Everyone deserves the opportunity to experience a slice of our western tradition, and I am proud to salute a program that expands access to one of the best recreational opportunities Colorado has to offer.

COMMEMORATING YOM HASHOAH

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. WAXMAN. Mr. Speaker, I rise today to commemorate Yom Hashoah, Holocaust Martyrs' and Heroes' Remembrance Day, which memorializes the six million Jews murdered by the Nazis during World War II.

Each year this day is one of grief and hope.

We mourn the innocent lives and vibrant communities destroyed while the world shamefully stood silent, and encourage the strides being taken to advance Holocaust education and the battle against resurgent anti-Semitism and intolerance around the world.

We observe the anniversary of the Warsaw ghetto uprising, when a brave cadre of fighters battled a Nazi siege to liquidate the community's last remaining Jews, and resolve ourselves to provide comfort and support for the aging community of Holocaust survivors who continue to battle the horrors of their past.

This year, as we mark the 50th anniversary of the dedication of Yad Vashem in Israel and the 10th anniversary of the founding of the U.S. Holocaust Memorial Museum in Washington, we have tremendous accomplishments to be proud of, but difficult challenges remain ahead.

In European and Arab countries, where the dramatic rise of anti-Semitic and Holocaust denial is fomenting attacks against Jews and exacerbating tensions in the Middle East, we must do more to counteract the steady stream of hatred.

In the United States and around the world, where elderly holocaust survivors are struggling to find adequate health and home care to alleviate the traumatic scars of their experiences, communities must join together to find ways to meet these vital needs.

And in the vast settlements negotiated by the United States with European governments and corporations to atone for the crimes of slave labor and theft of assets, companies responsible for Holocaust-era insurance policies must be held accountable for their denials, delays, and stonewalling tactics against survivors and families seeking restitution.

The wrongful denial of claims in violation of the standards set by the International Commission on Holocaust-Era Insurance Claims (ICHEIC) must be reviewed and overturned. Companies routinely extending the 90–day period allotted by ICHEIC to research the validity of claims into year-long sagas with no status updates to the claimant must be mandated to act more expeditiously. And most urgently, companies refusing to publish the basic policyholder information from their archives must be penalized for their inaction.

Survivors who are still alive were only children when the Holocaust began. While many have vivid recollections about insurance agents visiting their home or policies their family spoke of, few have documents to identify the right company and cannot do so because the companies haven't provided comprehensive lists for them to search for the names of their parents and relatives. As a result, more than 80 percent of the claims filed with ICHEIC are incomplete, and barely 2 percent of the over 88,000 claims submitted to ICHEIC have received offers.

Today I am encouraged that some progress is being made. This week, the German insurance industry agreed to publish the names on 363,232 policies issued by German companies to people identified on a comprehensive list of Jews who lived in Germany before the war. This is a vast improvement over the meager 308 policyholder names previously made available from Germany's largest insurer, Allianz.

More must be done, however, to get Generali, Axa, Winterthur, and Zurich to live up to their responsibilities as ICHEIC members. In November 2001, when I organized a hearing on the Government Reform Committee to shed light on these problems, Axa had provided 191 names to ICHEIC, Zurich had given 40 names and Winterthur just 31. Generali, a company that was the most popular pre-war insurer among Jews in Poland and Hungary, had released only 8,740 names out of the nearly 90,000 policies in effect when the war began. It is unacceptable and reprehensible that these companies have still not taken any steps to provide more information.

We must pressure these companies to do more. If they will not open their archives voluntarily, we must compel them to do so by

supporting the implementation of state laws like California's Holocaust Victims Insurance Relief Act or the enactment of federal legislation like H.R. 1210, the Holocaust Victims Insurance Relief Act, which I introduced earlier this year.

Justice delayed is justice denied. Today, on Yom Hashoah as we mourn the victims of the Holocaust we must renew our determination to help the remaining survivors attain justice in their lifetimes.

PRESIDENT OF POLISH HERITAGE ALLIANCE, JOHN J. WALLOCH, TO BE HONORED

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. KLECZKA. Mr. Speaker, on Sunday, May 4, 2003, the Pulaski Council of Milwaukee will be honoring John Walloch, President of Polish Heritage Alliance, at its twenty-third Heritage Award Dinner.

Mr. Walloch's ties in our Polish community run deep. The proud son of Leonard and Helen Walloch, John grew up on Milwaukee's southside where he graduated from my alma mater, Don Bosco High School. Following his time at Don Bosco, he entered the Milwaukee Institute of Mortuary Science and graduated in 1961 with certification as both a Funeral Director and Embalmer. With the assistance of his parents, he opened the John J. Walloch Funeral Home in 1966 and has been overseeing its operations ever since.

Despite his hectic professional schedule, John has always found time to serve his fellow Milwaukeeans. He has previously held leadership roles for the South Side Business Club and Xaverian Missionary Fathers Advisory Board, and is currently a member of St. Joseph's Foundation, the Knights of Columbus, St. Alexander's, and St. Roman's Parishes.

For many years, John has also played an important role in the Polish-American community in the Milwaukee area. He is an active member, and past president, of the Milwaukee Society of Polish National Alliance, a fraternal Polish-Americans organization. In 2002, he assumed the presidency of the Polish Heritage Alliance. Under John's leadership, the Polish Heritage Alliance has continued to gain notoriety as the directing organization for Milwaukee's famous Polish Fest, America's largest Polish Festival. During each visit to the festival, attendees are sure to see him dancing the polka while donning a red czapka.

John, the avid outdoorsman, likes to spend his ''free time'' boating, hiking and entertaining friends and his two daughters, Linda and Christi, and his son, Jason, at his recently refurbished second home on Elkhart Lake. In the past years, John has been collecting stamps in his passport, and had the opportunity to visit the homeland of his ancestors, Poland.

Mr. Speaker, it is with great pride that I extend my congratulations to John Walloch for his exemplary work in the Polish-American community. May he continue to be blessed with happiness and success for years to come. Sto Lat!

EL DÍA DE LOS NIÑOS

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. HINOJOSA. Mr. Speaker, tomorrow is a very important day. It is ''El Día De Los Niños (The Day of the Children)—Celebrating Young Americans. This traditional Latin American holiday has been observed nationally since April 30, 1998.

In preparation for that first El Día De Los Niños, young Americans in dozens of cities across the nation signed petitions and testified before city councils to ask for local recognition of the celebration. It is a day for parents, families and communities to value and uplift Latino children and all other children in the United States.

Across the Nation, communities are organizing their own activities to celebrate their children on April 30th. I am proud that my 15th Congressional district of Texas celebrates El Día De Los Niños with great enthusiasm and fanfare. This week 600 hundred elementary school children will enjoy a day of festivities at Edinburg Municipal Park. Another 600 children will be celebrating in McAllen at Seguin Elementary School.

These celebrations are possible because the entire community—schools, community-based organizations, colleges, and local businesses come together to uplift the children of the Lower Rio Grande Valley to show them how much we care about them, and how important they are to our future.

El Día De Los Niños has a powerful message for us all. El Día De Los Niños provides a bridge for children to learn more about being an American.

Their first hands-on civics lesson is to ask their city council to declare and celebrate the Day of the Children. Young Americans have told the Nation what it should be doing. They have accepted the gift of a special day from the Latino community and are building a national celebration of hope and diversity for all children in the United States—a gift we can all cherish.

I encourage my colleagues to help celebrate this important day in their own communities and with their own children.

TRIBUTE TO LINDA MOSEMAN RAYMOND

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. HINCHEY. Mr. Speaker, I rise today to pay tribute to my constituent, Linda Moseman Raymond, for her exceptional leadership and community service. Mrs. Raymond is a resident of Woodstock, New York and is currently serving as Department President of the American Legion Auxiliary, Department of New York. The American Legion Auxiliary is the largest women's patriotic service organization in the world. Their primary goals are to serve veterans, their families, and children in their communities and to promote patriotism and Americanism.

Mrs. Raymond is a charter member of the Woodstock Unit #1026 in Ulster County. She is presently employed at AMETEK Rotron as the Customer Service Manager. She manages the Department and is responsible for all European accounts and export compliance for the company.

Mrs. Raymond has been very active in her community, serving as an EMT on the Woodstock Rescue Squad, a firefighter in the Woodstock Fire Department and an Instructor in CPR and Water Safety.

Each year the Department President chooses a project of particular interest to her and raises funds to assist in that effort. Having dealt closely with community emergency situations, Mrs. Raymond has chosen to raise funds for two children's burn camps- the New York City Firefighters Burn Center Foundation and the Strong Memorial Hospital Burn Camp through the Rochester Medical Center Burn Unit. Both burn camps provide the opportunity for children having suffered the devastating effects of burns to spend some time in a summer camp with specially trained counselors, nurses, psychologists and firefighters. Through her community volunteer work, Mrs. Raymond has seen first hand the tragic effects that severe burns have on the lives of children. To be able to spend time with other children that do not stare or judge, tease or ridicule their burn injuries is necessary for these children. To date, more than $40,000 has been raised through the efforts of the members in The American Legion Auxiliary in New York.

Mrs. Raymond has always been a strong supporter of children's programs, and she has clearly demonstrated her dedication again as she promotes this worthwhile cause. The American Legion Auxiliary is proud of the efforts on her behalf. During these difficult times for our nation, Mrs. Raymond's service to these children is most noteworthy.

Mr. Speaker, I am delighted to join the American Legion Auxiliary in honoring Linda Moseman Raymond for her ongoing commitment to children and to her community.

HONORING BONIFACIO COSYLEON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Mr. Bonifacio ''Boney'' Cosyleon for his leadership in the Pueblo, Colorado business community. In addition to becoming a successful businessman himself, Boney has volunteered his time to a wide range of community organizations and today I want to honor his accomplishments before this body of Congress and this nation.

''Boney'' has served the Pueblo community for nearly twenty-three years as a member of the Greater Pueblo Chamber of Commerce and the Pueblo Economic Development Corporation. As the owner of a construction company, Byerly and Cosyleon, Inc., he has been an instrumental player in the Colorado Contractors Association's outreach to minority businesses. From 1988 to 1992, ''Boney'' served as chairman of the CCA's Affirmative Action Committee, helping to develop the Emerging Small Businesses Program. ESB offers training opportunities, technical assistance and referrals to eligible small businesses and

has helped to secure almost $60 million in construction contracts for these businesses. Recently the Colorado Department of Transportation presented him with the Emerging Small Business Award for his work on ESB and for his advocacy on behalf of small business.

Mr. Speaker, it is a great privilege to recognize ''Boney'' Cosyleon for his service to Colorado. His work has helped innumerable new small businesses achieve success in the construction industry. His community involvement is a credit to small businesses everywhere, and it is my distinct pleasure to honor him here today.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 1, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 6

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine media ownership.
SR–253

10 a.m.
Appropriations
Homeland Security Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for border and transportation security.
SD–124

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System, S. 634, to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail, S. 635, to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and S. 651, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System.
SD–366

Aging
To hold hearings to examine Medicare reform and competition.
SD–562

Joint Economic Committee
To hold joint hearings to examine financing the nation's roads.
SD–628

2:30 p.m.
Judiciary
Constitution, Civil Rights and Property Rights Subcommittee
To hold hearings to examine judicial nominations, filibusters, and the Constitution, focusing on when a majority is denied its right to consent.
SD–226

Armed Services
Emerging Threats and Capabilities Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

Energy and Natural Resources
To hold oversight hearings to examine the Department of the Interior program's addressing western water issues.
SD–366

3:30 p.m.
Armed Services
SeaPower Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–232A

4:30 p.m.
Armed Services
Personnel Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

MAY 7

9 a.m.
Armed Services
Airland Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–232A

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine climate change.
SR–253

Judiciary
To hold hearings to examine the nominations of Consuelo Maria Callahan, of California, to be United States Circuit Judge for the Ninth Circuit, and Michael Chertoff, of New Jersey, to be United States Circuit Judge for the Third Circuit.
SD–226

10 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the impact of the global settlement.
SD–538

Armed Services
Readiness and Management Support Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

10:15 a.m.
Appropriations
Defense Subcommittee
To hold hearings to examine the National Guard and Reserve.
SD–192

11:30 a.m.
Armed Services
Strategic Forces Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–232A

2:30 p.m.
Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

Commerce, Science, and Transportation
To hold hearings to examine Hydrogen.
SR–253

MAY 8

9:30 a.m.
Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

Commerce, Science, and Transportation
To hold hearings to examine the nomination of Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration, to be immediately followed by hearings to examine the reauthorization of National Highway Traffic Safety Administration.
SR–253

1:30 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Secretary of the Senate and the Architect of the Capitol.
SD–124

MAY 9

9:30 a.m.
Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.
SR–222

MAY 13

10 a.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 452, to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, S. 500, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era, S. 601, to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, for inclusion in the Fort Vancouver National Historic Site, S. 612, to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona, H.R. 788, to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona, S. 630, to authorize

the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and H.R. 519, to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed.

SD–366

MAY 14

9:30 a.m.
Foreign Relations
To hold hearings to examine an original bill to authorize foreign assistance for fiscal year 2004, to make technical and administrative changes to the Foreign Assistance and Arms Export Control Acts and to authorize a Millennium Challenge Account.

SD–419

MAY 15

9:30 a.m.
Foreign Relations
To continue hearings to examine an original bill to authorize foreign assistance for fiscal year 2004, to make technical and administrative changes to the Foreign Assistance and Arms Export Control Acts and to authorize a Millennium Challenge Account.

SD–419

Governmental Affairs
To hold hearings to examine the Department of Homeland Security, focusing on state and local governments.

SD–342

10 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the Fair Credit Reporting Act and issues presented by the Re-authorization of the Expiring Preemption Provisions.

SD–538

Indian Affairs
To hold hearings to examine S. 575, to amend the Native American Languages Act to provide for the support of Native American language survival schools.

SR–485

2 p.m.
Governmental Affairs
To hold hearings to examine the nominations of Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board, Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board, Terrence A. Duffy, of Illinois, to be a Member of of the Federal Retirement Thrift Investment Board, and Thomas Waters Grant, of New York, to be a Director of the Securities Investor Protection Corporation.

SD–342

MAY 20

2:30 p.m.
Foreign Relations
To hold hearings to examine the future of U.S. economic relations in the Western Hemisphere.

SD–419

MAY 22

10 a.m.
Indian Affairs
To hold oversight hearings to examine the status of telecommunications in Indian Country.

SR–485

JUNE 3

10 a.m.
Indian Affairs
To hold hearings to examine the status of tribal fish and wildlife management programs.

SR–485

JUNE 4

10 a.m.
Indian Affairs
To hold hearings to examine the impacts on tribal fish and wildlife management programs in the Pacific Northwest.

SR–485

2 p.m.
Indian Affairs
To hold hearings to examine S. 281, to amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes, to provide for training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR–485

JUNE 11

10 a.m.
Indian Affairs
To hold hearings to examine the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.

SR–485

JUNE 18

10 a.m.
Indian Affairs
To hold oversight hearings to examine Indian sacred places.

SR–485

Daily Digest

HIGHLIGHTS

Senate passed S. 196, Digital and Wireless Network Technology Program Act of 2003.

The House passed H.R. 1350, Individuals with Disabilities Education Act Reauthorization.

Senate

Chamber Action

Routine Proceedings, pages S5501–S5617

Measures Introduced: Sixteen bills and six resolutions were introduced, as follows: S. 14, S. 950–964, S. Res. 126–129, and S. Con. Res. 40–41. **Page S5541**

Measures Reported:

S. Con. Res. 26, condemning the punishment of execution by stoning as a gross violation of human rights. **Page S5538**

Measures Passed:

Digital and Wireless Network Technology Program Act: By a unanimous vote of 97 yeas (Vote No. 136), Senate passed S. 196, to establish a digital and wireless network technology program, after agreeing to the following amendment proposed thereto: **Pages S5504–11**

Allen Amendment No. 532, to ensure that the educational assistance is focused on supporting science, mathematics, engineering, and technology at eligible institutions, and provide for appropriate review of grant proposals. **Page S5504**

Commending Sally Goffinet: Senate agreed to S. Res. 128, to commend Sally Goffinet on thirty-one years of service to the United States Senate. **Page S5615**

Commending University of Minnesota Men's Hockey Team: Senate agreed to S. Res. 126, commending the University of Minnesota Golden Gophers for winning the 2002–2003 National Collegiate Athletic Association Division I National Collegiate Men's Ice Hockey Championship. **Page S5615**

Congratulating U.S. Capitol Police: Senate agreed to H. Con. Res. 156, extending congratulations to the United States Capitol Police on the occasion of its 175th anniversary and expressing gratitude to the men and women of the United States Capitol Police and their families for their devotion to duty and service in safeguarding the freedoms of the American people. **Pages S5615–16**

Measures Indefinitely Postponed:

Clean Diamond Trade Act: Senate indefinitely postponed S. 760, to implement effective measures to stop trade in conflict diamonds. **Page S5616**

Nomination Referral: A unanimous-consent agreement was reached providing that Executive Calendar No. 35, the nomination of John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, be recommitted to the Committee on the Judiciary. **Pages S5501–02**

Nomination Considered: Senate continued consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit. **Pages S5511–28**

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:15 a.m., on Thursday, May, 1, 2003, with one hour of debate, followed by a vote on the motion to close further debate thereon. **Page S5617**

Nomination Agreement: A unanimous-consent agreement was reached providing that, if the motion to invoke cloture on the nomination of Priscilla Owen (listed above) is not agreed to, Senate will begin consideration of the nomination of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit. **Page S5617**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Amendments to Constitution and Convention of International Telecommunication Union (ITU) (Geneva 1992) (Treaty Doc. No. 108–5); and

Protocol of Amendment to International Convention on Simplification and Harmonization of Customs Procedures (Treaty Doc. 108–6).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S5616–17**

Executive Reports of Committees: Senate received the following executive report of a committee:

Report to accompany 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 With Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, Slovenia (Treaty Doc. 108–4) (Ex. Rept. 108–6). **Pages S5538–41**

Nominations Received: Senate received the following nominations:

Robert W. Fitts, of New Hampshire, to be Ambassador to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador to the Solomon Islands and Ambassador to the Republic of Vanuatu.

John E. Herbst, of Virginia, to be Ambassador to Ukraine.

William B. Wood, of New York, to be Ambassador to the Republic of Colombia.

Harry K. Thomas, Jr., of New York, to be Ambassador to the People's Republic of Bangladesh.

Tracey Ann Jacobson, of the District of Columbia, a Foreign Service Officer of Class One, to be Ambassador to Turkmenistan.

Lisa Genevieve Nason, of Alaska, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.

Georgianna E. Ignace, of Wisconsin, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.

John Richard Grimes, of Massachusetts, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2006.

1 Navy nomination in the rank of admiral.

Routine lists in the Navy. **Page S5617**

Messages From the House: **Page S5536**

Measures Referred: **Page S5536**

Measures Read First Time: **Page S5536**

Executive Communications: **Pages S5536–38**

Executive Reports of Committees: **Pages S5538–41**

Additional Cosponsors: **Pages S5541–43**

Statements on Introduced Bills/Resolutions: **Pages S5543–S5614**

Additional Statements: **Pages S5535–36**

Amendments Submitted: **Page S5614**

Authority for Committees to Meet: **Pages S5614–15**

Privilege of the Floor: **Page S5615**

Record Votes: One record vote was taken today. (Total—136) **Page S5510**

Adjournment: Senate met at 10 a.m., and adjourned at 7:09 p.m., until 9:15 a.m., on Thursday, May 1, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S5617.)

Committee Meetings

(Committees not listed did not meet)

HEALTH CARE ACCESS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded hearings to examine health care access and affordability, focusing on the effects of uninsurance on individuals, families, and communities, after receiving testimony from Risa Lavizzo-Mourey, Robert Wood Johnson Foundation, Princeton, New Jersey; Arthur L. Kellermann, Emory University, Atlanta, Georgia; Carolyn F. Scanlan, Hospital and Healthsystem Association of Pennsylvania, Harrisburg; Lanette Kane, People's Clinic, Cedar Falls, Iowa; and Chris Peterson, Clear Lake, Iowa.

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, after receiving testimony from Tom Ridge, Secretary of Homeland Security.

APPROPRIATIONS: DISTRICT OF COLUMBIA COURTS

Committee on Appropriations: Subcommittee on District of Columbia concluded hearings to examine proposed budget estimates for fiscal year 2004 for the District of Columbia Courts, after receiving testimony from Annice M. Wagner, Chair, Joint Committee on Judicial Administration, Washington, D.C.; and Doug Nelson, Director, National Capitol Region Property

Development Division, Public Buildings Service, General Services Administration.

APPROPRIATIONS: DOD MEDICAL PROGRAMS

Committee on Appropriations: Subcommittee on Defense concluded hearings to examine proposed budget estimates for fiscal year 2004 for the medical programs of the Department of Defense, after receiving testimony from Lieutenant General James B. Peake, Surgeon General, U.S. Army; Vice Admiral Michael L. Cowan, Surgeon General, and Rear Admiral Kathleen L. Martin, Deputy Surgeon General, both of the U.S. Navy; Lieutenant General George Peach Taylor, Jr., Surgeon General, and Brigadier General Barbara Brannon, Assistant Surgeon General, both of the U.S. Air Force; and Brigadier General William T. Bester, Chief, Army Nurse Corps.

APPROPRIATIONS: FOREIGN OPERATIONS

Committee on Appropriations: Subcommittee on Foreign Operations concluded hearings to examine proposed budget estimates for fiscal year 2004 for foreign assistance programs, after receiving testimony from Colin L. Powell, Secretary of State.

FIRE SERVICE

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine S. 321, the Firefighting Research and Coordination Act, focusing on the programs and services of the U.S. Fire Administration of the Department of Homeland Security, including the Firefighters Grant Program, Fire Service Training, public education and awareness, data collection, research and technology, and challenges, after receiving testimony from Representatives Camp and Weldon; Arden L. Bement, Jr., Director, National Institute of Standards and Technology, Department of Commerce; R. David Paulison, Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security; Randy R. Bruegman, Clackamas County Fire District, Portland, Oregon, on behalf of the International Association of Fire Chiefs; James M. Shannon, National Fire Protection Association, Quincy, Massachusetts; and Kevin O'Connor, International Association of Fire Fighters, and Philip C. Stittleburg, National Volunteer Fire Council, both of Washington, D.C.

BUSINESS MEETING: COMPREHENSIVE ENERGY LEGISLATION

Committee on Energy and Natural Resources: Committee ordered favorably reported an original bill entitled ''Energy Policy Act of 2003''.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following business items:

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 (Treaty Doc. 108–4), with 9 declarations and 3 conditions; and

S. Con. Res. 26, condemning the punishment of execution by stoning as a gross violation of human rights.

ENERGY SECURITY

Committee on Foreign Relations: Subcommittee on International Economic Policy, Export and Trade Promotion concluded hearings to examine U.S. energy security issues, focusing on the importance of Russia and the Caspian to global energy production, after receiving testimony from Anna Borg, Deputy Assistant Secretary of State for Energy, Sanctions, and Commodities, Bureau of Economic and Business Affairs; Leonard L. Coburn, Director, Russian and Eurasian Affairs, Office of Policy and International Affairs, Department of Energy; Julia Nanay, PFC Energy, and Edward C. Chow, Carnegie Endowment for International Peace, both of Washington, D.C.; and Andrew B. Somers, Commercial Energy Dialogue With Russia, Moscow, on behalf of the American Chamber of Commerce in Russia.

INDIAN ECONOMIC DEVELOPMENT

Committee on Indian Affairs: Committee concluded hearings to examine S. 519, to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans after receiving testimony from William O. Russell, Deputy Assistant Secretary of Housing and Urban Development for Public and Indian Housing; Tex G. Hall, National Congress of American Indians, and Chris Paisano, Navajo Nation, both of Washington, D.C.; Derrick Watchman, Native American Bancorporation, Denver, Colorado; Cris E. Stainbrook, Indian Land Tenure Foundation, Little Canada, Minnesota; Eric Conrad Henson, Lexecon, Inc., Cambridge, Massachusetts, on behalf of the Harvard Project on American Indian Economic Development; and Mike Irwin, Alaska Federation of Natives, Anchorage.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings to examine the nominations of John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, and

William Emil Moschella, of Virginia, to be an Assistant Attorney General, Department of Justice, who were both introduced by Senator Warner, David G. Campbell, to be United States District Judge for the District of Arizona, S. Maurice Hicks, Jr., to be United States District Judge for the Western District of Louisiana, who was introduced by Senator Breaux and Representative McCrery, after each nominee testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Measures Introduced: 29 public bills, H.R. 1873–1901; and 5 resolutions, H. Con. Res. 158 and H. Res. 208–211, were introduced.

Pages H3569–71

Additional Cosponsors: **Pages H3571–72**

Reports Filed: Reports were filed today as follows:

Committee on the Budget Activities Report, 107th Congress, Second Session (H. Rept. 107–811);

H. Res. 210, providing for consideration of H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria (H. Rept. 108–80); and

H.R. 100, to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940, amended (H. Rept. 108–81). **Page H3569**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Simpson to act as Speaker Pro Tempore for today.

Page H3455

Guest Chaplain: The prayer was offered by the guest Chaplain, Rabbi Manny Behar, Executive Director, Queens Jewish Community Council of Forest Hills, New York. **Page H3455**

Individuals with Disabilities Education Act Reauthorization: The House passed H.R. 1350, to reauthorize the Individuals with Disabilities Education Act by yea-and-nay vote of 251 yeas to 171 nays, Roll No. 154. **Page H3531**

Pursuant to the rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill (H. Rept. 108–77) was considered as an original bill for the purpose of amendment.

Agreed To:

Castle amendment No. 1 printed in H. Rept. 108–79 that clarifies changes to GAO reports; increases the level of State reserves for high cost education needs; changes issues that can be raised at due process hearings; makes language dealing with local control over curriculum the same as that in the No Child Left Behind Act; changes part D programs to insure that the needs of children with limited English proficiency are met; and permits the support for the captioning of news programs; **Pages H3510–12**

Vitter amendment No. 2 printed in H. Rept. 108–79 that mandates GAO reviews to include recommendations to reduce or eliminate excessive paperwork burdens (recorded vote of 413 ayes with none voting ''no'', Roll No. 150);

Pages H3512, H3522–23

Bradley amendment No. 3 printed in H. Rept. 108–79 that increases the Part B set-aside funding cap to $750,000; **Pages H3512–13**

Woolsey amendment No. 4 printed in H. Rept. 108–79 that defines a free public education as one that is reasonably calculated t provide educational benefit to enable the child with a disability to access the general curriculum; **Pages H3513–14**

Shadegg Amendment No. 7 printed in H. Rept. 108–79 that expresses the sense of Congress that students who have not been diagnosed by a physician or other person certified by a State health board as having a disability should not be classified as disabled; **Pages H3519–20**

Kirk amendment No. 9 printed in H. Rept. 108–79 that expresses the sense of Congress that safe and drug-free schools are essential for the learning and development of children with disabilities;

Pages H3525–26

McKeon amendment No. 10 printed in H. Rept. 108–79 that requires additional Federal increases above FY 2003 levels to be passed directly to the local level; **Pages H3526–27**

Nethercutt amendment No. 11 printed in H. Rept. 108–79 that allows parents in consultation with the Individualized Family Service Plan (IFSP) team to determine the appropriate educational setting for each child; **Pages H3527–28**

Davis of California amendment No. 12 printed in H. Rept. 108–79 that authorizes the use of funding to train school safety personnel and first responders who work at qualified educational facilities in the recognition of autism spectrum disorders;

Pages H3528–29

Wu amendment No. 13 printed in H. Rept. 108–79 that gives priority to grants that provide for the establishment of programs regarding methods of early and appropriate identification of children with disabilities; and **Pages H3529–30**

Garrett amendment No. 14 printed in H. Rept. 108–79 that requires the Secretary of Education to conduct a study within two years of enactment on the cost to each state for compliance with the Act. **Pages H3530–31**

Rejected:

DeMint Amendment No. 5 printed in H. Rept. 108–79 that sought to allow the Secretary of Education to use Part D funding to design, develop, and initially implement parental choice and customized programs for students with disabilities (rejected by recorded vote of 182 ayes to 240 noes, Roll No. 151); **Pages H3514–17, H3523**

Musgrave Amendment No. 6 printed in H. Rept. 108–79 that sought to give school districts the option of offering parents of disabled children in private schools a certificate to be used for their child's specific special education needs (rejected by recorded vote of 176 ayes to 247 noes, Roll No. 152); and **Pages H3517–19, H3524**

Tancredo amendment No. 8 printed in H. Rept. 108–79 that sought to define specific learning disability to mean a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence and not based on subjective evidence (rejected by recorded vote of 54 ayes to 367 noes, Roll No. 153). **Pages H3520–22, H3524–25**

The Clerk was authorized to make corrections and conforming changes in the engrossment of the bill. **Page H3532**

The House agreed to H. Res. 206, the rule that provided for consideration of the bill by yea-and-nay vote of 211 yeas to 195 nays, Roll No. 149. **Pages H3458–66**

Consideration of Suspensions on Wednesdays: Agreed that it be in order for the Speaker to entertain motions that the House suspend the rules on Wednesdays through June 25, 2003 as though under clause 1 of rule XV. **Page H3532**

Committee Election: The House agreed to H. Res. 209, electing Representative Miller of North Carolina to the Committee on Small Business. **Page H3532**

Committee on Transportation and Infrastructure Resolutions: Read a letter from the Chairman of the Committee on Transportation and Infrastructure wherein he transmitted resolutions agreed to by the committee on April 9. The resolutions were referred to the Committee on Appropriations. **Pages H3532–34**

Senate Messages: Message received from the Senate today appears on page H3455.

Referrals: S. Con. Res. 39 was referred to the Committee on Government Reform. **Pages H3564–65**

Quorum Calls—Votes: Two yea-and-nay votes and four recorded votes developed during the proceedings of the House today and appear on pages H3465–66, H3522–23, H3523, H3524, H3524–25, H3531. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 8:59 p.m.

Committee Meetings

ADMINISTRATION'S HEALTHY FORESTS INITIATIVE

Committee on Agriculture: Held a hearing on the Administration's Healthy Forests Initiative. Testimony was heard from the following officials of the USDA: Mark Rey, Under Secretary, Natural Resources and the Environment; Dale Bosworth, Chief and Peter J. Roussopoulos, Director, Southern Research Station, Asheville, North Carolina, both with the U.S. Forest Service; and public witnesses.

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on U.S. Special Operations Command. Testimony was heard from Gen. Charles R. Holland, USAF, Combatant Commander, U.S. Special Operations, Department of Defense.

DISTRICT OF COLUMBIA APPROPRIATIONS

Committee on Appropriations: Subcommittee on the District of Columbia held a hearing on D.C. Courts. Testimony was heard from the following officials of the District of Columbia: Rufus G. King III, Chief Judge, Superior Court; and Lee F. Satterfield, Presiding Judge, Family Court, both with the Superior Court of the District of Columbia; Annice M. Wagner, Chairperson, Joint Committee on Judicial Administration and Chief Judge, Court of Appeals; and Ronald S. Sullivan, Jr., Director, Public Defender Service.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing, and Related Programs held a hearing on Secretary of the Treasury. Testimony was heard from John W. Snow, Secretary of the Treasury.

HOMELAND SECURITY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Homeland Security held a hearing on Emergency Preparedness and Response Directorate. Testimony was heard from Michael Brown, Under Secretary, Emergency Preparedness and Response Directorate, Department of Homeland Security.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on Employment Assistance and Training Activities Panel. Testimony was heard from the following officials of the Department of Labor: Emily DeRocco, Assistant Secretary, Employment and Training Administration; Frederico Juarbe, Jr., Assistant Secretary, Veterans Employment Training; and Kathleen Utgoff, Commissioner, Bureau of Labor Statistics.

TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation and Treasury, and Independent Agencies held a hearing on Executive Office of the President. Testimony was heard from Tim Campen, Director, Executive Office of the President.

MISCELLANEOUS MEASURES

Committee on Energy and Commerce: Ordered reported the following measures: H. Con. Res. 108, amended, encouraging corporations to contribute to faith-based organizations; H. Con. Res. 110, recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day; H. Con. Res. 147, commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders; H. Res. 201, expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world; and H.R. 1320, amended, Commercial Spectrum Enhancement Act.

TRAVEL AND TOURISM IN AMERICA TODAY

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled ''Travel and Tourism in America Today.'' Testimony was heard from public witnesses.

U.S. MONETARY AND ECONOMIC POLICY

Committee on Financial Services: Held a hearing on United States monetary and economic policy. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System; and public witnesses.

SERVICES ACQUISITION REFORM

Committee on Government Reform: Held a hearing on ''Better Training, Efficiency and Accountability: Services Acquisition Reform for the 21st Century.'' Testimony was heard from William Woods, Director, Contracting Issues, GAO; Stephen Perry, Administrator, GSA; Angela B. Styles, Administrator, Office of Federal Procurement Policy, OMB; and public witnesses.

HUMAN RIGHTS PRACTICES REPORTS

Committee on International Relations: Subcommittee on International Terrorism, Nonproliferation and Human Rights held a hearing on a Review of the State Department Country Reports on Human Rights Practices. Testimony was heard from Lorne W. Craner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, Department of State; and public witnesses.

HEALTHY FORESTS RESTORATION ACT

Committee on Resources: Ordered reported, as amended, the Healthy Forests Restoration Act of 2003.

U.S. LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT

Committee on Rules: Committee granted, by voice vote, a structured rule providing 1 hour of general debate on H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003. The rule provides that the amendment in the nature of a substitute recommended by the Committee on International Relations now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution. The rule provides that the amendments printed in the report shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Hyde and Representatives Smith of New Jersey, Smith of Michigan, Pitts, Lantos, Crowley and Millender-McDonald.

U.S. FLAG DREDGES—INTERPRETATIONS OF EXISTING OWNERSHIP REQUIREMENTS

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources and Environment held a joint hearing on Interpretations of Existing Ownership Requirements for U.S. Flag Dredges. Testimony was heard from Barry W. Holliday, Chief, Navigation and Operations Branch, U.S. Army Corps of Engineers, Department of the Army; Larry Burton, Director, International Trade Compliance Division, Office of Regulations and Rulings, Department of Homeland Security; and public witnesses.

OVERSIGHT—CURRENT AMTRAK ISSUES

Committee on Transportation and Infrastructure: Subcommittee on Railroads held an oversight hearing on Current Amtrak Issues. Testimony was heard from Alan Rutter, Administrator, Federal Railroad Administration, Department of Transportation; Jayetta Hecker, Director, Physical Infrastructure, GAO; David L. Gunn, President and CEO, AMTRAK; and public witnesses.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 1460, Veterans Entrepreneurship Act of 2003; H.R. 1712, Veterans Federal Procurement Opportunity Act of 2003; and H.R. 1716, Veterans Earn and Learn Act. Testimony was heard from Representative Renzi; Leo S. Mackay, Jr., Deputy Secretary, Department of Veterans Affairs; Angela B. Styles, Administrator, Office of Federal Procurement Policy, OMB; representatives of veterans organizations; and public witnesses.

CHALLENGES FACING PENSION PLAN FUNDING

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on Challenges Facing Pension Plan Funding. Testimony was heard from Peter Fisher, Under Secretary, Domestic Finance, Department of the Treasury; Steven A. Kandarian, Executive Director, Pension Benefit Guaranty Corporation; and public witnesses.

COMMITTEE MEETINGS FOR THURSDAY, MAY 1, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the U.S. Capitol Police Board and the Sergeant-at-Arms, 10 a.m., SD–138.

Subcommittee on Homeland Security, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Secret Service and Coast Guard, 10 a.m., SD–106.

Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2004 for NASA, 10 a.m., SD–124.

Committee on Commerce, Science, and Transportation: business meeting to consider pending calendar business, 9:30 a.m., SR–253.

Full Committee, to hold hearings to examine nanotechnology, 2:30 p.m., SR–253.

Committee on Foreign Relations: to hold hearings to examine the nomination of Roger Francisco Noriega, of Kansas, to be an Assistant Secretary of State (Western Hemisphere Affairs), 10 a.m., SD–419.

Committee on Governmental Affairs: to hold hearings to examine the Department of Homeland Security, focusing on streamlining and enhancing homeland security, 10 a.m., SD–342.

Committee on the Judiciary: business meeting to consider S. Res. 75, commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers, and the nominations of Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit, John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, J. Leon Holmes to be United States District Judge for the Eastern District of Arkansas, and Patricia Head Minaldi, to be United States District Judge for the Western District of Louisiana, 9:30 a.m., SD–226.

Select Committee on Intelligence: to hold hearings to examine proposed legislation authorizing funding for fiscal year 2004 for the intelligence community, 2:30 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on Defense, executive, on Missile Defense, 9:30 a.m., H–140 Capitol.

Subcommittee on Homeland Security, on Federal Law Enforcement Training Center, 10 a.m., 2359 Rayburn.

Subcommittee on Labor, Health and Human Services, Education and Related Agencies, on Worker Protection Agencies Panel, 10:15 a.m., 2358 Rayburn.

Committee on Armed Services, hearing on the Department of Defense Transformation for the 21st Century Act, 9 a.m., 2118 Rayburn.

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled ''Review of the University of California's Contract for Los Alamos National Laboratory,'' 9:30 a.m., 2123 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, to mark up H.J. Res. 22, proposing a balanced budget amendment to the Constitution of the United States, 12 p.m., 2141 Rayburn.

Subcommittee on Courts, the Internet, and Intellectual Property, hearing on H.R. 1839, Youth Smoking Prevention and State Revenue Enforcement Act, 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up the following bills: H.R. 958, Hydrographic Services Amendments of 2003; and H.R. 1497, Sikes Act Reauthorization Act of 2003, 10 a.m., 1324 Longworth.

Committee on Science, to mark up the following bills; H.R. 766, Nanotechnology Research and Development Act of 2003; and H.R. 1578, Global Change Research and Data Management Act of 2003, 10 a.m., 2318 Rayburn.

Committee on Small Business, hearing entitled "IRS Compliance with the Regulatory Flexibility Act," 9:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce, joint hearing on Coordinating Human Services Transportation, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Health, hearing on Medicare Cost-Sharing and Medigap, 12 p.m., 1100 Longworth.

Subcommittee on Social Security, hearing on Social Security Provisions Affecting Public Employees, 10 a.m., B–318 Rayburn.

Next Meeting of the SENATE

9:15 a.m., Thursday, May 1

Senate Chamber

Program for Thursday: Senate will continue consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, with a vote on the motion to close further debate on the nomination to occur at approximately 10:15 a.m.; following which, if the cloture motion is not invoked, Senate will begin consideration of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Also, Senate may consider S. 113, Foreign Intelligence Surveillance Act, S. 925, Foreign Relations Authorization Act, S. 15, Project BioShield Act, and any other cleared legislative and executive items.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, May 1

House Chamber

Program for Thursday: Consideration of H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (structured rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Baldwin, Tammy, Wisc., E803
Bishop, Rob, Utah, E807
Cardoza, Dennis A., Calif., E811
Cramer, Robert E. (Bud), Jr., Ala., E808, E810
Davis, Jim, Fla., E814
Davis, Lincoln, Tenn., E807
Ehlers, Vernon J., Mich., E806
Emanuel, Rahm, Ill., E808, E811
Evans, Lane, Ill., E804
Gutierrez, Luis V., Ill., E814
Hastings, Alcee L., Fla., E805
Hinchey, Maurice D., N.Y., E816
Hinojosa, Rubén, Tex., E816
Kildee, Dale E., Mich., E803
Kleczka, Gerald D., Wisc., E816
Lampson, Nick, Tex., E809
Larson, John B., Conn., E805
Lucas, Ken, Ky., E813
McInnis, Scott, Colo., E807, E810, E811, E812, E814, E815, E816
Ney, Robert W., Ohio, E803, E804, E805
Norton, Eleanor Holmes, D.C., E806
Otter, C.L. ''Butch'', Idaho, E804
Pallone, Frank, Jr., N.J., E813
Rahall, Nick J., II, W.Va., E809
Reynolds, Thomas M., N.Y., E805
Rogers, Mike, Ala., E806
Ryan, Timothy J., Ohio, E812
Schiff, Adam B., Calif., E804, E804
Scott, David, Ga., E815
Shaw, E. Clay, Jr., Fla., E803
Simmons, Rob, Conn., E813
Skelton, Ike, Mo., E804
Udall, Mark, Colo., E808, E810
Waters, Maxine, Calif., E808, E810
Waxman, Henry A., Calif., E815
Wilson, Joe, S.C., E811

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