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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 4, 2003.

I hereby appoint the Honorable CHARLES F. BASS to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Clint Decker, Pastor, Clay Center Wesleyan Church, Clay Center, Kansas, offered the following prayer:

My Father, who rules the universe from Your throne in heaven, holy is Your Name. Your kingdom now lives in the hearts of Your children and will one day rule this earth. May Your will be done in and through these Representatives today as it is freely done in heaven. May Your wisdom be sought and Scriptures obeyed. Thank You for our daily bread. You have given us the food we eat and this free country we live in.

Father, forgive us our sins. Forgive our pride, our selfishness and, at times, our stubborn hearts. Also, forgive those who have sinned against us, those who have mistreated us. Protect us from the Evil One today. Guard marriages in this Chamber he will try to defeat. Guard souls he will try to tempt. May Your presence be acknowledged many times today.

To You, God, belongs all glory, honor and power. In the name of Jesus I pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. NEY 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 bill of the following title in which the concurrence of the House is requested:

S. 313. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

INTRODUCTION OF THE REVEREND CLINT DECKER

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

Mr. MORAN of Kansas. Mr. Speaker, it is my great honor today to welcome to the House of Representatives the Reverend Clint Decker. Through radio interviews and his involvement in his community of Clay Center, Kansas, I have worked with Clint for many years, and I am pleased to have him here today to offer our opening prayer.

I am also happy to welcome his wife, Kathe Decker, a State Representative from the 64th district in Kansas. She has served our State very well in the State capital. Also joining them today is their granddaughter Jessica, who is visiting Washington, D.C., for the very first time.

Clint is an ordained minister in the Wesleyan Church. He has served in the positions of Assistant Pastor and Youth Pastor in Clay Center Wesleyan Church since 1997.

Over the last 3 years, Clint has served as the Assistant News Director for KCLY and KFRM radio. In these positions he has earned State awards for his work and has also helped the station earn Station of the Year honors.

Clint has been involved in the Detour Youth Center, a local community youth ministry, since 2000. He has served on the board and been the ministry's director and has been a regular speaker in working with youth.

In 1990, Clint's life was transformed and he later left a promising career in business to pursue service in the full-time ministry. Clint attended the Mid-America Nazarene University in Olathe, Kansas, and completed his requirements for ordination in Indiana.

Clint was born in Poughkeepsie, New York, and has also lived in Ohio, Colorado, and Missouri. He is the youngest of one brother and two sisters. His father is an ordained minister in the Church of the Nazarene. His mother and father have been in the pastorate for over 25 years.

Mr. Speaker, I welcome Clint and his family to the Nation's Capital.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to ten 1-minutes from each side of the aisle.

INTERNET GAMBLING BILL

(Mr. PITTS asked and was given permission to address the House for 1

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minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the offshore casino industry would like us to think that Internet gambling is a harmless activity that can be tamed by Federal regulation. The problem is, it cannot happen.

Proponents of regulation are selling it because it sounds reasonable. Their arguments for regulation are nothing but a smoke screen to cover up what is already illegal activity. They seem to be more interested in regulating around the law than taking legitimate action to stop illegal activity.

That is the bottom line. Internet gambling is illegal according to the Department of Justice and the FBI. However, there is no effective way to regulate it. The only way to stop it is to cut off the financial flow through the legal Internet casino industry, and that is what H.R. 2143 does.

H.R. 2143 does not define what is legal and what is illegal. It simply ensures that law enforcement has the means to stop illegal activity. It is time to pass the bill.

RESERVIST PAY GAP

(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 pay tribute to our Nation's National Guard and Reserve. These brave Americans voluntarily leave behind families and their civilian duties to serve in our Nation's military for the sake of protecting our Nation. And how do we repay them? By requiring long terms of duty and often paying them less salary than they would earn by staying at home.

Today, the House will consider House Resolution 201, paying tribute to private companies who have been willing to support these troops in part by filling in this pay gap for some of our reservists. However, just last month, when my colleagues and I tried to introduce amendments to the Defense authorization bill that would have ended all pay gaps for reservists, they were not only defeated by my Republican counterparts, but they were not even allowed to be debated on this House floor.

It is time that Congress does more for the reservists than just pay accolades to private industry. To truly give tribute to our national reservists we must pass legislation so that all of these individuals who risk their lives for our country will not risk financial disaster.

PIED PIPER NURSERY

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

Mr. NEY. Mr. Speaker, today I want to talk about Pied Piper Nursery in St. Clairsville, Ohio. We have a lot of turbulence in the world, but I think we always need to point out the bright spots, Mr. Speaker.

The owners are Karen Griener and Jean Fulton, and the teachers are Cathie Cilles, Joan West, Joyce Snider, and Teri Coleman. There are 100 students in total, and it is strictly educational.

A while back, Mr. Speaker, I went to Pied Piper Nursery and the young children sang songs, they talked about their country and they asked questions. I just wanted to keep a promise that I made to those students that I would let our Congress know about a bright spot, and that is the Pied Piper Nursery. We applaud the parents, the teachers, the owners, and especially the young students.

BUDGET UNDERFUNDS VETERANS' HEALTH CARE

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

Mr. STRICKLAND. Mr. Speaker, this House recently passed a budget which woefully underfunds veterans' health care by $6.2 billion. The result: Many veterans will no longer be able to get health care through the VA system. It is a shame that we are rationing health care for our veterans.

This House also passed a tax bill that takes care of the millionaires, but leaves thousands of children behind, even children whose moms and dads at this very moment are serving in Iraq. So this is what my Republican colleagues have done. They have taken care of the millionaires and they have left our veterans and our children behind. Shame on them.

IN HONOR OF PRIVATE FIRST CLASS ERIC BLEYTHING

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

Mr. BOOZMAN. Mr. Speaker, I rise today to honor one of America's bravest, Private First Class Eric Bleything of the 3rd District of Arkansas.

Private First Class Bleything, a scout with the 3rd Armored Calvary Regiment in Iraq, was wounded last week when the eight-vehicle resupply convoy he was with was attacked. He was shot in the stomach with an AK–47. Fortunately, the bullet missed all vital organs, and he is in good condition.

Private First Class Bleything is one of the many heroes currently stationed in Iraq. However, what makes his story even more special is that Private First Class Bleything had an opportunity to stay in the U.S. rather than ship out with his unit in April. His wife had just been diagnosed with cancer, and his commanders told him he could stay behind to be with her through the treatments. However, they decided he should go and be with his unit. As Marcie herself said, he felt the obligation to go and serve his country.

Mr. Speaker, Private First Class Bleything embodies the courage and sacrifice of America's men and women. My thoughts and prayers are with him as he continues to recover from this attack.

BENEFITS OF BROADBAND

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

Mr. LANGEVIN. Mr. Speaker, we all know the Internet is a powerful tool. It makes distance and location irrelevant. It evens the playing field between small and large businesses and increases worker productivity.

The next revolution is broadband. We will be able to do so much and do it more efficiently. But we can only do it if we have the infrastructure to do it with. The FCC ruled in February that DSL, telephone company-provided broadband connections, should not be subject to certain rules imposed on local voice telephone networks. This is a good beginning and it should start some companies on the road to more broadband deployment. Verizon, the largest phone company in my State, plans to make broadband available to 10 million more residences and small businesses nationwide in 2003 alone.

The problem is that the FCC has not issued its February order. That order will detail the new rules that companies know how broadband will be regulated and guides investment decisions. Until it is released, however, these companies cannot move forward. I urge the FCC to issue its order as quickly as possible so that millions of Americans can begin to experience the new opportunities that broadband will provide.

IN MEMORY OF DEPUTY SHERIFF SHELBY GREEN

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

Mr. HENSARLING. Mr. Speaker, in the early morning hours of Thursday, May 15, Deputy Sheriff Shelby Green, of the Anderson County, Texas, Sheriff's Department, was brutally murdered in the line of duty by an unknown assailant.

After attempting to stop a suspicious vehicle, Deputy Green pursued the assailant for 10 miles as bullets were smashing through his windshield. When the chase ended, Deputy Green was left dead with a fatal gunshot wound to his chest.

A decorated law enforcement officer, last year Deputy Green received the Award of Valor from the Drug Enforcement Administration.

Mr. Speaker, today we honor and mourn the loss of this 39-year-old hero, a family man. He served and protected

our community with distinction and valor. Our most heartfelt thoughts and prayers go out to his family, his friends, his fellow deputies, especially to his wife, Diane, and their three sons, Steven, Trey, and Scott.

May his killer be brought to justice and may God bless and keep Deputy Sheriff Shelby Green.

□ 1015

FULL FUNDING FOR NO CHILD LEFT BEHIND ACT

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

Mr. ETHERIDGE. Mr. Speaker, I rise this morning to call on Congress to fully fund the President's No Child Left Behind for school reform. Last Congress we passed legislation to create tough new standards our schools must meet and vigorous assessments to measure progress in meeting those standards.

As a former superintendent of North Carolina schools, I voted for this bill because my State has led the Nation in standard-based reform, and the administration promised historic new funding to make the bill work, but the administration has broken that promise. This year's budget request shortchanges No Child Left Behind by $9.7 billion; and over the first 3 years of the new law, the administration is proposing nearly $20 billion in cuts to No Child Left Behind.

Mr. Speaker, a promise is a promise and a deal is a deal, and Congress must hold the administration accountable for its commitments. I am working with others to help make sure No Child Left Behind is fully funded before the tough new requirements take effect. If the White House is going to talk the talk, Congress had better make sure that they walk the walk. I urge Members to join me in this vital effort to do right by our schools and our children.

IMMIGRATION REFORM

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

Mr. TANCREDO. Mr. Speaker, several foreign governments have undertaken to distribute identification cards to their nationals living illegally in the United States. Some of these governments, specifically one of them, Mexico, has taken this one step further and decided to begin to use their consular offices here to lobby State and local governments in the United States to get them to accept these cards, thereby aiding and abetting people living in this country illegally.

Mr. Speaker, if the United States had asked its consular offices in Mexico or any other country to undertake such a practice, there would be a storm of protest, and rightly so. Consular offices would be closed; officials would be recalled. It would be appropriate for governments to respond that way. Our government has not said a word about this. It is time, however, that the Government of the United States issue a formal protest to the Government of Mexico for this egregious, outrageous behavior, and it is time for this government to take control of its own immigration policy.

LOW-INCOME AMERICANS ENTITLED TO TAX RELIEF

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

Mr. INSLEE. Mr. Speaker, Mark Twain said that humans were the only species that would feel embarrassment, or needed to. That is an appropriate quote today when many of my Republican colleagues are terribly embarrassed because they got caught with their hand in the cookie jar giving over $90,000 tax relief to millionaires, and to children of families who earn less than $26,000, gave them zero tax relief for the child deduction.

This is scandalous, and many of my good Republican friends are terribly embarrassed that they have been caught in this fashion. But now I call on my Republican colleagues to admit that they made a mistake and fix the problem. I am told that the majority leader, the gentleman from Texas (Mr. DELAY), said that people who earn $26,000 do not pay taxes. Excuse me, they pay property taxes, they pay withholding taxes, they pay sales taxes, and they are entitled to fair treatment.

Mr. Speaker, we cannot excuse the inexcusable. I am calling for my Republican friends to call the gentleman from Texas (Mr. DELAY) to fix this problem today.

SUPPORT GLOBAL PATHOGEN SURVEILLANCE ACT

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

Mr. KIRK. Mr. Speaker, today the gentlewoman from California (Mrs. TAUSCHER) and I will introduce the Global Pathogen Surveillance Act of 2003. Identical to the Biden-Lugar bill in the Senate, it will assist in fighting the threats of bioterrorism and naturally-occurring infectious diseases.

International trade and travel offer new opportunities for pathogens to cross national borders. Infectious disease epidemics, wherever they occur, are a potential threat to all nations. Americans have become all too familiar with the threat from bioterrorism and deadly agents capable of spreading death, anthrax, Ebola, smallpox, and SARS. They are just the most recent examples.

The Kirk-Tauscher bill authorizes $150 million over 2 years to assist developing countries to train personnel in epidemiological techniques, acquire laboratory equipment, and obtain equipment to communicate inside the country and with the World Health Organization. Our legislation has the strong support of Dr. David Heymann, the highest-ranking American at the World Health Organization. It will contribute to our homeland security while at the same time making other countries safer for Americans traveling abroad. I thank the gentlewoman from California (Mrs. TAUSCHER) for cosponsoring this important bill.

CHILD TAX CREDIT UNFAIR

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

Mr. GEORGE MILLER of California. Mr. Speaker, listen carefully, the growing sound and the roar we hear from the Senate is the sound of Republican Senators rushing to change their position on the child tax credit. What we hear is them now recognizing the incredible injustice they did to hard-working families with children who earned under $26,000 a year who will not get that $400 check for each of their children like other families this summer. The Republicans have recognized the injustice; but the gentleman from Texas (Mr. DELAY), the leader of the Republicans in the House——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The gentleman will suspend. The gentleman will refrain from references characterizing the Senate.

Mr. GEORGE MILLER of California. Mr. Speaker, I am only reporting on what the Senate is doing. I am reporting; I am not characterizing.

The SPEAKER pro tempore. The gentleman must not characterize them or their actions.

Mr. GEORGE MILLER of California. Mr. Speaker, Senators are changing their position on the child care tax credit. It is in The New York Times. I could read the names of the Senators. That is what is happening there.

Here, the gentleman from Texas (Mr. DELAY) says they are not going to correct this injustice to these families. These families will go without their $400 check that is so important to the income of those families and the ability to raise their children. How dare the Republicans suggest that these children are less valuable than the children of other American families.

AMERICAN IDEALS ADMIRED

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

Mr. STEARNS. Mr. Speaker, I rise to share some good news about America's number one export: our ideals of democracy, freedom, and free enterprise.

This is from a new survey by the Pew Research Center for the people and the press. In contrast to harsh criticism often heard from U.S. bashers, both here and internationally, this survey of 66,000 people in 44 countries over 2 years reveals that the majority demonstrates strong preferences in seeing democratic governments formed in Muslim countries. Also majorities in 33 of the these 44 countries believe people live better in a free market, even if it leads to wealth and income disparities.

According to this survey: ''This is not to say that they accept democracy and capitalism without qualification, or that they are not concerned about many of the problems of modern life. By and large, however, the people of the world accept the concept and values that underlie the American approach to governance and business.'' This is also good news for the people of Iraq.

FUND CHILD TAX CREDIT

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

Mr. RYAN of Ohio. Mr. Speaker, I rise today to ask this Congress to fund the child tax credit. For 6 million families, it would only cost $3.5 billion. We have the $3.5 billion, but we want to give it to the top 1 percent. All we would have to do is take the top tax bracket and instead of cutting it down to 35 percent, cut it down to 35.3 percent, and we would have enough money to give the child tax credit to working families, single parents with children, single mothers trying to raise their children.

Mr. Speaker, we have enough time in this Congress to honor Sammy Sosa and his corked bat, but we do not have enough time to honor the children in single families in this Congress.

HONORING TEXAS TEACHERS OF THE YEAR

(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, today I would like to spotlight several distinguished teachers from the Third Congressional District of Texas.

Great teachers nurture our country's best hope for tomorrow, our children. Children may be a fraction of our society, but they are 100 percent of our future. These educators go beyond the call of duty and selflessly make our children better and make Texas a better place to live.

These are the teachers of the year from the third district: from Allen, Texas, Nancy Jung and Joyce Carson; from Garland, Michael Robertson; from McKinney, Sharon Guynes and Betty Rutledge; from Plano, Marilyn Caruthers and Roxanne Burchfiel; from Princeton, Janice Bohannan and Diane Talley; from Richardson, Lisa Cunningham and Rick Urbanczyk; and from Wylie, Doug Grether.

It is outstanding teachers like these who strive for excellence and make a difference in the lives of our children. They are heroes for our children, for America, for our freedom, for our future. God bless all of them. I salute our teachers all over the country.

MIDDLE-INCOME TAXPAYERS WILL PAY GREATER SHARE OF FEDERAL TAXES

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

Mr. LEVIN. Mr. Speaker, two stories today in the papers tell it all. One, ''Delay Rebuffs Move to Restore Lost Tax Credit,'' a credit for 6.5 million low-income families. The gentleman from Texas (Mr. DELAY) says, ''There are a lot of other things that are more important than that.''

The second story, the headline is, ''Middle Class Tax Share Set to Rise,'' and it says that as a result of three successive tax cuts of the Bush administration, middle-income taxpayers will be paying a greater share of all Federal taxes by the end of the decade.

When we raise these issues, the majority here likes to say it is class warfare. There is class warfare against middle- and low-income families under the Republican majority rule. We ask this question to taxpayers of America, Whose side are you on? It is clear the Republicans are on the side, as said in the paper, of Americans who earn $337,000 or more per year.

SUPPORTING AMERICA'S 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, I rise today in support of America's children. Since January 7, the 108th Congress has acted on a number of bold initiatives to secure the future of all children. We have successfully passed legislation to protect children from dangerous predators through the AMBER Alert legislation. We will soon vote on a conference report to improve child abuse prevention and treatment, called CAPTA; and the House recently passed my child medication safety legislation, H.R. 1170.

We have passed sensible, economic-growth legislation that increased the child tax credit from $600 to $1,000. Many have expressed concern about the fact that credit was not extended to those who pay no taxes.

I believe that Congress has done more to assist poor children and their parents with real jobs and real opportunities. Specifically, the jobs and growth bill recently signed into law removes major barriers to capital formation for individuals and small businesses, allowing these businesses to provide more jobs, more paychecks, and more economic benefits that will enrich the lives of all of the Nation's poorest children.

Mr. Speaker, I support this legislation, and I believe the 108th Congress has delivered on behalf of America's children.

HIGH-INCOME TAX BENEFICIARIES

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

Mr. ENGEL. Mr. Speaker, again two stories in the paper say it all. The Washington Post says three successive tax cuts pushed by President Bush will leave middle-income taxpayers paying a greater share of all Federal taxes by the end of the decade, according to new analyses of the Bush administration's tax policies.

As critics of the tax cuts in 2001, 2002, and 2003 have noted, the very wealthiest Americans, those earning $337,000 or more per year, will be the greatest beneficiaries of the changes in the Nation's tax laws.

□ 1030

Also, we read in the New York Times today that the House will not consider a Democratic measure to provide an increased tax credit to 6.5 million low-income families who did not receive it in the new tax law. So the policies of the Republican majority here are becoming increasingly clear. They are fiscally irresponsible, the borrow-and-spend Republican majority.

Let us see what they have done with the tax cuts: Helped the rich, hurt the middle class and poor, and stuck our children and grandchildren with the bill. Deficits as far as the eye can see. ''Let's enjoy the tax cuts now because our children and our grandchildren will be paying the bill.'' This is morally unconscionable and should be changed.

MIDDLE EAST SUMMIT

(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, today is a day of history and opportunity for the world and for the war-torn region known as the Middle East. I pray for the peace of Jerusalem and was yesterday greatly encouraged when five Arab leaders pledged to actively fight what they called the culture of extremism and violence in the region. I am also encouraged by Prime Minister Mahmoud Abbas who has called for an end to violence against Israeli citizens. But I was astounded this morning when the network television shows were all stressing what our President today in Jordan must demand of our ally, Israel.

The truth is, as we welcome this day of history and opportunity, we must be

clear that any progress toward peace must require that Palestinians first recognize Israel; second, renounce terrorism; and, third, dismantle the infrastructure of murder within their midst. Then and only then can our Nation ask our ally Israel to make the concessions necessary for the advancement of peace.

REGARDING THE LATEST TAX CUT

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

Mr. MORAN of Virginia. Mr. Speaker, last week President Bush signed the new tax cut law. That law is going to give $93,500 per year to the 200,000 taxpayers making over $1 million a year while the majority of all taxpayers would get less than $100 under this new Republican tax plan.

But to rub salt into wounds, there was a deliberate decision to deny every family whose income is under $26,625 a year the child tax credit. That includes most of the working class in this country. It includes nearly all men and women in combat. Their earned income is not $26,625, so they do not even qualify for the child tax credit and here they are putting their lives on the line for our country.

This is unbelievable. The fact is, the families of the 12 million children denied this credit do pay taxes. Millions of them pay into the Social Security trust fund. That is the money we are having to borrow to pay for this tax cut.

RECESS

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 32 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1302

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 1 o'clock and 2 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any RECORD vote on postponed questions will be taken later today.

RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 177) recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations, as amended.

The Clerk read as follows:

H. CON. RES. 177

Whereas the September 11, 2001, terrorist attacks on the United States, which killed thousands of people from the United States and other countries in New York, Virginia, and Pennsylvania, inaugurated the Global War on Terrorism;

Whereas the intelligence community quickly identified Al Qaeda as a terrorist organization with global reach and the President determined that United States national security required the elimination of the Al Qaeda terrorist organization;

Whereas the Taliban regime of Afghanistan had long harbored Al Qaeda, providing members of that organization a safe haven from which to attack the United States and its friends and allies, and the refusal of that regime to discontinue its support for international terrorism and surrender Al Qaeda's leaders to the United States made it a threat to international peace and security;

Whereas Saddam Hussein and his regime's longstanding sponsorship of international terrorism, active pursuit of weapons of mass destruction, use of such weapons against Iraq's own citizens and neighboring countries, aggression against Iraq's neighbors, and brutal repression of Iraq's population made Saddam Hussein and his regime a threat to international peace and security;

Whereas the United States pursued sustained diplomatic, political, and economic efforts to remove those threats peacefully;

Whereas on October 7, 2001, the Armed Forces of the United States and its coalition allies launched military operations in Afghanistan, designated as Operation Enduring Freedom, that quickly caused the collapse of the Taliban regime, the elimination of Afghanistan's terrorist infrastructure, and the capture of significant and numerous members of Al Qaeda;

Whereas on March 19, 2003, the Armed Forces of the United States and its coalition allies launched military operations, designated as Operation Iraqi Freedom, that quickly caused the collapse of Saddam Hussein's regime, the elimination of Iraq's terrorist infrastructure, the end of Iraq's illicit and illegal programs to acquire weapons of mass destruction, and the capture of significant international terrorists;

Whereas in those two campaigns in the Global War on Terrorism, as of May 1, 2003, nearly 330,000 members of the United States Armed Forces, comprised of active, reserve, and National Guard members and units, had deployed for Operation Enduring Freedom and Operation Iraqi Freedom;

Whereas as of May 1, 2003, some 224,500 Reserve and National Guard members of the Armed Forces had been called to active duty in support of Operation Enduring Freedom and Operation Iraqi Freedom;

Whereas in the conduct of Operation Enduring Freedom and Operation Iraqi Freedom, as of May 1, 2003, 67 military servicemembers and other United States personnel had given their lives in Afghanistan and 140 had been lost in Iraq, while over 700 had been wounded and 8 were held as prisoners of war;

Whereas success in those two campaigns in the Global War on Terrorism would not have been possible without the dedication, courage, and service of the members of the United States Armed Forces and the military and irregular forces of the friends and allies of the United States;

Whereas the support, love, and commitment from the families of United States service personnel participating in those two operations, as well as that of the communities and patriotic organizations which provided support through the United Services Organization (USO), Operation Dear Abby, and Operation UpLink, helped to sustain those service personnel and enabled them to eliminate significant threats to United States national security while liberating oppressed peoples from dictatorial regimes;

Whereas the civilian employees of the Department of Defense, through their hard work and dedication, enabled United States military forces to quickly and effectively achieve the United States military missions in Afghanistan and Iraq;

Whereas the commitment of companies making their employees available for military service, the creativity and initiative of contractors equipping the Nation's Armed Forces with the best and most modern equipment, and the ingenuity of service companies assisting with the global overseas deployment of the Armed Forces demonstrates that the entrepreneurial spirit of the United States is an extraordinarily valuable defense asset; and

Whereas the Nation should pause to recognize with appropriate tributes and days of remembrance the sacrifice of those members of the Armed Forces who died or were wounded in Operation Enduring Freedom and Operation Iraqi Freedom, as well as all who served in or supported either of those operations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) conveys its deepest sympathy and condolences to the families and friends of the members of United States and coalition forces who have been injured, wounded, or killed during Operation Enduring Freedom and Operation Iraqi Freedom;

(2) commends President George W. Bush, Secretary of Defense Donald H. Rumsfeld, and United States Central Command commander General Tommy Franks, United States Army, for their planning and execution of enormously successful military campaigns in Operation Enduring Freedom and Operation Iraqi Freedom;

(3) expresses its highest commendation and most sincere appreciation to the members of the United States Armed Forces who participated in Operation Enduring Freedom and Operation Iraqi Freedom, including the members of the organizational elements specified in section 2 of this resolution;

(4) commends the Department of Defense civilian employees and the defense contractor personnel whose skills made possible the equipping of the greatest Armed Force in the annals of modern military endeavor;

(5) calls upon communities across the Nation—

(A) to prepare appropriate homecoming ceremonies to honor and welcome home the members of the Armed Forces participating in Operation Enduring Freedom and Operation Iraqi Freedom and to recognize their contributions to United States homeland security and to the Global War on Terrorism; and

(B) to prepare appropriate ceremonies to commemorate with tributes and days of remembrance the service and sacrifice of those servicemembers killed or wounded during either of those operations;

(6) expresses the deep gratitude of the Nation to the 21 steadfast allies in Operation Enduring Freedom and to the 49 coalition members in Operation Iraqi Freedom, especially the United Kingdom, Australia, and Poland, whose forces, support, and contributions were invaluable and unforgettable; and

(7) recommits the United States to ensuring the safety of the United States homeland, to preventing weapons of mass destruction from reaching the hands of terrorists, and to helping the people of Iraq and Afghanistan build free and vibrant democratic societies.

SEC. 2. (a) OPERATION IRAQI FREEDOM.—The organizational elements of the Armed Forces referred to in paragraph (3) of the first section of this resolution members of which participated in Operation Iraqi Freedom are the following:

(1) From the Army—

(A) Army Forces Central Command—3rd United States Army.

(B) V Corps Command Element.

(C) 3rd Infantry Division (Mechanized).

(D) 101st Airborne Division (Air Assault).

(E) 82nd Airborne Division.

(F) 4th Infantry Division (Mechanized).

(G) Elements of the 1st Infantry Division, 10th Mountain Division, and 1st Armored Division.

(H) 2nd Armored Cavalry Regiment.

(I) 3rd Armored Cavalry Regiment.

(J) 173rd Airborne Brigade (Sep).

(K) 11th Aviation Group.

(2) From the Marine Corps—

(A) Marine Forces Central Command.

(B) 1st Marine Expeditionary Brigade.

(C) 1st Marine Division.

(D) 3rd Marine Air Wing.

(E) 1st Force Service Support Group.

(F) 2nd Force Service Support Group/Marine Logistics Command.

(G) 2nd Marine Expeditionary Brigade (Task Force Tarawa).

(H) The following Marine expeditionary units:

(i) 15th Marine Expeditionary Unit.

(ii) 24th Marine Expeditionary Unit.

(iii) 26th Marine Expeditionary Unit.

(3) From the Navy—

(A) Naval Forces Central Command—United States 5th Fleet.

(B) Theodore Roosevelt Carrier Strike Force.

(C) Nimitz Carrier Strike Force.

(D) Abraham Lincoln Carrier Strike Force.

(E) Constellation Carrier Strike Force.

(F) Kitty Hawk Carrier Strike Force.

(G) Harry S Truman Carrier Strike Force.

(H) Amphibious Task Force East.

(I) Amphibious Task Force West.

(J) Nassau Amphibious Ready Group.

(K) Tarawa Amphibious Ready Group.

(L) Iwo Jima Amphibious Ready Group.

(M) Amphibious Group 3.

(N) The following maritime prepositioning squadrons:

(i) Maritime Prepositioning Squadron 1.

(ii) Maritime Prepositioning Squadron 2.

(iii) Maritime Prepositioning Squadron 4.

(4) From the Air Force—

(A) Air Forces Central Command—9th Air Force.

(B) The following air expeditionary task forces:

(i) 9th Air Expeditionary Task Force.

(ii) 16th Air Expeditionary Task Force.

(C) The following air expeditionary wings:

(i) 39th Air Expeditionary Wing.

(ii) 40th Air Expeditionary Wing.

(iii) 64th Air Expeditionary Wing.

(iv) 320th Air Expeditionary Wing.

(v) 321st Air Expeditionary Wing.

(vi) 332nd Air Expeditionary Wing.

(vii) 363rd Air Expeditionary Wing.

(viii) 376th Air Expeditionary Wing.

(ix) 379th Air Expeditionary Wing.

(x) 380th Air Expeditionary Wing.

(xi) 384th Air Expeditionary Wing.

(xii) 386th Air Expeditionary Wing.

(xiii) 401st Air Expeditionary Wing.

(xiv) 405th Air Expeditionary Wing.

(xv) 410th Air Expeditionary Wing.

(xvi) 484th Air Expeditionary Wing.

(xvii) 485th Air Expeditionary Wing.

(xviii) 486th Air Expeditionary Wing.

(xix) 487th Air Expeditionary Wing.

(D) The following air expeditionary groups:

(i) 387th Air Expeditionary Group.

(ii) 398th Air Expeditionary Group.

(iii) 407th Air Expeditionary Group.

(iv) 409th Air Expeditionary Group.

(v) 444th Air Expeditionary Group.

(vi) 447th Air Expeditionary Group.

(vii) 449th Air Expeditionary Group.

(viii) 457th Air Expeditionary Group.

(ix) 458th Air Expeditionary Group.

(x) 506th Air Expeditionary Group.

(E) The following expeditionary air support operations groups:

(i) 3rd Expeditionary Air Support Operations Group.

(ii) 4th Expeditionary Air Support Operations Group.

(iii) 18th Expeditionary Air Support Operations Group.

(F) 1st Expeditionary RED HORSE Group.

(G) 86th Contingency Response Group.

(H) 15th Expeditionary Reconnaissance Squadron.

(5) From the United States Special Operations Command—

(A) Special Operations Command Central.

(B) From the Army Special Operations Command—

(i) 5th Special Forces Group (Airborne).

(ii) 3rd Special Forces Group (Airborne).

(iii) 10th Special Forces Group (Airborne).

(iv) 160th Special Operations Aviation Regiment.

(v) 75th Ranger Regiment.

(vi) 350th Civil Affairs Command.

(vii) 352nd Civil Affairs Command.

(viii) 304th, 308th, and 358th Civil Affairs Brigades.

(C) From the Naval Special Warfare Command—

(i) Naval Special Warfare Group One.

(ii) Naval Special Warfare Group Three.

(D) From the Air Force Special Operations Command—

(i) 16th Special Operations Wing.

(ii) 193rd Special Operations Wing.

(iii) 919th Special Operations Wing.

(iv) 352nd Special Operations Group.

(v) 720th Special Operations Group.

(vi) 123rd Special Tactics Squadron.

(vii) 280th Command Control Squadron.

(6) From the Coast Guard—

(A) The following vessels:

(i) USCGC Boutwell.

(ii) USCGC Dallas.

(iii) USCGC Walnut.

(iv) USCGC Aquidneck.

(v) USCGC Adak.

(vi) USCGC Wrangell.

(vii) USCGC Baranof.

(viii) USCGC Bainbridge Island.

(ix) USCGC Grande Isle.

(x) USCGC Knight Island.

(xi) USCGC Pea Island.

(xii) USCGC Sapelo.

(B) Mobile Support Unit.

(C) The following port security units:

(i) Port Security Unit 313.

(ii) Port Security Unit 311.

(iii) Port Security Unit 309.

(iv) Port Security Unit 305.

(D) Law Enforcement Detachments (101, 202, 204, 205, 404, 406, 411).

(E) Atlantic Strike Team Detachment.

(F) Law Enforcement Attachment (augmenting PCs).

(G) The following Harbor Defense Command units:

(i) Harbor Defense Command Unit 114.

(ii) Harbor Defense Command Unit 206.

(b) OPERATION ENDURING FREEDOM.—The organizational elements of the Armed Forces referred to in paragraph (3) of the first section of this resolution members of which participated in Operation Enduring Freedom are the following:

(1) From the Army—

(A) Army Forces Central Command.

(B) Combined Joint Task Force 180.

(C) 10th Mountain Division.

(D) 101st Airborne Division.

(E) 82nd Airborne Division.

(2) From the Marine Corps—

(A) Marine Forces Central Command.

(B) Commander Joint Task Force—Horn of Africa.

(C) Combined Joint Task Force 58.

(D) The following Marine expeditionary units:

(i) 11th Marine Expeditionary Unit.

(ii) 13th Marine Expeditionary Unit.

(iii) 15th Marine Expeditionary Unit.

(iv) 22nd Marine Expeditionary Unit.

(v) 26th Marine Expeditionary Unit.

(E) Detachments, 4th Marine Expeditionary Brigade (Anti-Terrorism).

(3) From the Navy—

(A) Navy Forces Central Command—United States 5th Fleet.

(B) Theodore Roosevelt Carrier Strike Force.

(C) Kitty Hawk Carrier Strike Force.

(D) Abraham Lincoln Carrier Strike Force.

(E) Enterprise Carrier Strike Force.

(F) Carl Vinson Carrier Strike Force.

(G) John C. Stennis Carrier Strike Force.

(H) John F. Kennedy Carrier Strike Force.

(I) George Washington Carrier Strike Force.

(J) Bonhomme Richard Amphibious Ready Group.

(K) Bataan Amphibious Ready Group.

(L) Peleliu Amphibious Ready Group.

(M) Wasp Amphibious Ready Group.

(4) From the Air Force—

(A) Air Forces Central Command—9th Air Force.

(B) The following air expeditionary task forces:

(i) 9th Air Expeditionary Task Force.

(ii) 13th Air Expeditionary Task Force.

(C) The following air expeditionary wings:

(i) 28th Air Expeditionary Wing.

(ii) 40th Air Expeditionary Wing.

(iii) 64th Air Expeditionary Wing.

(iv) 320th Air Expeditionary Wing.

(v) 321st Air Expeditionary Wing.

(vi) 322nd Air Expeditionary Wing.

(vii) 363rd Air Expeditionary Wing.

(viii) 366th Air Expeditionary Wing.

(ix) 376th Air Expeditionary Wing.

(x) 379th Air Expeditionary Wing.

(xi) 380th Air Expeditionary Wing.

(xii) 384th Air Expeditionary Wing.

(xiii) 386th Air Expeditionary Wing.

(xiv) 405th Air Expeditionary Wing.

(xv) 455th Air Expeditionary Wing.

(D) The following air expeditionary groups:

(i) 416th Air Expeditionary Group.

(ii) 438th Air Expeditionary Group.

(iii) 451st Air Expeditionary Group.

(E) 1st Expeditionary RED HORSE Group.

(5) From the United States Special Operations Command—

(A) Special Operations Command Central.

(B) From the Army Special Operations Command—

(i) 5th Special Forces Group (Airborne).

(ii) 3rd Special Forces Group (Airborne).

(iii) 19th Special Forces Group (Airborne).

(iv) 20th Special Forces Group (Airborne).

(v) 2nd Battalion, 7th Special Forces Group (Airborne).

(vi) 160th Special Operations Aviation Regiment.

(vii) 75th Ranger Regiment.

(viii) 350th Civil Affairs Command.

(ix) 354th, 360th, and 403rd Civil Affairs Brigades.

(x) 310th Psychological Operations Brigade.

(C) From the Naval Special Warfare Command—

(i) Naval Special Warfare Group One.

(ii) Naval Special Warfare Group Three.

(D) From the Air Force Special Operations Command—

(i) 16th Special Operations Wing.

(ii) 352nd Special Operations Group.

(iii) 193rd Special Operations Wing.

(iv) 919th Special Operations Wing.

(v) 720th Special Operations Group.

(vi) 123rd Special Tactics Squadron.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 177, the concurrent resolution under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H. Con. Res. 177, a resolution commending the members of the Armed Forces and our allies, their armed forces and all those who were involved in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.

As we stand here today, U.S. forces are deployed around the world engaged in the global war on terrorism. The first two campaigns in that war, Operation Enduring Freedom and Operation Iraqi Freedom, proved our resolve in taking the fight to anyone, anywhere, who wishes to do us harm. The results showed that the United States military remains the most powerful and effective military in the history of mankind.

The after-action reports will show many reasons for our success. However, I believe that the most important factor is the simplest one: our people. The United States is blessed to have the most highly trained, equipped and motivated force in the world. It is through the dedication, creativity and ability of our young men and women in uniform that we were able to prevail. I, and all my colleagues, commend them for their service.

Through both these operations, our forces stood shoulder to shoulder with 21 allied nations in Afghanistan and 49 coalition members in Iraq. And I might mention specifically the 40,000-plus troops of Great Britain and the 2,000-plus troops from Australia and the 200 Special Operators from Poland, who aided us in this fight. And without the help of these allies who contributed so much, we would not have enjoyed the success that we have had at this point.

Neither could we have succeeded without the support of the civilian employees of the DOD, industry employees and leadership. Of course, we had lots of contractors working our systems, helping out in that operation and, of course, we had community organizations and employers. Very importantly, Mr. Speaker, employers who made their Guardsmen and Reservists available for these endeavors and those employers who accommodated their absence to go out and defend our country. Their support to the men and women in the field made these operations possible.

H. Con. Res. 177 commends the bravery, dedication and resolve of all those who contributed to the success of these two operations. In particular, however, I want to express the condolences and thanks of a grateful Nation and a grateful Congress to the families of those American service personnel who made the ultimate sacrifice during these operations. Nothing we do here today can adequately express our sorrow at the loss of these brave men and women. The sole consolation that we can offer is that it is our conviction that they did not die in vain. Our country and the entire world is safer and freer today because of their sacrifice. We honor their service and we mourn their loss.

I urge my colleagues to support this resolution.

Mr. Speaker, just one last point. I was in Iraq a couple of days ago. And in talking at our last visit in Kirkuk, in getting our briefings from the commander of the 4th Infantry Division, I asked him the inevitable question. That is, of the 26,000 folks you have in theater right now, how many incidents have you had of mistreatment of Iraqi citizens? Of course, these things happen when you have hundreds of thousands of people deployed, you now and again have incidents like that. But he looked surprised when I asked the question, and he answered not one, not one incident of mistreatment of Iraqi civilians by our military forces.

Mr. Speaker, that reflection on the professionalism and the goodness of our people during this occupation following the war is itself another reason for us to commend our troops and commend their service to our country.

Mr. Speaker, I would urge my colleagues to support this resolution.

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

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

As a stalwart supporter of our troops and as cosponsor of House Concurrent Resolution 177, I am pleased to join my colleague and my friend, the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), in support of this bill.

This resolution commends and expresses the Nation's sincere appreciation to the men and women in uniform and our allies who served and are serving in Operation Enduring Freedom and Operation Iraqi Freedom. It also recognizes the outstanding contributions of the Department of Defense civilian employees and civil and defense contractors who have contributed tremendously to the success of these operations. And it urges communities across the country to honor and welcome home these brave and courageous patriots.

Today we have an all-volunteer force that proudly stands watch over the Nation's interests both here and abroad. Over 1.4 million active duty service members and an additional 875,000 citizen soldiers, National Guardsmen and Reservists, part-time volunteers, comprise the finest, best-trained fighting force the world has ever seen.

Let me say I am especially proud of the men and women in uniform from my home State of Missouri. Over 289,000 Guardsmen and Reservists have been activated since September 11, 2001, and nearly 220,000 have been called to active duty for Operation Enduring Freedom and Operation Iraqi Freedom. And as these fine young men and women return home, I urge my colleagues to visit an active duty base, Reserve center or National Guard armory and spend some time with these dedicated individuals to thank them and their families for their commitment and for their sacrifice. I promise you will never forget the experience of meeting these fine men and women. I know my visits to bases in Missouri always make a lasting impression on me.

When we send our fathers and our mothers and our sons and daughters, sisters and brothers, aunts, uncles, cousins in defense of this Nation, we are reminded that the price of freedom is not free.

I would also like to commend our Nation's civil servants and contractors who provide support to our service members. Americans may be surprised to learn that there are also civil service and civilian contractors serving overseas in Operation Enduring Freedom and Operation Iraqi Freedom. Our Nation also calls upon its dedicated and committed civil service personnel and contractors to support those serving in a combat zone. Their contributions were also important to the success of these operations, and they too deserve our recognition and our respect for their service to our Nation's security.

While those in uniform volunteer to make these sacrifices, their families are the ones that must shoulder these burdens as well. Anxiety, frustration,

sadness, anger, pride, happiness, satisfaction, understanding, and reassurance are all feelings that military families must face during the months of separation. Hundreds of babies have been born while a parent was deployed to Afghanistan or to Iraq. Tragically, some will never know their parent who died while serving.

Yet, time continues on, missed birthdays, proms, graduations, holidays; the loss of a loved one is normal hardship that military families endure. Military families endure much hardship and sacrifice, and to that end, they too serve.

Reservists and National Guardsmen and their families often face similar problems when called to active duty. But Reservists and National guardsmen are also dependent on support from their employer. Thousands of employers across the country have gone the extra step and provided additional support in a number of ways. That includes paying the difference between civilian pay and military pay when an employee is activated, and continuing health care coverage for families that are left behind. Without the support of our Nation's employers, Reservists and National Guardsmen would not be able to volunteer to defend this Nation.

I believe that it is of paramount importance to support the troops, the men and women in uniform who are literally putting their lives on the line for our country. More than 200 service members have died since the global war on terrorism began, and over 700 have been wounded or injured, and eight were held as prisoners of war. These individuals and their families have sacrificed for our freedom, and our thoughts and our prayers are truly with them. The Nation will not forget the price they paid to defend our country and the freedoms we all enjoy.

While there are no words that can adequately express the Nation's appreciation for their sacrifice, our sympathies and our prayers go out to these families.

It does not take too many hours of watching our troops in action on television to know that they are demonstrating acts of personal sacrifice and heroism on a daily basis. We have an obligation to let them know that we appreciate and admire their contribution to our national security.

Mr. Speaker, I urge my colleagues to support this resolution.

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

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, I would like to thank the gentleman from California (Mr. HUNTER) for sponsoring this resolution. I thank the gentleman from Missouri (Mr. SKELTON) for also cosponsoring it.

□ 1315

This resolution, I think, covers the ground of a way for us to say thanks to those people who answered the call to arms.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The gentleman will suspend.

Will the conversations in the gallery please terminate.

The gentleman may proceed.

Mr. MCINNIS. Mr. Speaker, this is a very serious resolution, and I think it demands appropriate attention. Every generation is concerned about the generation behind them, will they answer to the call of arms, will they be able to protect this country, will they have this feeling of patriotism; and this resolution is going to pass unanimously because we can all say with a great deal of pride that generation did rise, they were prepared and they have responded and they have delivered.

I am so proud of those young men and women who did rise and were willing to serve this country and unfortunately in some cases were killed in action defending the principles and the people of this country.

As the chairman has pointed out, there is a lot of thanks not only to the people who are on the front line of combat but for the families across this country that support and believed in the American flag and the symbolism and the pride of this Nation and the history of this Nation, and also a special thanks as my colleague pointed out and as the gentleman from Missouri (Mr. SKELTON) has pointed out, thanks to all the civilian employees and all the defense employees and the people in the armed services that were not on the front line, but also participated in this nationwide effort and a big thanks to our communities. I know in Colorado, where I come from, all the small towns, it is a big parade. They are welcoming these people back, those brave men and women that have come home. They are coming home with open arms.

This is a Nation that strongly supports its military. This is a Nation that sends a message out to the rest of the world, and that is, when the call comes, this Nation will respond. This Nation has principles, and it is willing to defend those principles. It has friends, and it is willing to defend those friends; and it will defend freedom.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

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

Mr. Speaker, I want to thank the gentleman from California (Mr. HUNTER), the chairman; and the gentleman from Missouri (Mr. SKELTON), the ranking member, for bringing this important resolution to the floor today. Like all Members, I will strongly support this resolution; but let none of us forget, while the battle of Baghdad has been won, the peace that all of us hope for in Iraq is yet to be achieved and our brave men and women in uniform and our allies are still in harm's way.

Today, The Washington Post reports that another American soldier died on Tuesday after being attacked by a small arms fire and rocket-propelled grenade at an Army checkpoint 50 miles north of Baghdad. May God bless his soul and provide comfort to his family. Our grateful Nation will forever be indebted to his service and sacrifice, as it is to the service and sacrifice of those comrades mentioned by the gentleman from Missouri (Mr. SKELTON) who also lost their lives and were injured in the defense of freedom.

Mr. Speaker, having witnessed Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq, there can be little doubt that the United States of America has the finest, best-led, best-equipped and best-educated fighting force in the history of the world. Our military is smarter, faster, and more lethal than it was 12 years ago during Desert Storm, and it was very good then. It took 250,000 troops to topple Saddam Hussein and liberate the Iraqi people. Twelve years ago, it took 500,000 troops to oust him from Kuwait. About 90 percent of our bombs and missiles were precision-guided in Operation Iraqi Freedom. In Desert Storm, that figure was 10 percent.

I want to congratulate the gentleman from California (Mr. HUNTER); I want to congratulate the gentleman from Missouri (Mr. SKELTON) and all the members of the Committee on Armed Services for giving our troops the tools to become better, better equipped, better able to defend freedom and protect themselves.

It is evident, therefore, that assertions regarding the American military being in decline, hollowed out, are not ready, are and always were patently wrong. Moreover, only an uninformed person, I think, would deny that our Commander in Chief led a fighting force which was bequeathed to him by his predecessor President Clinton and bequeathed to him by his predecessor George Bush and also by President Reagan.

As Vice President CHENEY remarked at the Air Force Academy 2 years ago, ''No President ever deploys the force he builds. There is nothing quick about preparation.'' That is a message that we must always remain ready, that we must always support the strength of our military and the safety of our personnel.

As the Taliban or the Hussein regime could attest, the myth of a hollowed-out American military is nothing more than that, a myth. I rise with my colleagues to thank, to support and commend our brave men and women in the Armed Forces of the United States of America.

Mr. HUNTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Colorado (Mr. HEFLEY), the chairman of the Subcommittee on Readiness.

Mr. HEFLEY. Mr. Speaker, I thank the gentleman from California (Mr.

HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this to us today.

After 9/11, the President stood right up there, and he said we will go anywhere we have to go to get people who would perpetrate the kind of action that occurred on September 11. We will go get him, and he meant what he said; and that is what we have been in the process of doing, and Iraq was part of that pattern. They were a threat to us, but they were a threat to the world; and we know they had weapons of mass destruction. What they have done with them we are not quite sure at this point, but we know they had those; and we know they had a hatred for the United States and would have had no compunction about giving or selling those weapons to people who would actually use them against the United States or the free world.

What we saw in 21 days of war and the aftermath that has come since then and the Afghanistan activity before that was the ultimate in professionalism and training and equipment and planning; and I think we can all be very proud of that. We do not want war, but we will defend ourselves wherever we have to go to do that. We have shown that we have the capability to get the job done.

We also have seen a tremendous dedication among these young troops that we have deployed. We are so proud of them and all the troops that we have over there that are willing to uproot their lives and leave their families and risk their lives in the pursuit of freedom.

I spend a lot of time, as the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) do, with the troops; and I have never seen a better attitude than they have today. They feel like they are doing something that is meaningful for world peace.

Our prayers and our support, of course, go to the families that have lost loved ones. We always hate that. We do not want to lose one single person, but we know in war we do lose some people and we are sorry for that, and we want to extend our appreciation to them for giving their loved ones to the cause.

So our thanks go to all of the coalition forces. What we are doing today is a small way to say thanks from a grateful Nation.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. HARMAN), who is one of the original cosponsors of this legislation together with the gentleman from California (Mr. CUNNINGHAM).

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me the time, and I commend him for his leadership on this issue and so many others.

Mr. Speaker, I rise in strong support of this resolution, which honors our troops and calls on communities all across the Nation to warmly welcome home the service women and men serving in Operation Iraqi Freedom and Operation Enduring Freedom.

Such an expression is critically important. Many of us who grew up during the Vietnam War are haunted by memories of the treatment afforded returning veterans of that conflict. Painted by an unpopular policy, many who risked their lives for their country and suffered physical and emotional wounds were ignored and their courage and sacrifice dishonored and ridiculed.

We must not let that happen again.

The resolution before us, like the one introduced earlier by the gentleman from California (Mr. CUNNINGHAM) and me, recognizes the service of more than 380,000 members of the United States Armed Forces, comprised of active component forces, National Guard and Reserve personnel, who were deployed thousands of miles from home as part of Operation Iraqi Freedom and Operation Enduring Freedom.

Thirty-five service members from the Los Angeles Air Force base located in my district were sent to the Persian Gulf. Many more were local Guard and Reserve members who were required to take indefinite leave from places of employment. All left loved ones behind and faced danger. And as my colleagues have heard, our Armed Forces suffered a number of casualties, including deaths, injuries and incarceration as prisoners of war.

One of the first casualties of Operation Iraqi Freedom was Marine Corps Lance Corporal Jose Gutierrez, who came from his native Guatemala to my district in California, lived with a foster family before joining the Marines to ''pay back a little of what he'd gotten from the U.S.'' Our condolences go out to his family and all families who lost loved ones during war.

Mr. Speaker, the homecomings have already begun. The city of Torrance, California, dedicated its May 17 Armed Forces Day parade to the returning servicemembers. Other cities have scheduled 4th of July festivities, and families throughout my district are planning neighborhood block parties and other celebrations to welcome home sons, daughters, brothers, sisters, fathers, and mothers.

I commend the Committee on Armed Services, its chair and ranking member especially, for bringing this resolution to the floor today. We must never forget the courage and selfless sacrifice of the women and men in our Armed Forces. We must always undertake efforts to protect their safety as they continue to be deployed in Iraq, Afghanistan, Korea, and other theaters in which they will continue to face danger; and we must afford them a warm welcome home.

These are important steps. This resolution does this. Again, I commend its passage and hope our vote will be unanimous.

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

I want to thank the gentlewoman and assure her that her and the gentleman from California's (Mr. CUNNINGHAM) resolution is very much embodied in what the committee produced and thank her for her great efforts.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, in a former life I worked for the military for 18 years in a number of capacities. During that time, I gained an enormous respect for our military personnel.

For the last 11 years since coming to the Congress, I have had the privilege and the honor of serving on the Committee on Armed Services where I gained even more respect for our military personnel.

I would have thought that this long association with the military would have prepared me for an event of a couple of years ago, but it really did not. This event was a paralyzed veterans reception in Cannon Caucus, and I knew what I was going to see when I went there, but I really was not prepared for the emotional response that I had.

I went to that big conference room, and there were many, many service personnel on crutches and in wheelchairs. It finally struck me that they were paralyzed, and they were there so that I could continue to live in this great free country, I and 280 million other Americans; and then I thought of those that were not so lucky, that were filling graves in foreign countries or in this country who, in Abraham Lincoln's words, gave that last full measure of devotion for their country.

Less than one person in a hundred serves in our military, but to this very small percent of our population this grateful Nation owes an enormous debt. I thank my colleagues for bringing this resolution to the floor today.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, how very timely is the old warning of Abraham Lincoln about those ''trusting to escape [the] scrutiny [of war] by fixing the public gaze upon the exceeding brightness of military glory.'' Our troops deserve our fullest support for their tremendous sacrifices, and they certainly have mine. Let us truly honor American sons and daughters in uniform, not with mere words, but with adequate health care and a thriving economy, not an Everest of public debt for their children. Let our nation-building begin here at home with adequate schools, jobs, and opportunity.

What this Administration calls a ''coalition'' is, in fact, the U.S., the UK, and hefty advertising. No war in American history has been better marketed.

□ 1330

The very weakness of our new ''first strike,'' ''security through attack'' policy and the repeated failure to connect Iraq with the outrage of 9/11 necessitates resolutions like this that must

borrow strength from the bold courage of our troops. Surely the thousands combing Iraq today for weapons of mass destruction will find at least a trace, but an honest assessment requires asking whether this second-rate tyrant, unable to effectively defend himself, really ever had the capability to endanger our families.

Americans continue to do most of the dying and will do almost all of the paying for this indefinite engagement. Let us guard against it becoming a war without end. With unlimited dollars, we have mastered so well the terrible technology of death, but true security demands wisdom as well as strength.

Mr. HUNTER. Mr. Speaker, I yield myself 1 minute to say to my colleague who just spoke, and I would like to get his attention, because when the gentleman gets up on these resolutions and implies that there is somehow a political agenda behind them, it tends, I think, to do a disservice to the resolutions.

This resolution came about because lots of Members, like the gentlewoman from the party of the gentleman who just spoke, have asked to put resolutions forward commending our troops and recognizing their sacrifice. The Committee on Armed Services, seeing all these resolutions being put out, with Members on the Democrat and Republican side wanting to commend this unit or that unit coming back to their country, we took all of those and we looked at them and we decided to do one large resolution that commended everyone in these operations. And we have, literally, at the end of this resolution, we have named every single American unit that participated in the operation.

There is no political agenda here. This is a consolidating of all of the efforts and the input from Members of this body, Democrat and Republican, some of them for the war, presumably some against the war, who wanted to commend the people who participated in it. It is that and it is nothing more. And by implying a political agenda, the gentleman, in fact, injects a political agenda into the debate.

Mr. Speaker, I yield 2½ minutes to my friend, the gentleman from California (Mr. CUNNINGHAM), who is so closely associated with that great aircraft carrier which steamed into San Diego a couple of days ago at the end of its career, the Constellation, America's Navy, along with Willy Driscoll from the Vietnam War.

Mr. CUNNINGHAM. Mr. Speaker, a few weeks back, the gentlewoman from California (Ms. HARMAN) came to me with an idea for this resolution. It was not my idea, Mr. Speaker; I am just flying wing on the gentlewoman from California at this time, and I thank her for her foresight in bringing this forward.

Many of the words that the gentlewoman and myself placed in it are supported both by the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) in this resolution, and I thank them both.

The gentleman from California (Mr. HUNTER) spent his life supporting our troops, and what better person to bring a resolution. His father was a Marine, he was a combat veteran in Vietnam, and his young son is in the United States Marine Corps.

And, Mr. Speaker, I owe great homage to the gentleman from Missouri (Mr. SKELTON). I served on the authorization committee and learned to love and support him. When we were in the minority at one time, I was just hotter than a hatter because the majority was stopping me from an amendment, and I was about ready to go to battle stations. The gentleman from Missouri (Mr. SKELTON) pulled me aside and he sat me there in that third row chair and started talking to me about his heritage as a descendant of Daniel Boone. After 30 minutes of speaking and calming me down, he said, ''Duke, are you settled down now?'' It was his way of saying ''Ease up, Duke,'' and I will never forget that.

But many of us have tears in the well. It is difficult to send men and women to combat. And the most difficult thing is that we may have to do it again; that as long as we have an al-Qaeda, a Mujahedin, a Hamas, a Hezbollah, and people that want to hurt not only us overseas but even in our own homeland, it is a difficult choice.

I know that the gentleman from California (Mr. HUNTER) flew out to the U.S.S. Constellation, and then I heard the gentleman from Missouri (Mr. SKELTON) the other day say that he also flew out to the carrier that pulled into the East Coast, and the troops really appreciate that.

I know there was a lot of heyday made when the President flew out to a carrier, but I was with Major Dan ''Knuckles'' Shipley, this weekend when he flew in off the Connie. And he said, ''Duke, tell the President that we love him. We know that he supports us.'' Many of us criticized President Clinton at times, and sometimes I think we were wrong. I never did it after we got into conflict. But you need to stand behind the President, especially at a time of war, whether it is Bill Clinton or President George W. Bush.

Mr. Speaker, I want to thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) for this resolution.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume to first say that this resolution has no political agenda. We are here merely to say ''thank you.''

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

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

Mr. RANGEL. Mr. Speaker, I join in the praise of the chairman, the gentleman from California (Mr. HUNTER) and my dear friend, the gentleman from Missouri (Mr. SKELTON) in bringing this to the floor. I am one of the politicians that do not find anything wrong with politics. And if it is politically right to laud the efforts of our men and women overseas that are coming home, then no matter how it is described, I want to be among those that would do it.

These young men and women are dedicated, and we have to make certain that we give them a little more than praise and a parade. Because I recall in 1952, when I came home from Korea, those medals did not get me a job; it was people reaching out, trying to help me to put my life together. And so I think this is what we have to do.

My friend, the gentleman from California (Mr. CUNNINGHAM), says how difficult it is to send our young people into harm's way and that we may have to consider doing this more in the future. Well, I hope not, because if we take a good look at those that will be coming home, we will be taking a harder look at those that we sent.

Most of my colleagues know that I really truly believe that what is in the best interest of the United States of America is that we consider draft legislation, where everyone would be exposed to defending this great Republic, rather than seeing who will be coming home, and worse still who will not be coming home, those that come from our inner cities, our rural areas, and those that we are now trying to further recruit.

While patriotism is up in this House of Representatives, recruitment is not up. We are now giving mandatory extensions to those people who have volunteered, and we are bringing out the Reservists. Sure, they are dedicated, but we are asking them to serve two and three times a year, or a 2-year period, and of course, our National Guard are being called. So as we find expanded need for military, we ought to expand the pool from which they come.

So what I am saying is that I want to join in the spirit of this resolution. I will be there at the parades, I am there at the armories. But for God's sake, let us have something of substance in the legislation.

I know that most of the Members are not aware that that the tax bill that we passed on this floor excluded benefits for members of the military for extended child credits for those people that have incomes of $26,000 or less. Let me share with my colleagues the Catch 22 that our members of the Armed Forces are in.

One, if they were under $26,000, and we know most of them are, they were cut out of the bill. They were dropped out of the bill, and the leadership said they may not come back. For those people who served in combat and had a larger amount of their income to be tax exclusive, they would get over $26,000 and once again lose the tax credit.

Let us pay tribute, but let us have some substance and benefits for our beloved veterans.

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

It is good to hear Members such, as our friend from New York (Mr. RANGEL), the gentleman from California (Mr. CUNNINGHAM), the gentleman from California (Mr. HUNTER), all veterans, speaking so well today for the young men and young women in the armed services. We appreciate it and their words so very, very much.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, while I am pleased we are here to applaud our Nation's businesses and business owners for the support they have provided our troops and our military families, I am disappointed that in this resolution Congress is simply voicing thanks. We had an opportunity to do something truly meaningful when we considered the Defense authorization legislation 2 weeks ago. Rather than doing something to help our Reservists and National Guardsmen and -women, this resolution simply expresses empty thanks.

According to a survey conducted by the Pentagon, four in ten members of the Reserves or National Guard suffer a loss of salary when they are activated. For instance, Russell Wright, a father of two and a sergeant in the Marine Reserves, was activated for a year and, as a result, will lose about 50 percent of his civilian salary.

Mr. Speaker, I am sure my colleagues will agree that this is a deplorable comment on how our country treats its Reserves and National Guardsmen. Instead of merely praising the Nation's businesses for their support of our troops, we should be helping our activated men and women.

An amendment offered by my good friend, the gentleman from Texas (Mr. BELL), and myself to require the Federal Government to pay its employees the difference between their civilian and military salaries passed unanimously by voice vote in a recent Committee on Government Reform meeting. Unfortunately, Mr. Speaker, that amendment was excluded from consideration of the Defense authorization bill that we passed 2 weeks ago.

It is a grave disappointment to me that instead of making up the salary loss suffered by numerous Federal employees who are also Reservists, we are only offering a meaningless tribute to our Nation's businesses for doing what we in Congress are not willing to do.

Mr. Speaker, because I support House Resolution 201, I wanted to take a moment to commend the nearly 200 conscientious businesses that have taken the initiative to pay their employees the difference between their military and civilian salaries. These companies include the Oracle Corporation, located in my own congressional district.

Mr. Speaker, when my colleagues come down to vote on this resolution, I want them to think about the families which are suffering as a result of the pay gap, and I urge all of my colleagues to join me in rectifying this outrageous problem.

[From USA Today, May 15, 2003]

RESERVISTS UNDER ECONOMIC FIRE

(By Kathy Kiely)

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease it.

Janet Wright says she ''sat down and cried'' when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, LA., his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. He could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, Ill., knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. ''It's hard to go out and do the job you want to do when you're worried about things back home'' he says.

Once regarded as ''weekend warriors,'' they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

''The last time you saw this type of mobilization activity was during World War II,'' says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guard and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

''They were prepared to be called up. They were prepared to serve their country,'' Sen. BARBARA MIKULSKI, D–MD, says. ''They were not prepared to be part of a regular force and be away from home 200 to 300 days a year.''

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, ''funding for training and benefits simply have not kept up,'' says Republican Sen. SAXBY CHAMBLISS of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap.—Some employers make up the difference in salary for reservists on active duty. But many, including the federal government, do not. A bill sponsored by Democratic Sens. MIKULSKI, DICK DURBIN of Illinois and MARY LANDRIEU of Louisiana would require the federal government to make up lost pay. LANDRIEU is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap.—Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and Guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult. A measure sponsored by Sen. MIKE DEWINE, R–Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democratic Senators, including Minority Leader TOM DASCHLE and EDWARD KENNEDY of Massachusetts, support the idea.

Keeping creditors at bay.—The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owned by military personnel at 6% while they are on active duty. But Sen. LINDSEY GRAHAM, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

Mr. HUNTER. Mr. Speaker, how much time do we have left?

The SPEAKER pro tempore (Mr. BASS). The gentleman from California (Mr. HUNTER) has 6½ minutes remaining, and the time of the gentleman from Missouri (Mr. SKELTON) has expired.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume, and I will be happy to yield some time to my colleague in a minute.

But I want to say to the gentleman from California (Mr. LANTOS), before he leaves the floor, that he mentioned this important issue, that I know he had taken up with me and he feels is very important, to try to give what I think we could call pay parity to folks in the Guard and the Reserve. I think there is merit in his proposal. But I did want to mention that we do some meaningful things in this Defense bill in which we marked up this particular resolution.

□ 1345

Mr. Speaker, it was not just commendations that we gave our troops. We also marked up a 4.1 percent pay raise, decreased the out-of-pocket expenses for our folks, increased the amount of money for family housing, and we did a number of things that will accrue to the benefit of our troops, both active Guard and Reserve.

Having said that, Mr. Speaker, I thought one thing that I might do at this point is yield to the gentleman from Missouri (Mr. SKELTON) to close, and then I wanted to read the units that participated in Operation Iraqi Freedom and Operation Enduring Freedom and put on the record the folks who participated in these operations.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), who is my partner on the Committee on Armed Services who has done so much great work.

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

Mr. Speaker, a great Roman orator once said that gratitude is the greatest of all virtues, and that is what this resolution does; no more, no less. It expresses gratitude, appreciation and thankfulness to those young men and women in uniform, to those civilian employees who back them up, as well as civilian contractors. It is our way of saying thank you from the Congress of the United States. They are the pride of our country, and we wish to express our deep and sincere appreciation to them through this means.

Mr. HUNTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just conclude this resolution by reciting the units that participated in Operation Iraqi Freedom. From the Army: Army Forces Central Command—3rd United States Army; V Corps Command Element; 3rd Infantry Division (Mechanized); 101st Airborne Division (Air Assault); 82nd Airborne Division; 4th Infantry Division (Mechanized); Elements of the 1st Infantry Division; 10th Mountain Division, and 1st Armored Division; 2nd Armored Cavalry Regiment; 3rd Armored Cavalry Regiment; 173rd Airborne Brigade (Sep); 11th Aviation Group.

From the Marine Corps: Marine Forces Central Command; 1st Marine Expeditionary Brigade; 1st Marine Division; 3rd Marine Air Wing; 1st Force Service Support Group; 2nd Force Service Support Group/Marine Logistics Command; 2nd Marine Expeditionary Brigade (Task Force Tarawa); 15th, 24th, and 26th Marine Expeditionary Units.

From the Navy: Naval Forces Central Command—United States 5th Fleet; Theodore Roosevelt Carrier Strike Force; Nimitz Carrier Strike Force; Abraham Lincoln Carrier Strike Force; Constellation Carrier Strike Force; Kitty Hawk Carrier Strike Force; Harry S. Truman Carrier Strike Force; Amphibious Task Force East; Amphibious Task Force West; Nassau Amphibious Ready Group; Tarawa Amphibious Ready Group; Iwo Jima Amphibious Ready Group; Amphibious Group 3; Maritime Prepositioning Squadrons 1, 2, and 4.

From the Air Force: Air Forces Central Command—9th Air Force; 9th Air Expeditionary Task Force; 16th Air Expeditionary Task Force; and the following air expeditionary wings: 39th, 40th, 64th, 320th, 321st, 332nd, 363rd, 376th, 379th, 380th, 384th, 386th, 401st, 405th, 410th, 484th, 485th, 486th, and 487th Air Expeditionary Wing. And the following Air Expeditionary groups: 387th, 398th, 407th, 409th, 444th, 447th, 449th, 457th, 449th, 457th, 458th, and 506th.

The following Expeditionary Air Support Operations Groups: 3rd, 4th, 18th, 1st Expeditionary RED HORSE Group, the 86th Contingency Response Group, 15th Expeditionary Reconnaissance Squadron.

From the United States Special Operations Command: Special Operations Command Central; 5th Special Forces Group (Airborne); 3rd Special Forces Group (Airborne); 10th Special Forces Group (Airborne); 160th Special Operations Aviation Regiment; 75th Ranger Regiment; 352nd Civil Affairs Command; 350th Civil Affairs Command; 304th, 308th, and 358th Civil Affairs Brigades.

From the Naval Special Warfare Command: Naval Special Warfare Group One; Naval Special Warfare Group Three.

From the Air Force Special Operations Command: 16th Special Operations Wing; 919th Special Operations Wing; 193rd Special Operations Wing; 720th Special Operations Group; 352nd Special Operations Group; 123rd Special Tactics Squadron; 280th Command Control Squadron.

From the Coast Guard: U.S. Coast Guard Cutters Boutwell, Dallas, Walnut, Aquidneck, Adak, Wrangell, Baranof, Bainbridge Island, Grande Isle, Knight Island, Pea Island, and Sapelo.

The following port security units: Port Security Units 313, 311, 309, 305.

Law Enforcement Detachments 101, 202, 204, 205, 404, 406, and 411; Atlantic Strike Team Detachment; Law Enforcement Attachment; Harbor Defense Command Units 114 and 206.

Operation Enduring Freedom—

From the Army: Army Forces Central Command, Combined Joint Task Force 180; 10th Mountain Division; 101st Airborne Division; and 82d Airborne Division.

From the Marine Corps: Marine Forces Central Command; Commander Joint Task Force—Horn of Africa; Combined Joint Task Force 58; and the following Marine Expeditionary Units: 11th, 13th, 15th, 22nd, 26th.

Detachments: 4th Marine Expeditionary Brigade.

From the Navy: Navy Forces Central Command—U.S. 5th Fleet; Theodore Roosevelt Carrier Strike Force; Kitty Hawk Carrier Strike Force; Abraham Lincoln Carrier Strike Force; Enterprise Carrier Strike Force; Carl Vinson Carrier Strike Force; John C. Stennis Carrier Strike Force; John F. Kennedy Carrier Strike Force; George Washington Carrier Strike Force; Bonhomme Richard Amphibious Ready Group; Bataan Amphibious Ready Group; Peleliu Amphibious Ready Group; Wasp Amphibious Ready Group.

From the Air Force: Air Forces Central Command—9th Air Force. The following Air Expeditionary task forces: the 9th and the 13th. The following Air Expeditionary Wings: 28th, 40th, 64th, 320th, 321st, 322nd, 363rd, 366th, 376th, 379th, 380th, 384th, 386th, 405th, and the 455th.

The following Air Expeditionary Groups: 416th, 438th, 451st, the First Expeditionary RED HORSE Group.

From the United States Special Operations Command: 5th Special Forces Group (Airborne); 3rd Special Forces Group (Airborne); 19th Special Forces Group (Airborne); 20th Special Forces Group (Airborne); 2nd Battalion, 7th Special Forces Group (Airborne); 160th Special Operations Aviation Regiment; 75th Ranger Regiment; 350th Civil Affairs Command; 354th, 360th, and 403rd Civil Affairs Brigades; 310th Psychological Operations Brigade.

From the Naval Special Warfare Command: Group 1 and Naval Special Warfare Group Three; 16th Special Operations Wing; 352nd Special Operations Group; 919th Special Operations Wing; 193rd Special Operations Wing; 720th Special Operations Group; and 123rd Special Tactics Squadron.

Mr. Speaker, thank you for allowing us to, in the words of the gentleman from Colorado (Mr. HEFLEY), give this thanks from a grateful Nation to the people who carried freedom to very difficult and remote parts of the world in Operation Enduring Freedom and Operation Iraqi Freedom. I thank the gentleman from Missouri (Mr. SKELTON) for his participation.

Ms. SCHAKOWSKY. Mr. Speaker, today I choose to vote present on H. Con. Res. 177. I support our brave soldiers who served or are currently serving in the war against terrorism.

Whether they are in Iraq, In Afghanistan, or here at home, I praise our courageous men and women for risking their lives to defend our country and our freedom. However, I believe that the war on Iraq was unnecessary. I cannot vote in favor of a resolution that commends the President for putting American soldiers' lives in harm's way because of bad policy and misguided decision making.

I will continue to support efforts that support our troops, their families, and our veterans. Each one of them is an American hero and each one of them makes me proud to be an American.

Mr. NUSSLE. Mr. Speaker, Iowans should be proud of the tremendous accomplishments of our dedicated troops over the last couple of years, particularly those serving with Operation Enduring Freedom and Operation Iraqi Freedom. These men and women have risked their lives and made sacrifices to keep their country safe and secure.

We should thank each and every one of them, and welcome them home with honor.

Our thanks must also extend to the loved ones of those who serve. Family members do their best to carry on with their lives while they wait, worry, and sometimes watch, what their son, daughter, wife, husband, father or mother is facing on the other side of the world. Some families have been changed forever by tragic loss. Steve and Marilyn Korthaus of Davenport, Iowa will always miss their son Bradley, a Marine sergeant who died bravely in Iraq in March. They will also be forever proud of him. May they find comfort in knowing he died with honor, and may all of us join them in appreciating the sacrifice he made in the name of freedom.

While our men and women in uniform have accomplished so much in Iraq and in the overall war on terror, important work remains. They may not be in front of us 24 hours a day on television, but it is vital to remember and support those troops still deployed to the Persian Gulf and other areas around the world.

The Ohnesorge family of Dubuque, Iowa is keenly aware that many of our troops remain in danger. Their son, Army Specialist Abraham Ohnesorge, was seriously injured just last week by a rocket-propelled grenade in Iraq.

As members of Congress, we can show our gratitude to Brad, Abraham and the thousands of other troops serving us by providing whatever resources are necessary to defend our nation and win the continuing war against terrorism. It is an unquestioned priority for Iowans and for all Americans. Our armed forces need the newest and best tools available to meet the challenges they face. We should also provide fair and equitable pay, housing and tax policies for members of the military. As House Budget Committee chairman, I take each of these responsibilities very seriously.

The excellent work accomplished in support of both Operation Enduring Freedom and Operation Iraqi Freedom by the employees of the Rock Island Arsenal also deserves our gratitude. These dedicated workers rose to the challenge.

Many members of military reserve units and the National Guard were called from the civilian world. The employers and coworkers who support their service should also be commended.

America is blessed to have such well-trained individuals of excellence who are willing to serve not only our interests, but the interests of the entire world. May we see a day when all our troops deployed in the far reaches of the world are home safely with the people they love.

Mr. PAUL. Mr. Speaker, I rise to commend the members of our armed forces, who serve our country in the most difficult of circumstances. They endure terrible hardships in the course of their service: they are shipped thousands of miles across the globe for everything from border control duty to combat duty, enduring terribly long separations from their families and loved ones.

I believe it is appropriate for Congress to recognize and commend this service to our country and I join with my colleagues to do so. I am concerned, however, that legislation like H. Con. Res. 177 seeks to use our support for the troops to advance a very political and controversial message. In addition to expressing sympathy and condolences to the families of those who have lost their lives in service to our country, for example, this legislation endorses the kind of open-ended occupation and nation-building that causes me great concern. It ''recommits'' the United States to ''helping the people of Iraq and Afghanistan build free and vibrant democratic societies.'' What this means is hundreds of thousands of American troops remaining in Iraq and Afghanistan for years to come, engaged in nation-building activities that the military is neither trained nor suited for. It also means tens and perhaps hundreds of billions of American tax dollars being shipped abroad at a time when our national debt is reaching unprecedented levels.

The legislation inaccurately links our military action against Afghanistan, whose government was in partnership with Al-Qaeda, with our recent attack on Iraq, claiming that these were two similar campaigns in the war on terror. In fact, some of us are more concerned that the policy of pre-emptive military action, such as was the case in Iraq, will actually increase the likelihood of terrorist attacks against the United States—a phenomenon already predicted by the CIA.

Mr. Speaker, it is unfortunate that some would politicize an issue like this. If we are to commend our troops let us commend our troops. We should not be forced to endorse the enormously expensive and counter-productive practice of nation-building and pre-emptive military strikes to do so.

Ms. DEGETTE. Mr. Speaker, I rise to express my support for H. Con. Res. 177, a resolution commending the members of the United States armed forces for their brave and successful actions against the Taliban in Afghanistan and the forces of Saddam Hussein in Iraq. I support this bill because I believe it is important for the U.S. Congress to express its thanks to the tireless men and women of our armed forces. I also believe Congress has an absolute duty to demand that outstanding questions be answered by the Administration about the evidence used to justify a war in Iraq that put our troops in great danger.

The valiant men and women of the U.S. armed forces left their homes and families to take up arms against two tyrannical regimes. Some members of the Reserves were activated for the war and took time away from their jobs—often taking significant cuts in their pay—to contribute to this endeavor. These men and women were given the call to duty, met it confidently, and returned as victors.

Although the United States was victorious in Iraq, our job is far from over. Indeed, some members of our military remain in Iraq, attempting to establish law and order and a true peace. I believe the Administration owes it to the brave men and women of our military and to the American people to answer difficult questions about its justifications for war.

Leading up to the Iraq war, President Bush, Vice President DICK CHENEY, and Secretary of State Colin Powell repeatedly stated that Iraq's possession of weapons of mass destruction and ties to Al Qaeda posed a direct threat to American national security.

On March 16, 2003, Vice President CHENEY unambiguously told Meet the Press that Iraq had ''reconstituted nuclear weapons.'' Despite American control of Iraq, the United States has found no evidence of an Iraqi nuclear program. Even worse, some of the intelligence cited by the Administration about Iraq's nuclear program has turned out to be fraudulent.

Between January and March 2003, both President Bush and Secretary Powell linked Iraq to Al Qaeda. In the State of the Union, the President warned that Iraq was harboring members of Al Qaeda. At the United Nations, Powell claimed that Iraq was sheltering Al Qaeda lieutenant Abu Musab Zarqawi, proving a ''sinister nexus between Iraq and the Al Qaeda terrorist network.'' No proof has been produced to verify either of these statements.

The lynchpin of the Administration's justification for war in Iraq was the presence of biological and chemical weapons of mass destruction. The President, Vice President CHENEY and Secretary Powell all repeatedly spoke of Hussein's stockpile of biological and chemical munitions. Iraq was described as having such weapons labs across the country. No evidence has been found that Hussein possessed or was producing any biological or chemical weapons, much less the stockpiles asserted by the Administration.

Congress has an obligation to ask questions about the statements made by the Administration to justify the war in Iraq and the Administration has a responsibility to answer them truthfully and honestly. The justifications for war matter. They matter to the men and women of the armed forces, whom we are saluting today, because the Administration used them to destroy a threat it maintains existed against the United States. They matter to the families and friends of those brave men and women who watched as their loved ones shipped off to war. They matter to the American people who are, after all, the final authority in this government.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in strong support of this resolution to recognize the efforts of those who have contributed to Operation Enduring Freedom and Operation Iraqi Freedom.

Today we recognize and thank those soldiers, sailors, airmen, marines, and all the individuals in our defense and intelligence communities whose commitment and dedication ensure our continued success. They are members of the greatest fighting force the world has known, representing not only our Nation's strength, but our bravery, skill, honor and resolve. We also thank their families, who so graciously share their loved ones with their country.

Liberty must be guarded and defended, and no nation has given more in this defense than America. Throughout our history, our Nation has been blessed to have individuals willing to

make the ultimate sacrifice in order to keep the flames of freedom and liberty burning brightly throughout the world. They selflessly dedicate their life to protecting freedom, ensuring liberty, and defending the principles of this country through great personal sacrifice. On behalf of a grateful Nation, we pay tribute to these brave men and women.

Today, as we recognize and commend the actions already taken, we also renew our commitment to ensuring the security of our homeland. We renew our commitment to destroying Al Qaeda and other terrorist organizations that threaten the free world. We do not know what the future holds, however we can say with certainty that because of the men and women we honor with this resolution, we will prevail.

Mr. CASTLE. Mr. Speaker, I thank Chairman HUNTER for introducing this important resolution. Today, we recognize, support, and commend our brave service men and women for their dedication, for their sacrifice, and for their supreme love of country. We thank and honor those, including our allies, who serve on behalf of liberty and freedom, and remember those who have been wounded or died in the line of duty.

Our Nation has committed our military to defend the world from grave danger and to assure the security for all nations. These men and women have risen to the highest level and have succeeded in overthrowing the Taliban in Afghanistan and the regime of Saddam Hussein in Iraq. While they are working diligently to bring peace, stability and prosperity to the people of Afghanistan and Iraq, our men and women of our armed forces continue to face danger each and every day.

In the coming weeks and months, it will be critically important for our Nation to continue our support and pray for the safety of our troops. Their mission may not be completed for a long time, and it is important that we reiterate our strong support. At the same time, I would like to commend the military families, the employers and the communities around the United States for their sacrifices and patriotism.

Our focus must be on working with the world community to fight the war against terrorism, and to rebuild Afghanistan and Iraq following the military actions. As we move forward in Iraq, and in other crisis spots around the world, I am hopeful that the United States will continue to strengthen its unity with the international community and provide hope to those nations that have been trapped under dictatorial regimes.

Today, we stand firmly behind our armed forces and our allies. We thank the brave men and women who risk their lives to keep our Nation free and safe. We offer our respect, our utmost gratitude, and the promise that we shall not forget your bravery and your sacrifice. We are proud of you. May God bless you and keep you safe.

Mr. KIND. Mr. Speaker, I rise today in support of this resolution honoring our brave men and women of the Armed Services. Their duty and sacrifice in Iraq and Afghanistan are appreciated by all Americans.

New challenges facing our Nation demand increased vigilance on the part of our Armed Services. With these increased demands, the role of the National Guard and Reserve Forces is critical in providing the total force necessary to ensure our security. Over the past year, I have had the opportunity to meet with many National Guard and Reserve members from western Wisconsin who have been called up for service Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq.

Over 2,300 members of the Wisconsin Air and Army National Guard are serving on active duty. The people of western Wisconsin are proud of their service and the service of all the men and women of our Armed Forces during this important time in our Nation's history.

We still have much to do in terms of peacekeeping and rebuilding in Iraq and Afghanistan. In this effort, it is important that we engage our allies to share responsibility and pursue an effective, sustained commitment to peace and stability in the region. If we can do this right, we will not have to again, sometime down the road, send our military forces over to fight.

In addition, we recognize today all of the 'round-the-clock' work put in by the military personnel and DoD civilian employees at military mobilization platforms around our Nation. In western Wisconsin, I represent Fort McCoy, one of the Army Reserves' power projection platforms. Ft. McCoy has been continuously processing and training mobilized members of the National Guard and Reserve for the past six months. Their efforts have been key in getting our forces ready for combat.

It is also important that we recognize the support and sacrifice of the families and employers of our troops. They are the backbone of our fighting forces, and we appreciate their commitment during these challenging times.

The American people and the Congress of the United States stand behind our Armed Service Members and those that support them. As our military effort continues, I and other Members of Congress will continue to work to ensure that our service men and women have all the resources necessary to fulfil their mission.

My thoughts and prayers are with those serving our Country overseas, as well as their families. America is firmly behind our troops, and we're all hoping to see them home safe, secure and soon.

May God continue to bless the United States of America.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 177, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2180

Mr. GORDON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2180.

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

There was no objection.

SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

Mr. STEARNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (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.

The Clerk read as follows:

H. RES. 201

Whereas over 216,931 members of the reserve components of the Armed Forces have been called to leave their families and their jobs, in service to this country and her citizens;

Whereas businesses of every size and scope have been impacted as their employees who are members of the reserve components of the Armed Forces have been called away from their employment in local business and industry;

Whereas businesses across the Nation have been exceptionally accommodating to the unique demands on the time, resources, and responsibilities of employee spouses and families of active duty military personnel who have been deployed for service; and

Whereas business owners have made sacrifices so that they might ensure observance of the letter and the spirit of the Uniformed Services Employment and Reemployment Rights Act in many ways including: restoring employment status after military service obligation has been fulfilled, providing continuation of health benefits to active duty employees and their dependents, and committing uninterrupted pension and retirement benefits: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the businesses that establish the backbone of our Nation in times of peace and rise to a greater standard of resolve in times of challenge do so by—

(A) carrying on the good work of commerce, industry, and innovation; and

(B) steadfastly supporting the members of our military and their families; and

(2) the business owners of our Nation deserve our commendation and sincere expression of gratitude.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. STEARNS) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

GENERAL LEAVE

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 201.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H. Res. 201, authored by the gentleman from Michigan (Mr. ROGERS). The resolution commends America's businesses and business owners for their support of our troops and their families, in particular their support for the Reservists and National Guardsmen called into active duty.

As of today, nearly 220,000 members of the Reserve component of our Armed Forces have been called to active duty, leaving their families, homes, and their jobs to serve their country. Over 5,300 of those brave, part-time soldiers are from my home State of Florida. These men and women have volunteered to lay down their lives in defense of our country and the principles for which it stands, and have done so in their capacity as ordinary citizens, not professional soldiers.

They are extraordinary citizens with ordinary jobs. They are cooks, teachers, mechanics, doctors, salesmen, truckers, secretaries, lawyers, technicians and so forth, that when called to serve their country, became extraordinary citizens and full-time warriors sacrificing greatly, both personally and, of course, financially.

Our military today is dependent on these extraordinary citizens and of course these part-time soldiers. The 1.2 million Guard and Reserve personnel now make up nearly 46 percent of all U.S. military forces. When activated, Reservists and National Guardsmen have to leave their jobs abruptly, forcing their employers to face the serious challenge of losing a very valuable employee.

American businesses have stood by their employees called to serve their country. H. Res. 201 aptly states American businesses ''have made sacrifices so that they might ensure observance of the letter and the spirit of the Uniformed Services Employment and Reemployment Rights Act in many ways including: restoring employment status after military service obligation has been fulfilled, providing continuation of health benefits to active duty employees and their dependents, and committing uninterrupted pension and retirement benefits.''

□ 1400

Indeed, Mr. Speaker, many American businesses, recognizing the hardship placed on the families of these servicemen due to the differential in their civilian and military incomes while on active duty, make up that difference for a period of between several days and a year or more. A recent survey by the Reserve Officers Association of the United States found that of the 154 Fortune 500 corporations that responded to the survey, 105 companies, or 68 percent, make up the difference in that pay. Last year, just 75 of the 132 responding companies, or 56 percent, did so. And in the year 2001, the number was 53 of 119, or 45 percent of the responding companies.

Mr. Speaker, I conclude by wishing our men and women of the Armed Forces Godspeed and commending American businesses that have supported them, especially our Reservists and National Guardsmen, the extraordinary citizen. I urge my colleagues to support this piece of legislation.

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

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume to make a few brief comments in support of H. Res. 201.

House Resolution 201 honors businesses and business owners across our great Nation for their unwavering support for the men and women of the Reserves who have been called into service in unprecedented numbers to fight the war against terrorism at home and abroad. Businesses large and small have been exceptional in their commitment to supporting active duty Reservists and their families. Because of their support, the men and women of the Reserves can be secure in knowing that their job will be waiting for them when their service is fulfilled, with no loss of pension and retirement benefits or promotion opportunities, and that their families' needs were provided for in their absence.

These businesses embody the true spirit of America. For these reasons I urge adoption of House Resolution 201.

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

Mr. STEARNS. Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I am very, very pleased that we are here commending America's businesses and, more specifically, American business men and women for what they have done in their places of work to help support our war effort in the war in Iraq, the war in Afghanistan, and the war against terror, because, frankly, the war against terror has placed an enormous burden on our economy.

According to the United States Chamber of Commerce, fear of terrorism since September 11, fear of the war in Iraq and now a mysterious respiratory disease called SARS have disrupted both business and leisure travel to the extent that half of all jobs lost since September 11 have been in the travel and tourism industry. One out of every seven people in the U.S. private sector workforce—or 18 million people—are employed directly or indirectly in travel and tourism jobs. This industry is a big industry. It is a $100 billion industry, not in revenue, not in assets, but in taxes paid to Federal, State and local governments.

Losing so many jobs in this industry is obviously a victory for the terrorists, but it is a victory that will be short-lived. Obviously, when people stop flying, when they stop traveling, they obviously stop staying in hotels, stop going to restaurants, visiting museums or theme parks, renting cars or shopping. This economic toll is precisely what the terrorists had in mind.

If the damage on September 11 had been limited to the thousands of lives lost and the property damage suffered, as horrible as that would have been, we would not be experiencing these downstream victories for the war waged by terrorists against the United States. I do not think we can make any mistake about this. Beyond murdering Americans, the terrorists wish to destroy America's economy.

The way for America to fight back is for working men and women, for small business owners, for entrepreneurs, for businesses of all sizes to go about their business, to show up for work early, to do a little more, to take the family vacation, to do those things that make us Americans and to keep our life normal because it is the disruption of normalcy that the terrorists seek to accomplish.

As chairman of the Select Committee on Homeland Security in the Congress, I can tell Members that 50 of our colleagues, including eight chairmen of standing committees in this House of Representatives, are working diligently with the Department of Homeland Security to ensure Americans' safety. We are engaged in oversight to ensure that Secretary Ridge and his new department succeed.

Secretary Ridge testified before the Select Committee on Homeland Security at a recent hearing on what we have accomplished in a few short months. We have orchestrated and launched Operation Liberty Shield, the first comprehensive, national plan to increase protection of America's citizens and infrastructure. We have deployed new technologies and tools at land, air and sea borders. We have established the Homeland Security Command Center, a national 24/7 watch operation. We have initiated a comprehensive reorganization of the border agencies, as well as other administrative measures to enhance departmental services and capabilities. We have completed the transition of 21 out of 22 component agencies of the Department of Homeland Security, none of which were previously focused primarily on preventing domestic terrorism.

We have conducted hearings, and the department itself has conducted on-site visits at strategic ports throughout the United States and begun the development of security measures and plans for vessels, facilities and ports that we put in place in the Maritime Security Act of 2002. And, of course, the department has completed TOPOFF II, the largest terrorist response exercise in our Nation's history.

Mr. Speaker, American workers and consumers are safer today than we were before September 11, but we are still threatened by terrorists who seek to destroy American lives and our economy, the very basis of American power. We must work together as consumers, as workers, as business proprietors to make sure that the terrorists

do not succeed. Keeping America at work is job one in that effort. I thank American business for what they have done in these wars.

Mr. STEARNS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. ROGERS), the author of the bill.

Mr. ROGERS of Michigan. Mr. Speaker, I thank my colleagues on both sides of the aisle at what I think is an important moment to recognize some other unsung heroes.

Earlier today we recognized those very brave men and women who wear the uniform of the United States military and all of their sacrifices, and certainly rightly so. We have also discovered, I think recently, the many forms that patriotism can take. Maybe it is the spouse of a soldier who keeps the home fires burning. It is every American who believes in liberty's blessings and who cares to pursue every opportunity and every challenge that democracy offers. But during Iraqi Freedom and Enduring Freedom, both of those operations, we have seen a new patriot emerge.

You can imagine, Mr. Speaker, at the time of your notice as a Reservist or a National Guardsman or -woman all across this country when that notice comes in and your country calls. You have trained for it, you have prepared for it, you are willing to serve. But there is always in the back of your mind that great concern about the family that you leave behind. Will they be taken care of? Will my employment be there when I get home? The law requires that at least your employment be there when you get home, but really nothing more. What we saw is that when those soldiers gathered up their family and kissed and hugged them good-bye and went off to do America's good service, our employers, from smaller companies to large companies, stood tall. Because the people who were called up were building cars for GM and Ford, they were delivering packages for United Parcel Service, they were mechanics, they were nurses, they were doctors, they were paramedics, police officers; they were machinists in small shops all across America. Maybe they were working retail. Maybe they were financial advisers.

In all of those cases, in many, many cases all across this country these companies stood up and have gone beyond the call of duty in an effort to maintain their aid and comfort to the soldiers who serve our great Nation. In many cases, they provided differential pay for these soldiers and sailors and Marines and airmen and women, those in the Coast Guard. They provided continued health care for those families. They continued insurance, all on their own accord. Some even offered full payment of their services even though they were not working. We had a smaller company, a fourth-generation company, Magnolia Marketing Company in Louisiana, who offered its employees when they were notified that they would leave, that upon their departure they would be paid in full in addition to their military salaries, and stepped up even further by setting up a fund with the United Way and challenged everybody on a matching grant of $35,000 for those companies who could not afford those kinds of things to provide some help to those families who were left behind when their country called. This happened again and again and again, from Michigan to California, from Maine to Florida, and everybody in between.

Mr. Speaker, there is a new breed of patriot in America, somebody that understands that the war on terror is fought by every one of us, not just those who wear the uniform so proudly and so bravely, but those of us at home who need to stand tall and make sure that the home fires are burning, that they know that our love and compassion for them usurps our sole concern for the bottom line.

We need to stand tall today together supporting H. Res. 201, to stand tall for every business who went beyond the call of duty and stood firm for the men and women who serve so that their families would not have to worry when they got home. Mr. Speaker, they deserve our praise and our admiration. They deserve the call of patriot as we stand here and recognize them today with the passage of H. Res. 201.

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

Mr. STEARNS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I am proud today to rise to support this resolution honoring our Nation's business owners for their very strong support of our employees who are members of the National Guard and Reserve.

The world really witnessed the capability of our troops as they brought down the repressive Taliban regime in Afghanistan and, of course, brought freedom to the Afghan people. We again saw recently the brilliant performance of our troops as they drove out the brutal regime of Saddam Hussein and freed the Iraqi people. A major component of both of those efforts was the contribution of the members of the National Guard and Reserve.

I come from Macomb County, Michigan, very proud home to Selfridge Air National Guard Base. In fact, Selfridge is somewhat unique in the inventory, I think nationally, because almost every facet, in fact every facet of the military is represented there. As I say, it is a Guard and Reserve base and it became sort of a staging area almost in the region, and we watched so many of those very brave citizen-soldiers mobilizing to defend our Nation. They left behind their jobs, they left behind their families to unselfishly serve to protect our freedom at home and abroad.

This service absolutely could not have been possible without the commitment, without the support of the business owners who do their patriotic duty and support their employees who are called upon by their Nation.

This, of course, is some hardship to many of these employers. And oftentimes we see that the Guard and Reserve, many members of them are members of their local fire fighting force, members of their local police agency or law enforcement; yet they have the full support of their employers. The Guard and Reserve are such an important component of our national defense, as many times has been said, a critical component of the total force concept. We must continue to fully support them in their vital mission.

I certainly join my distinguished colleague from Michigan. Both of us are so proud of having Selfridge. Of course it is in my district, but MIKE ROGERS is almost right next door there. He is very familiar, as I am, with the incredible mission of Selfridge Air National Guard Base as we see what is happening in our Great Lakes State of Michigan and throughout our Nation with our Guard and Reserve. I join him in recognizing the commitment of our Nation's employers because without their continuing support, none of the service of the outstanding Guard and Reserve members would be possible.

□ 1415

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

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

Mr. Speaker, in my home congressional district, I have the headquarters for the National Guard at Camp Blanding in North Central Florida; so I am well aware of the sacrifices these folks make when they go off to war. Interestingly enough, a lot of Americans do not realize this, so I think it is altogether appropriate today that we recognize the businesses and National Guard, because prior to this we had the resolution honoring the military who participated over in the war in Iraq, and we mentioned the National Guard. But, of course, this resolution is concentrating on the businesses.

There are 216,931 members of the Reserve components of the Armed Forces. When you think about each one of these people leaving their families and jobs in service to their country to go off to the war in Iraq, of course they leave behind employment.

We are talking about hundreds of thousands of employers that had these people employed. It might be a small business of five people, and it might be a business of 5,000 or 6,000 employees. But if you take a small business and you have one individual that leaves it, he represents 20 percent of the employees of the business. That is a major sacrifice.

So I think it is altogether fitting this afternoon that we take this time to recognize these businesses for their exceptional accommodation for these men and women and to honor them for what they are trying to do. Of course,

under the Uniformed Service Employment and Reemployment Rights Act, they have many responsibilities. Again, these responsibilities are mandated by Congress, but in many ways most of these businesses, almost all of them, are obligated through patriotism and a sense of resolve to the war in Iraq to take these people back, to care for them and, in many cases, give them their back pay. So I think it is altogether fitting that we this afternoon honor the businesses.

Mr. Speaker, I urge my colleagues to support this resolution.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and agree to the resolution, H. Res. 201.

The question was taken.

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

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

The yeas and nays were ordered.

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

SPORTS AGENT RESPONSIBILITY AND TRUST ACT

Mr. STEARNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 361) to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, as amended.

The Clerk read as follows:

H.R. 361

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 ''Sports Agent Responsibility and Trust Act''.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) AGENCY CONTRACT.—The term ''agency contract'' means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) ATHLETE AGENT.—The term ''athlete agent'' means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) ATHLETIC DIRECTOR.—The term ''athletic director'' means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(5) ENDORSEMENT CONTRACT.—The term ''endorsement contract'' means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.

(6) INTERCOLLEGIATE SPORT.—The term ''intercollegiate sport'' means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) PROFESSIONAL SPORTS CONTRACT.—The term ''professional sports contract'' means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) STATE.—The term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) STUDENT ATHLETE.—The term ''student athlete'' means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.

(a) CONDUCT PROHIBITED.—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract, including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.—

(1) IN GENERAL.—In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18, to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) SIGNATURE OF STUDENT ATHLETE.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18, by such student athlete's parent or legal guardian, prior to entering into the agency contract.

(3) REQUIRED LANGUAGE.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in boldface type stating: ''Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.''.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

SEC. 5. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain damage, restitution, or other compensation on behalf of residents of the State.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.

(e) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(1) is an inhabitant; or

(2) may be found.

SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.

(a) NOTICE REQUIRED.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.

(b) CIVIL REMEDY.—

(1) IN GENERAL.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) DAMAGES.—Damages of an educational institution may include and are limited to actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) COSTS AND ATTORNEYS FEES.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) EFFECT ON OTHER RIGHTS, REMEDIES AND DEFENSES.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

SEC. 7. LIMITATION.

Nothing in this Act shall be construed to prohibit an individual from seeking any remedies available under existing Federal or State law or equity.

SEC. 8. SENSE OF CONGRESS.

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. STEARNS) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

GENERAL LEAVE

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 361, as amended.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 361, the Sports Agent Trust and Responsibility Act.

Mr. Speaker, this legislation is sponsored by my friend and colleague on the Committee on Energy and Commerce, the gentleman from Tennessee (Mr. GORDON), for whom this has been a long-standing concern. Additionally, our colleague, the gentleman from Nebraska (Mr. OSBORNE), also has first-hand experience in dealing with the problem in this bill in his prior career and is a major cosponsor.

The Subcommittee on Commerce, Trade and Consumer Protection held hearings on this legislation last year and heard from many experts regarding the problems facing promising student athletes in this country. My colleagues and I on the Committee on Energy and Commerce agree there is a problem and that this bill, H.R. 361, is a responsible and necessary legislative solution. We passed the legislation out of our committee unanimously in the 107th Congress.

For my colleagues who may be unaware of the nature of the problem, let me briefly explain this afternoon. I am sure the gentleman from Tennessee (Mr. GORDON) and the gentleman from Nebraska (Mr. OSBORNE) will also amplify my comments on how destructive this behavior can be to the student athletes, their families, and to the schools.

I share their concern that student athletes are often targeted by unscrupulous agents who suffer little or no consequence for their continued deception. In today's multibillion dollar professional sports industry, collegiate athletes with even the slightest potential of becoming a highly paid professional athlete often find themselves in the cross hairs of sports agents. Because the odds of an athlete making it to the professional ranks is very, very low, the financial reward for those who do make it can be extraordinary, and the financial windfall to an agent representing the athlete is highly significant.

For an agent who may not be an established name in the business, success for this agent may be dependent upon either signing a superstar or playing the simple percentages and representing multiple promising athletes in hopes of at least one making it to the professional leagues.

Unfortunately, Mr. Speaker, the agents looking to make a quick buck are often the same ones who do not have the athlete's best interest in mind. While the reputable agents respect the athletes, and, of course, they follow the rules, the unscrupulous agents have been reported to take extreme measures to sign the athlete with little regard for the consequences to the athlete. Why do they do this? For those agents lacking any integrity, the financial payout can be very, very large; and there are few, if any, consequences to dissuade them.

While we do not currently have a Federal remedy to address these problems, many of our States do. They have recognized the problem and have varying State laws to address the behavior of these sports agents. Because the inconsistency of the State laws has prevented meaningful enforcement, the States recently approved a uniform State athlete agent act in the Year 2000. More than a dozen States have since enacted the law, and it is working its way through many other State legislatures.

As promising as this sounds, it is a long process that does not guarantee that all of the States will adopt it. While this may not sound significant to my colleagues, the law can only be completely effective if it is enforced uniformly in every State in this Nation.

The States deserve credit for addressing this problem. Yet, Mr. Speaker, the reality is that there is still a gaping hole that this legislation will finally fill. Not only does this legislation provide the Federal Trade Commission with the authority to enforce the act, but it also provides the States with the authority to bring civil action against violators in the Federal courts. Additionally, the legislation requires a new disclosure to the student athlete, and, finally, places a measure of responsibility on the agent himself so that there should be no misunderstanding regarding the signing of a contract.

Mr. Speaker, this legislation provides a Federal remedy to a problem that many of us did not know about, but it is no less deserving of a cure this afternoon. H.R. 361 provides a measured response. I urge my colleagues to support it.

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

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

Mr. Speaker, I intend to make a few brief remarks in support of H.R. 361, the Sports Agent Responsibility and Trust Act, or SPARTA. The combination of a patchwork of weak State laws and the lure of big money has made student athletes an irresistible target for certain unscrupulous sports agents willing to break the rules concerning amateur athletics. Such agents use any means necessary to convince a student athlete who has even a remote chance of playing professional sports to drop out of school and go pro early, including deceptive information about their chances in the draft, secret payments to their friends and families, lavish gifts, and sometimes even blackmail.

This kind of elicit behavior can quickly cost student athletes their scholarships and eligibility to play college sports. The school may face substantial fines and other economic losses.

The only person not held accountable is the sports agent. Unfortunately, under the current patchwork of State sports agent laws, the agents face little or no consequences for damages they have caused.

H.R. 361 addresses this problem head on by providing baseline Federal remedies to protect student athletes and educational institutions, particularly in those States with no existing law regulating sports agent conduct.

Specifically, the bill would make a number of unethical recruiting tactics unfair and deceptive trade practices under the Federal Trade Act. This includes making false or misleading promises or representations, providing anything of value to the student athletes or anyone associated with the athlete in order to entice them into an agency contract, failing to tell the student signing the contract that it will end their college eligibility, and predating or post-dating contracts.

The pressures on student athletes and colleges are tremendous. We have a responsibility to educate our student athletes and protect them from unscrupulous sports agents who try to trick or trap them into dropping out of school. This legislation will send a strong signal to the rotten apple agents that they will be held accountable for unethical recruiting practices. I urge all Members to support this bill.

Finally, Mr. Speaker, let me give my sincere thanks to the gentleman from the State and University of Nebraska (Mr. OSBORNE). The gentleman has brought a unique perspective to this bill and persuasiveness that has helped us get this passed.

Also I want to thank the subcommittee chairman from the Committee on Energy and Commerce, the gentleman from Florida (Mr. STEARNS), for expediting this procedure and helping us move through his committee, as well as the ranking member, the gentleman from New York (Mr. TOWNS).

I also want to thank the gentleman from Louisiana (Chairman TAUZIN) and the ranking member, the gentleman from Michigan (Mr. DINGELL), for their help. Certainly with joint jurisdiction with the Committee on the Judiciary, the gentleman from Wisconsin (Chairman SENSENBRENNER) should be thanked for his help; as well as the subcommittee chairman, the gentleman from Utah (Mr. CANNON); the ranking member, the gentleman from North Carolina (Mr. WATT); and the ranking member, the gentleman from Michigan (Mr. CONYERS).

Finally, let me thank a diligent member of my staff, Dana Lichtenberg, who has done an outstanding job with her tenaciousness in moving this bill forward, and also a friend of mine from home, Ken Shipp. Coach Shipp came by my office a few years ago on the Square in Murfreesboro and told me about this problem; and, like so many things, I get my best advice from home, and so I thank Coach Shipp for his advice.

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

Mr. STEARNS. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of H.R. 361. This legislation, which is known as the SPARTA Act, is important for the sports industry, which in recent years has become ever more just so that, an industry. The thrill of pure athletic accomplishment has been overwhelmed as a motivating incentive by the desire for economic gain. While understandable, we cannot allow this desire to lead to the abuse of individuals, the public and private universities and colleges, and the system itself.

We as Americans love sports. Who does not enjoy sitting back on a relaxing weekend watching their favorite college and professional sports teams performing? In Wisconsin, every Sunday during the fall we watch the Green Bay Packers with the intensity and caring of a mother bear watching her cubs. We have dedicated a month to an American tradition called March Madness and watch some of the most athletically gifted students in the Nation compete in the drama which can have only one victor at the day's end.

□ 1430

However, even with all this talent, only 1 percent of the NCAA athletes make it to the professional level, and then often only in a back-up role. For those who do make it to the big leagues, the rewards are great.

Athlete agents want to reap this reward, as well. As a result, some agents deploy questionable tactics in a generally unregulated field. They send runners to befriend these athletes and give them money and other enticements, and support the friends and family of the athlete with money and gifts.

This is done in consideration of an agreement for future representation, which is illegal by NCAA standards and causes the athlete to lose their collegiate eligibility. In many States, the penalty to the agent is nothing.

Mr. Speaker, the Uniform Athlete Agents Act, which addresses this situation, has been adopted by over 20 States. However, given the nature of intercollegiate sports, State boundaries are crossed constantly. Agents can forum-shop by waiting in a State that has not adopted the UAAA and wait for the visiting team to arrive before approaching college stars.

Because of this unique situation, this Federal solution is necessary. Geographic loopholes must be closed so that agents will comply with the modest guidelines set forth for recruitment by the NCAA.

Mr. Speaker, this bill deserves the full support of the House, and I urge its adoption.

Mr. GORDON. 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, let me first of all give much applause to the gentleman from Tennessee (Mr. GORDON) for a very thoughtful, but very important legislative initiative. I am very proud as a member of the Committee on the Judiciary to have had an opportunity to have had oversight and jurisdiction over this legislation. I am also grateful for the response of the gentleman from Florida (Chairman STEARNS) in bringing this legislation to the floor.

Let me speak from a personal perspective, I guess, because I have an 11th grader whose almost every waking moment deals with what is happening on the basketball court. I work very hard as a parent to ensure that his academics are safe and secure.

We realize that America loves sports, young people love sports, but particularly in rural and inner-city communities many of our young people find their way out of poverty by seeking opportunities in a sports arena. I remember being with a family just a few weeks ago who was praying that their young man would be able to get into a certain college, and they were prayerful that his future would be great in some sports arena.

So this bill, I say to the gentleman from Tennessee (Mr. GORDON), is extremely important because what it does is it provides an even playing field for the innocent youngster, the young person whose parents are hopeful that their lives will be different than the lives of their parents, struggling every day to work and provide resources for the family.

The unscrupulous will be charged and the Federal Government, which I believe should be the major problem-solver of this Nation, will be right in the midst. We will not blame and see the headlines of the young people who may have gotten a car or may have been somewhere where they should not have been, while the other guy, who continues to have his fabulous rings and fancy cars, the sports agent, of which I do not label all of them, goes without penalty.

Let me give a compliment to many sports agents that I know who work very hard to speak accurately to the families, and work with the young people. But I believe this legislation will set a litmus test to ensure that we balance these hopes and dreams and aspirations, these goals for these young people, and the right thing to do.

So I applaud this legislation and I rise enthusiastically to support it. I know it will make life better for those who are trying to make life better for themselves.

Mr. STEARNS. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE), who has actually run premier athletic programs and has run multiple national college football championships at the University of Nebraska. If anyone knows about this problem of unscrupulous sports agents, the gentleman from Nebraska would know that.

Mr. OSBORNE. Mr. Speaker, I thank the chairman for yielding time to me, and I appreciate his help very much.

I would also like to thank the gentleman from Tennessee (Mr. GORDON) and his staff for all the work they have put in; the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Wisconsin (Chairman SENSENBRENNER) and their staffs; and also Lisa Knott from my staff. Many people have cooperated.

As has been mentioned, currently only 20 States have comprehensive laws regulating sports agents; 17 States have no laws at all. My State, Nebraska, is one of those. Thirteen States have a patchwork of laws governing sports agents.

Here is the problem. I will use primarily a football illustration, because that is what I understand the best. As of April, 2002, the National Football League Players Association reported 1,200 certified agents to represent NFL players. The problem is that of those 1,200, only 400 had clients, so we have 800 people who say they are agents and they have nobody to represent.

There are also several hundred other agents who are not even certified by the National Football League who also call themselves agents. So if they call themselves agents and do not have a client, they are pretty desperate. What these guys do is, they will go after undergraduates, and they will sometimes be very unscrupulous in doing so. There are some good agents, but many are not. So here are some of the things that happen.

They will offer an undergraduate athlete cars, clothes, cash, sometimes even drugs, to sign an agency contract. Of course, immediately this renders the student athlete ineligible.

They promise an athlete that he will be drafted higher. The National Football League tells them they will be drafted in the fourth round, and the agent says, that is a lot of baloney. I will get you a personal trainer, I will get you a nutritionist, we will go to California, we will work hard, you are going to get bigger, faster, stronger, you are going to be a first-round pick, and you are going to make $6 million just to sign your name.

Of course, that is totally untrue. They cannot get a player drafted higher because of the agent's activities. So the player drops out of school at that point, and he gets a nutritionist, and nothing happens.

They use runners, as has been mentioned. These are usually former players. These are student athletes in the school. Sometimes they are simply students in the school. The player has no idea that he is dealing with somebody who represents an agent. So the runner takes him out to dinner and gets him obligated.

They sometimes threaten athletes with physical harm.

Lastly, they often tell a student athlete they will predate or postdate a contract so they will not jeopardize their eligibility, which is absolutely untrue. The minute they verbally agree to a contract or sign it, no matter whether it is predated or postdated, they are ineligible. These are some of the problems.

With these problems in mind, the gentleman from Tennessee (Mr. GORDON) and I have introduced H.R. 361, which has been referred to previously as SPARTA. It makes it illegal for sports agents to entice student athletes with false or misleading information, promises, or representations.

SPARTA requires the agent to inform the undergraduate athlete and his school in writing that the player has signed an agency contract and is ineligible. What often happens is a school does not know that they have got a guy out there playing who is ineligible, that he has already signed a contract, so this forces the agent to let the school know in writing that he has a player under contract and that player is ineligible.

Under SPARTA, sports agents who engage in illegal recruiting will be fined up to $11,000 per incident per day. The Committee on Energy and Commerce passed this legislation by voice vote. The Committee on the Judiciary passed SPARTA by voice vote. So this legislation is bipartisan and it is noncontroversial.

I urge my colleagues to support this legislation. I do not know any college athletic director, coach, reputable athlete, or most reputable agents themselves who would oppose this legislation.

Again, I want to thank my colleague, the gentleman from Tennessee (Mr. GORDON), all those involved, and urge passage of this, what I think is a very important Federal backstop, very important legislation.

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

Mr. Speaker, let me once again thank the gentleman from Nebraska (Mr. OSBORNE) for his efforts. To just elaborate a little on his comments, this legislation has been endorsed by virtually every organization that is affected in the country, by the American Football Coaching Association, the Black Coaches Association, the Knight Foundation Commission on Intercollegiate Athletics, the National Association of Basketball Coaches, the National Association of College Directors of Athletics, the NCAA, the Junior College Athletic Association, the Big 12, the Big East, the Pac-10, the Sunbelt Conference, and coaches and athletic departments all across the country.

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

Mr. STEARNS. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise in support of H.R. 361.

This bill is important for all of the reasons that have already been discussed. An athletic agent is in a unique position in that while he stands to gain from his relationship with the student athlete, that student athlete client shoulders much of the risk when rules are not followed.

H.R. 361 evens the responsibilities and will help to act as a deterrent for agents who would otherwise not play by the rules of the game.

H.R. 361 will prohibit an athlete agent from recruiting or soliciting a student athlete to enter into an agency contract through the use of false or misleading information, or by the provision of anything of value to the athlete or those associated with him.

In addition, the bill would require the contract between the agent and the student athlete to have a conspicuous notice in bold typeface stating that the agreement for agent representation may result in the termination of the student athlete's eligibility to compete in collegiate sports.

Violations of this act may be addressed by the Federal Trade Commission or the attorney general of the State of occurrence. The FTC may pursue an action as an unfair or deceptive act or practice. States are authorized to commence civil actions against the agent who is in violation of this act and seek remedies, including enjoining the practice, enforcing compliance, obtaining damages, restitution, or other compensation on behalf of the State's residents.

In addition, this bill allows for educational institutions to seek damages in the event that a university athletic director is not informed of a new contractual relationship within 72 hours, either of the signing or the first event that the athlete is eligible to participate in.

Failure to so instruct may allow the ineligible athlete to compete, thus causing exposure for the institution to be liable or penalized under sanctions, fines, forfeitures, or disqualifications. The bill allows the institution to file suit against the agent for his failure to disclose, and to seek compensation for those damages which the educational institution suffered.

At the subcommittee, with the support of the gentleman from Tennessee (Mr. GORDON) and the gentleman from Nebraska (Mr. OSBORNE), working with the minority and with the distinguished ranking subcommittee member, the gentleman from North Carolina (Mr. WATT), I offered an amendment in the nature of a substitute which made this bill better.

The amendment clarified several portions of the bill to make it clear what behavior will and will not be tolerated. The amendment clarified that the only representation to be prohibited is that of an agent, and should not otherwise prohibit or discourage an athlete from seeking legal representation.

Further, the amendment included a specific ban on the giving of loans or acting as guarantor or co-guarantor for anything of value to the athlete or those associated with those athletes. This subterfuge is currently a common way of skirting NCAA rules.

Finally, the amendment clarified that nothing in this bill was meant to prohibit an individual from seeking Federal, State, or equity remedies under existing law, thus strengthening the student athlete's right to pursue a claim under existing contractual law.

Mr. Speaker, I join with my colleagues in urging the House to give its full support to the adoption of H.R. 361.

Mr. GORDON. Mr. Speaker, I yield myself the balance of my time.

Finally, Mr. Speaker, let me just say that this bill does not penalize the many legitimate sports agents. This bill does not stop any athlete from, with full information, going pro. Also, this bill does not set up a national sports police.

What it does is it deputizes the various States' attorneys general to follow up on the deceptive acts, and deal with these incidents or these problems on a local basis.

Once again, my thanks to all the Members that have made this bill possible to come to the floor and possibly pass today.

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

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

Mr. Speaker, just in conclusion, maybe just a quick history on this bill.

The gentleman from Tennessee (Mr. GORDON) dropped the bill in the 107th Congress. We had a hearing out of the subcommittee that I chair, the Subcommittee on Commerce, Trade, and Consumer Protection. We had the NCAA and we had lots of witnesses. Everybody endorsed this bill.

I think for those who are worried that this is a Federal mandate, it is basically a bill to give a little bit more support to the States, particularly those States, perhaps in Nebraska, where they do not have any law, and give those State attorneys general the opportunity to prosecute those unscrupulous sports agents.

I think the gentleman from Tennessee (Mr. GORDON) is to be commended for his hard work on this over a long period of time, and for pushing it forward.

Also, I want to thank the gentleman from Louisiana (Mr. TAUZIN) for allowing a hearing on this. Eventually we are here this afternoon. I wish we could have passed this in the 107th Congress, but we are here in the 108th Congress, and hopefully we will get this bill passed.

Again, I commend all those who have been involved.

Mr. DINGELL. Mr. Speaker, I am a proud cosponsor of H.R. 361, the ''Sports Agent Responsibility and Trust Act'' (SPARTA). This legislation will hold unscrupulous sports agents responsible for their actions by authorizing the Federal Trade Commission and State attorneys general to enforce common sense protections for amateur athletes. I commend the chief sponsor of this bill, the gentleman from Tennessee, for his hard work on this bill.

This legislation empowers students with the ability to decide when and where they become professionals and protects them from the underhanded tactics that have become all too common in this field. Under this legislation, student athletes can no longer be tricked into signaling contracts through the deception or bribery of a sports agent. And agents must clearly disclose to students that they will no longer be amateurs if they sign an agency contract, before they sign the contract.

SPARTA enjoys wide support in the academic community and has been endorsed by the NCAA and over 30 colleges and universities, including the University of Michigan. I urge my colleagues to support this legislation and send a strong message to the unprincipled sports agents who prey on our youth.

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

□ 1445

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and pass the bill, H.R. 361, as amended.

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

A motion to reconsider was laid on the table.

ARMED FORCES NATURALIZATION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1954) to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1954

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 ''Armed Forces Naturalization Act of 2003''.

SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED FORCES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—

(1) IN GENERAL.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''three years,'' and inserting ''one year,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to applications for naturalization filed or pending on or after the date of the enactment of this Act.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) in section 328(b)—

(i) in paragraph (3)—

(I) by striking ''honorable. The'' and inserting ''honorable (the''; and

(II) by striking ''discharge.'' and inserting ''discharge); and''; and

(ii) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''; and

(B) in section 329(b)—

(i) in paragraph (2), by striking ''and'' at the end;

(ii) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to applications for naturalization filed, and certificates of naturalization issued, on or after the date of the enactment of this Act. Such amendments shall not be construed to require the refund or return of any fee collected before such date.

(c) REVOCATION OF CITIZENSHIP FOR SEPARATION FROM MILITARY SERVICE UNDER OTHER THAN HONORABLE CONDITIONS.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) by adding at the end of section 328 the following:

''(f) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.''; and

(B) by amending section 329(c) to read as follows:

''(c) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to citizenship granted on or after the date of the enactment of this Act.

(d) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense

shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available, to the maximum extent practicable, through United States embassies, consulates, and United States military installations overseas.

(e) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking ''Attorney General,'' and inserting ''Secretary of Homeland Security,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN ARMED FORCES.

(a) PROHIBITION ON IMPOSITION OF FEES; BENEFITS FOR SURVIVORS.—

(1) IN GENERAL.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking subsection (e) and inserting the following:

''(e) PROHIBITION ON IMPOSITION OF FEES.—Notwithstanding any other provision of law, no fee shall be charged or collected from a person for filing a request for the granting of posthumous citizenship under subsection (c), or for the issuance of a document under subsection (d).

''(f) BENEFITS FOR SURVIVORS.—

''(1) APPLICABILITY.—Notwithstanding any other provision of this subsection, this subsection shall apply only to the surviving spouses, children, and parents of persons dying on or after September 11, 2001.

''(2) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving spouse of a person granted posthumous citizenship under this section, and who was living in marital union with the citizen spouse at the time of death, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.

''(3) CHILDREN.—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving child of a person granted posthumous citizenship under this section, and who is an unmarried person under 21 years of age on the date of such grant, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after the date of such grant).

''(4) PARENTS.—Notwithstanding the first sentence of section 201(b)(2)(A)(i), a person who is the surviving parent of a person granted posthumous citizenship under this section, and who is lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad), shall be considered, for purposes of section 201(b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

''(5) SELF-PETITIONS.—

''(A) IN GENERAL.—In the case of a surviving spouse, child, or parent who remains an immediate relative after the date of a citizen's death pursuant to paragraph (2), (3), or (4), any petition under section 204 otherwise required to be filed by the citizen to classify the spouse, child, or parent under section 201(b)(2)(A)(i) may be filed instead by the spouse, child, or parent. A surviving spouse's petition may include derivative children in the same manner as is permitted under section 204(a)(1)(A)(ii).

''(B) MINOR CHILDREN.—In the case of a child under 18 years of age on the filing date, any nonderivative petition described in subparagraph (A) shall be filed on behalf of the child by a parent or legal guardian of the child.

''(6) DEADLINE.—Paragraphs (1) through (5) shall apply only if the petition under paragraph (5) is filed not later than 2 years after the date on which the request under subsection (c) is granted.

''(7) CONVERSION OF PETITIONS.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the alien's petitioning spouse or parent being lawfully admitted for permanent residence, upon the grant of posthumous citizenship under this section to the petitioner, the Secretary of Homeland Security, unless the alien otherwise has attained the status of an alien lawfully admitted for permanent residence—

''(A) shall convert such petition to a petition filed under paragraph (5) to classify the alien as an immediate relative under subsection (b)(2)(A)(i); and

''(B) shall ensure that the filing date of the original petition is maintained.

''(8) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this subsection, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.

''(9) NO BENEFITS FOR OTHER RELATIVES.—Nothing in this section shall be construed as providing for any benefit under this Act for any relative of a person granted posthumous citizenship under this section who is not treated as a spouse, child, or parent under this subsection.''.

(2) CONVERSION OF PETITIONS.—In the case of a surviving spouse or child accorded an immigration benefit under section 329(f) of the Immigration and Nationality Act, as added by paragraph (1), if the spouse or child was the beneficiary of a petition described in paragraph (7) of such section, unless the beneficiary otherwise has attained the status of an alien lawfully admitted for permanent residence, the Secretary of Homeland Security shall provide for—

(A) the reinstatement of such petition, if it was revoked or terminated (or otherwise rendered null), either before or after its approval, due to the death of the petitioner; and

(B) the conversion of such petition in accordance with such section.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply with respect to posthumous citizenship granted before, on, or after the date of the enactment of this section.

(B) FEES.—Section 329A(e) of the Immigration and Nationality Act, as amended by paragraph (1), shall apply with respect to requests for posthumous citizenship filed, and documentation of posthumous citizenship issued, on or after the date of the enactment of this Act. Such section shall not be construed to require the refund or return of any fee collected before such date.

(b) NATURALIZATION FOR SURVIVING SPOUSES.—

(1) IN GENERAL.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended by adding at the end the following: ''For purposes of this subsection, the terms 'United States citizen' and 'citizen spouse' include a person granted posthumous citizenship under section 329A.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) due to death on or after September 11, 2001.

(c) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE DURING SERVICE IN ARMED FORCES.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) IN GENERAL.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

''(4) SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE DURING SERVICE IN ARMED FORCES.—

''(A) BENEFITS FOR SURVIVORS.—

''(i) IN GENERAL.—The benefits under this paragraph shall apply only to a surviving spouse, child, or parent of a person who, while a citizen of the United States, died on or after September 11, 2001, during a period of honorable service in the Armed Forces as a result of injury or disease incurred in or aggravated by such service.

''(ii) DETERMINATIONS.—The executive department under which the citizen so served shall determine whether the citizen satisfied the requirements of clause (i).

''(B) SPOUSES.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving spouse described in subparagraph (A), and who was living in marital union with the citizen described in such subparagraph at the time of death, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.

''(C) CHILDREN.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving child described in subparagraph (A), and who is an unmarried person under 21 years of age on the date on which a petition described in subparagraph (E) to classify the alien as an immediate relative is filed, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after such filing date).

''(D) PARENTS.—Notwithstanding the first sentence of subsection (b)(2)(A)(i), and subject to subparagraph (E), a person who is a surviving parent described in subparagraph (A) shall be considered, for purposes of subsection (b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

''(E) TREATMENT OF PETITIONS.—

''(i) CONTINUATION OF PETITIONS.—A petition properly filed on behalf of a spouse, child, or parent under section 204(a)(1)(A)(i) by a citizen described in subparagraph (A) prior to the citizen's death shall be valid to classify the spouse, child, or parent as an immediate relative pursuant to this paragraph. No new petition shall be required to be filed, and any filing date assigned prior to the death shall be maintained.

''(ii) SELF-PETITIONS.—

''(I) SPOUSES.—In the case of a surviving spouse who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (B), the spouse may file a petition under section 204(a)(1)(A)(ii) for classification of the spouse (and the spouse's

children) under subsection (b)(2)(A)(i). The spouse shall be treated as an alien spouse described in the second sentence of subsection (b)(2)(A)(i) for such purpose.

''(II) CHILDREN.—In the case of a surviving child who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (C), any petition under section 204 otherwise required to be filed by the citizen to classify the child under subsection (b)(2)(A)(i) may be filed instead by the child. In the case of a child under 18 years of age on the filing date, the petition described in this subclause shall be filed on behalf of the child by a parent or legal guardian of the child.

''(III) PARENTS.—In the case of a surviving parent who remains an immediate relative after the date of a citizen's death pursuant to subparagraph (D), any petition under section 204 otherwise required to be filed by the citizen to classify the parent under subsection (b)(2)(A)(i) may be filed instead by the parent, but only if the parent was lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad).

''(iii) DEADLINE.—In the case of petition under clause (ii), subparagraphs (B), (C), and (D) shall apply only if such petition is filed not later than 2 years after the date of the citizen's death.

''(F) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this paragraph, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.''.

(2) CONTINUATION OF PETITIONS.—

(A) IN GENERAL.—The Secretary of Homeland Security shall provide for the reinstatement of any petition filed by a deceased person described in subparagraph (A) of section 201(f)(4) of the Immigration and Nationality Act, as added by paragraph (1), if such petition is described in subparagraph (E)(i) of such section and was revoked or terminated (or otherwise rendered null), either before or after its approval, due to the death of such person, unless the beneficiary otherwise has attained the status of an alien lawfully admitted for permanent residence.

(B) EXCEPTION.—A petition otherwise satisfying the requirements of subparagraph (A) and filed by a citizen on behalf of a parent shall not be reinstated unless the parent was lawfully authorized to be present in the United States on the date of the citizen's death (disregarding any departure for a temporary visit abroad).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 201(f)(1) of the Immigration and Nationality Act (8 U.S.C. 201(f)(1)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on March 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1954, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, since the beginning of Operation Iraqi Freedom and the news that 10 members of our Armed Forces who died in combat were not U.S. citizens, several bills have been introduced to either ease the naturalization requirements of legal permanent residents in the Armed Forces or to provide immigration benefits to the surviving family members of those killed in service to America, or both.

We can never adequately express our gratitude to those noncitizen members of our military who made the ultimate sacrifice, but we can bring reasonable changes to the naturalization process for other permanent resident service members willing to make the same sacrifice and to provide immigration benefits to family members of those who died.

The Committee on the Judiciary has worked closely with those who have introduced bills on this issue, including the gentleman from Washington (Mr. HASTINGS), the gentleman from Texas (Mr. FROST), the gentleman from North Carolina (Mr. JONES), the gentlewoman from California (Ms. SOLIS), the gentleman from Illinois (Mr. GUTIERREZ), and the gentleman from California (Mr. ISSA), as well as the ranking member, the gentleman from Michigan (Mr. CONYERS) and Subcommittee on Immigration, Border Security, and Claims ranking member, the gentlewoman from Texas (Ms. JACKSON-LEE), to come up with a bipartisan compromise bill.

In addition, six Members not on the Committee on the Judiciary testified at a hearing before the Subcommittee on Immigration, Border Security, and Claims regarding their legislation.

H.R. 1954, the Armed Forces Naturalization Act is a consensus bill in which I have done my best to address the concerns of the other interested Members and to balance competing priorities. I am grateful that the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from Texas (Ms. JACKSON-LEE) have signed on as original cosponsors.

Not every Member got everything they wanted in this bill, but each of the Members we consulted with got something that they wanted. As a result, we have a bill that should easily be able to pass the House with support from Members with widely varying views on immigration who all want to honor the service to our country of permanent residents in the Armed Forces.

H.R. 1954 reduces the military service requirement to apply for naturalization during peacetime from 3 years to 1 year. Some of the earlier bills reduced the requirement to 2 years and another bill reduced it to zero years. One year is an obvious compromise.

It lowers the required years of service while maintaining the requirement that a military member must still establish their worthiness for expedited naturalization through a period of honorable military service during peacetime. For soldiers, this bill also waives the fees for the naturalization petition or naturalization certificate, along with related State fees and waives the fees for the posthumous citizenship application. This will ease the financial burden for military members who perform an outstanding service for our country and receive little money in return.

The bill permits the revocation of citizenship if a person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for 5 years in either peacetime or wartime. In addition to the 5-year military revocation, an alien would remain subject to denaturalization at any time if, for example, the alien committed fraud to gain citizenship or the underlying green card.

I would also add that this bill does not allow for the naturalization or acquisition of permanent resident status to undocumented aliens.

H.R. 1954 would require the Departments of Homeland Security, State and Defense to ensure that naturalization applications, interviews, filings, oaths and ceremonies are available to the maximum extent practicable at U.S. embassies, consulates and military installations. Currently, a soldier must be physically present in the United States to file a naturalization application, to be interviewed for the application and to take the oath of citizenship. This requirement causes some soldiers who are stationed outside the United States to leave their post abroad and to return the United States at their own expense. This is both expensive and causes unnecessary interruption in their military service.

The bill would also permit surviving immediate family members of both military members who are U.S. citizens before death and immigrant military members who are granted citizenship posthumously to apply for immigration benefits as if the military family member had not died. Under current law, family members of posthumous citizens cannot apply for immigration benefits through the posthumous citizen. This bill would permit the spouse, the children and certain parents to do so.

Under current law, a lawful permanent resident spouse of a U.S. citizen may apply for naturalization in 3 years instead of 5 years. If the U.S. citizen spouse happens to be in the military and dies during military service, the lawful permanent resident spouse may apply for naturalization immediately rather than wait 3 years.

H.R. 1954 extends this immediate eligibility for naturalization to lawful permanent resident spouses of military members who gain U.S. citizenship posthumously.

Finally, the bill would waive the affidavit of support/public charge ground of inadmissibility for family members applying for adjustment of status. If the military member was the breadwinner, we elected not to penalize the immediate relative because their means of support died during service to our country.

I urge my colleagues to support this carefully crafted and broadly supported compromise bill.

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

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

Mr. Speaker, this is a great day today. Mr. Speaker, I might add my support to H. Con. Res. 177, that commends the troops for the Iraqi operation, and H. Res. 201, that commends the business support of the troops, because this is the day when we further acknowledge that there is no divide amongst Americans or amongst those of us who are Members of the United States Congress in commemorating, celebrating and appreciating the valid service of the United States troops.

I am very pleased to join the chairman of the Committee on the Judiciary in full support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

I do want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), as full committee chairman, and, as well, the chairman of the subcommittee, the gentleman from Indiana (Mr. HOSTETTLER) for working with the ranking member of the full committee, the gentleman from Michigan (Mr. CONYERS) and myself as the ranking member of the subcommittee, in what is an important legislative action that we are joined in by any number of my colleagues who have done an outstanding job in recognizing this very important challenge.

This work is a culmination of a bipartisan effort to improve the military naturalization provisions of the Immigration and Nationality Act.

The gentleman from Wisconsin (Mr. SENSENBRENNER) was quick to respond and sensitive to the need of moving this legislation along very quickly. I am proud to be an original cosponsor of this bill that was later introduced by the chairman, but more importantly, to be working very closely on the drafting of these issues within the bill and to make the bill as responsive as possible, along with the gentleman from Michigan (Mr. CONYERS), to the issues of concern to those brave and valiant individuals who serve us and create an opportunity for our freedom.

Mr. Speaker, I also want to thank the Members who cooperated with this project by combining their individual naturalization bills to produce a comprehensive Armed Forces Naturalization Act. Certainly the gentleman from Washington (Mr. HASTINGS), the gentleman from Texas (Mr. FROST), the gentleman from North Carolina (Mr. JONES), the gentlewoman from California (Ms. SOLIS), the gentleman from California (Mr. ISSA), and the gentleman from illinois (Mr. GUTIERREZ), all of them had brilliant ideas, brilliant piece of legislation focusing on very important aspects of this work. We could not have done this legislation without them.

Marine Corporal Jose Angel Garibay and Lance Corporal Jose Gutierrez were among the 129 men and women killed during the Iraqi war. Those numbers obviously have increased. When they volunteered for military service and fought in this war, they were immigrants with resident status and not citizens of the United States.

Jose A. Gutierrez was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, he obtained permanent resident status. And according to Martha Espinosa, one of his former foster mothers, he once told her, ''I was born the day I arrived in this county.''

Garibay was a native of Jalisco, Mexico, whose family moved to the United States when he was a baby. He joined the Marines 3 years ago. ''He probably thought he was more an American than a Mexican,'' said his sister. With the help of their families and fellow Marines, these brave young Americans unfortunately lost their lives in the war in Iraq; and so we would hope that as we move this legislation forward, these brave young Marines will also obtain their citizenship posthumously.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for noncitizen members of the United States military even in peacetime. For instance, section 328 of the INA allows noncitizen members of the military to become citizens after 3 years of peacetime service instead of the usual 5-year wait required of nonmilitary applicants.

Section 329 of the INA allows noncitizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities.

Under this section of the INA, 143,000 noncitizen military participants in World Wars I and II, and 31,000 members of the United States military who fought during the Korean War became naturalized American citizens. More than 100,000 members of the United States became citizens following Vietnam and the Persian Gulf War collectively.

The important point, Mr. Speaker, is to realize that this Nation continues to be a Nation built upon immigrants and their desire to be part of this great democracy. And it also shows how much we are united, united in our war against terrorism, and that immigration does not equate to terrorism.

The Armed Forces Naturalization Act of 2003 would reduce the time that a peacetime member of the Armed Forces has to serve for naturalization eligibility purposes from 3 years to a single year. The fees normally charged for naturalization will be waived for members of the Armed Forces.

Moreover, effort will be made to provide locations overseas at which soldiers will be able to take the naturalization examination, the interviews and other steps in the naturalization process. If you can imagine, before this legislation and the vision of the gentleman from Texas (Mr. FROST), these persons had to come back from their posts, and that was very, very difficult, to proceed to naturalize. This will avoid the expense to that soldier serving overseas of paying his or her transportation to and from the United States to complete the naturalization process.

The current law provides for posthumous citizenship when a soldier has been killed during a period that has been declared a time of military hostilities, but the current law explicitly denies derivative immigrant benefits for the soldier's spouse and children. This bill will correct that inequity by allowing the spouse, children and parents of such a soldier to self-petition for immediate relative status on the basis of the soldier's posthumous citizenship.

The bill as offered at the mark-up, however, did not extend similar benefits to the case in which the soldier's surviving spouse is already a lawful permanent resident. This omission was corrected by an amendment I offered at the mark-up. Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before becoming eligible for naturalization as a spouse of a United States citizen. Section 319(d) of the INA waives that requirement when a lawful permanent resident's citizen spouse dies in the Armed Forces.

The pertinent part section of 319(d) reads as follows:

''Any person who is a surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States shall be required.''

My amendment provides the same waiver in the case of the lawful permanent resident spouse whose soldier spouse receives citizenship posthumously.

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The only difference between the two situations is that the one permitted under current law involves a soldier who received his citizenship before he died; whereas in the second situation, the citizenship is received posthumously. In both cases, the soldier is a citizen who is killed during a period

of honorable military service. I am pleased that the committee voted to approve that amendment.

There are two instances of concern that I have. One amendment provides that anyone naturalized under the bill's 1 year of service in the Armed Forces measure can have such citizenship revoked if the individual is subsequently separated from the military under other than honorable conditions. No such provision currently exists for revoking the citizenship of Armed Forces personnel who obtain naturalization pursuant to peacetime service. I am concerned about that and hope we can work through conference on that issue.

I am also concerned about an amendment that modifies the provisions in the bill that are intended to grant immigration benefits to the parents of soldiers who receive citizenship posthumously. The original provisions in the bill make the parents eligible for immediate relative status without imposing any additional eligibility requirements. Immediate relative status would permit them to obtain an immigrant visa without having to wait for a visa number.

The amendment that was in this bill limits the benefit to parents who are lawfully authorized to be present in the United States on the date of the soldier's death. Aside from unusual situations, such as when the parents happen to be college students or have visas for temporary employment in the United States as computer experts, et cetera, this is a problem because we can imagine problems of where a parent might be on any given day when the son or daughter dies, whether or not they are out of the country; and I would hope that we could make a correction as we move forward with this legislation.

I do want to acknowledge that this is an important bill that has come about through bipartisan efforts, and I do want to acknowledge that there are problems that we want to work through; and clearly, we want to make sure that the problems that we face will be ones that can be corrected.

I believe, Mr. Speaker, that we worked in a bipartisan way for the betterment and good of these heroes, valiant heroes; and I would ask that my colleagues support this legislation.

Mr. Speaker, the ''Armed Forces Naturalization Act of 2003'' is the culmination of a bi-partisan effort to improve the military naturalization provisions of the Immigration and Nationality Act (INA). I am proud to be an original cosponsor of this bill, which was introduced by Representative F. JAMES SENSENBRENNER, the Chairman of the Committee on the Judiciary. I want to thank Chairman SENSENBRENNER and the Ranking Member of the Judiciary Committee, Representative JOHN CONYERS, for their leadership. I also want to thank the members who cooperated with this project by combining their individual naturalization bills to produce the comprehensive Armed Forces Naturalization Act, Representatives DOC HASTINGS, MARTIN FROST, WALTER JONES, HILDA SOLIS, DARRELL ISSA, and LUIS GUTIERREZ.

Marine Corporal Jose Angel Garibay and Lance Corporal Jose Gutierrez were among the 129 men and women killed during the Iraqi war. When they volunteered for military service and fought in this war, they were immigrants with resident status, not citizens of the United States.

Jose A. Gutierrez was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, he obtained permanent resident status. According to Martha Espinosa, one of his former foster mothers, ''He once told me, ' was born the day I arrived in this country.' '' Garibay was a native of Jalisco, Mexico, whose family moved to the United States when he was a baby. He joined the Marines three years ago. ''He probably thought he was more an American than a Mexican,'' said Garibay's sister Crystal. With the help of their families and fellow Marines, Garibay and Gutierrez became American citizens posthumously.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for non-citizen members of the United States military, even in peacetime. For instance, Section 328 of the INA allows non-citizen members of the military to become citizens after 3 years of peacetime service, instead of the usual 5-year wait required of non-military applicants.

Section 329 of INA allows non-citizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities. Under this Section of the INA, 143,000 non-citizen military participants in World Wars I and II, and 31,000 members of the United States military who fought during the Korean War, became naturalized American citizens. More than 100,000 members of the United States military became citizens following Vietnam and the Persian Gulf War collectively.

The Armed Forces Naturalization Act of 2003 will reduce the time that a peacetime member of the armed forces has to serve for naturalization eligibility purposes from 3 years to a single year. The fees normally charged for naturalization will be waived for members of the armed forces. Moreover, effort will be made to provide locations overseas at which soldiers will be able to take the naturalization examination, the interviews, and the other steps in the naturalization process. This will avoid the expense to the soldier serving overseas of paying for his or her own transportation to and from the United States to complete the naturalization process.

Current law provides for posthumous citizenship when a soldier is killed during a period that has been declared a time of military hostilities, but the current law explicitly denies derivative immigration benefits to the soldier's spouse and children. this bill will correct that inequity by allowing the spouse, children, and parents of such a soldier to self-petition for immediate relative status on the basis of the soldier's posthumous citizenship. the bill as offered at the markup, however, did not extend similar benefits to the case in which the soldier's surviving spouse is already a lawful permanent resident. This omission was corected by an amendment I offered at the markup.

Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before becoming eligible for naturalization as the spouse of a United States citizen. Section 319(d) of the INA waives that requirement when the lawful permanent resident's citizen spouse dies during a period of honorable service in the Armed Forces. the pertinent part of section 319(d) read as follows:

> Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in the Armed Forces of the United States and who was living in martial union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States . . . shall be required.

My amendment provides the same waiver in the case of the lawful permanent resident spouse whose soldier spouse receives citizenship posthumously. The only difference between the two situations is that the one permitted under current law involves a soldier who received his citizenship before he died, whereas in the second situation, the citizenship is received posthumously. In both cases the soldier is a citizen who is killed during a period of honorable military service. I am pleased that Committee voted to approve my amendment.

I am concerned, however, about two amendments from Representative STEVE KING that also were approved at the markup. Representative KING's first amendment provides that anyone naturalized under the bill's ''one year of service in the Armed Forces'' measure can have such citizenship revoked if the individual is subsequently ''separated from the military . . . under other than honorable conditions.'' No such provision currently exists for revoking the citizenship of armed forces personnel who obtain naturalization pursuant to peacetime service.

Representative KING's second amendment is even more troubling. It modifies the provisions in the bill that are intended to grant immigration benefits to the parents of a soldier who receives citizenship posthumously. The original provisions in the bill make the parents eligible for immediate relative status without imposing any additional eligibility requirements. Immediate relative status would permit them to obtain an immigrant visa without having to wait for a visa number. Mr. KING's amendment limits the benefit to parents who are lawfully authorized to be present in the United States on the date of the soldier's death. Aside from unusual situations, such as when the parents happen to be college students or have visas for temporary employment in the United States as computer experts or agricultural workers, the King amendment limits the immediate relatives status benefit to parents who have coordinated their vacation plans with the death of their soldier son or daughter.

For instance, if the parents are in the United States for two weeks in June as nonimmigrant visitors and their soldier son or daughter dies in combat in July, they are not eligible for immediate relative status. Although they were authorized to be in the United States when they visited in June, they were not authorized to be present in the United States in July, which is when their son or daughter dies in this hypothetical example. The results is this irrational in every situation I can image. It

makes no sense to limit eligibility in this manner.

I also want to note that although the Armed Forces Naturalization Act will make important changes in the military naturalization provisions, there is more to be done. In the coming months of this session, we also need to work on benefits for the brothers and sisters of soldiers who are killed while serving our country. Currently, immigration status is not available in that situation. I offered an amendment at the markup to fix this problem, but it was not approved.

Another problem is the fact that immigrants who are in the United States in an unlawful status for more than 6 months are barred thereafter from becoming a permanent resident for a period of 3 years. If they are in an unlawful status for more than a year, they are barred from becoming a permanent resident for a period of 10 years. Moreover, the waivers available to people who face such bars are far too narrow. If we cannot agree to eliminate these bars, we must work together to create reasonable waivers so that discretion is available when it is needed to prevent an injustice.

Nevertheless, the fact that we have more work ahead of us does not diminish the importance of enacting the Armed Forces Naturalization Act of 2003. It is an excellent bill that demonstrates how much we can accomplish when we work together. I urge you to vote for it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me the time; and, Mr. Speaker, I rise in support of H.R. 1954 and would like to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, for his leadership on this important issue.

Mr. Speaker, I am particularly pleased that the committee's bill includes the principal provisions of my legislation, the Armed Forces Citizenship Act. I introduced my bill during the recent war in Iraq in order to make it possible for legal immigrants serving in America's Armed Forces to become U.S. citizens after 1 year in uniform rather than the 3 to 5 years required for naturalization under current law.

Mr. Speaker, these patriotic men and women have willingly volunteered to carry out one of the most solemn duties any nation can ask of its citizens, the defense of freedom. In doing so, I believe that they have truly earned the opportunity to become citizens of the country that they serve to protect.

After all, is there any better way to demonstrate our fitness for citizenship than to make that kind of commitment to what our Nation stands for? Are not these precisely, Mr. Speaker, the kinds of individuals that we should want as United States citizens? By enacting this legislation, America can do the right thing for some very brave men and women who are doing the right thing for America.

As my colleagues know, some of our troops who died in Iraq wearing the uniform of the United States gave their lives before they were truly entitled to call themselves Americans. Frankly, Mr. Speaker, that is just plain wrong, and it is an injustice; and I am pleased that Congress is moving quickly to correct that injustice.

So, Mr. Speaker, let us recognize their love of this country by voting today to enable legal immigrants serving America's Armed Forces to become citizens before, not after, they begin risking their lives to save ours.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 4 minutes to the distinguished gentleman from California (Mr. BERMAN), a member of the full Committee on the Judiciary and the Subcommittee on Immigration, Border Security, and Claims.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman, the ranking member of the subcommittee, both for her excellent work and for yielding me this time.

I rise in strong support of the bill, but I do want to point out a few issues that were addressed in the Committee on the Judiciary where I think we could have gone farther to be fair to the families of our soldiers.

I very much appreciate the gentleman from Wisconsin's (Mr. SENSENBRENNER) willingness to create a bipartisan process in the negotiations on this bill, a process that started with at least seven different bills on the topic. I think the goal of all the Members who introduced those bills, and of most of us in the House, were the same. We wanted to reward the dedication of lawful, permanent residents in the military by making it as easy as possible for them to become full members of the country they are serving on the battlefield.

Secondly, we wanted to honor the sacrifice of both lawful, permanent residents and U.S. citizens who have been killed in service; and we are doing that by ensuring that their families are treated fairly by the country that they gave their lives to defend.

As I indicated, the bill is a very good start. The problem is that there will be some families of these brave soldiers who will not be helped by this bill. My hope is that in the conference with the other body we will be able to address those issues so we can be sure that we are not creating a situation where we have to, for example, tell the mother of a young man who gave his life for his country, our country, that we thank him very much for his service but his mother will have to leave. As one of my colleagues on the committee put it, we ought to be sure that the family members of our fallen heroes have the right to tend to the grave of their loved one.

When the Committee on the Judiciary considered this bill, I offered an amendment that would have provided the Secretary of Homeland Security the discretion, the discretion, to waive certain bars in our immigration laws that otherwise could be an obstacle to relief for the spouses, children, parents of the soldier killed in combat. We are not talking an automatic waiver. What we asked for was an opportunity for the Secretary of Homeland Security to do an investigation and, in his discretion, provide relief where he deemed it appropriate.

I think it is right to offer some level of forgiveness to these families whose spouse or child or sibling has given the ultimate sacrifice to our country; and by giving that discretion to the Secretary of Homeland Security, we would have ensured that the waiver posed no threat to our national security.

The second issue of concern in this legislation is one raised by the gentlewoman from Texas, the ranking member, that we have drawn an arbitrary line with respect to immigration relief for the parents of both U.S. citizen soldiers and soldiers granted posthumous citizenship under the bill.

Under current law, legal permanent residents cannot petition for their parents to come to this country as immigrants. Naturalized citizens can petition for their parents. Under the language of this bill, the parent of a legal permanent resident soldier who is killed in combat and is given posthumous citizenship cannot get immigration benefits if they were waiting outside the country for their child to naturalize and then petition for them.

If a U.S. citizen soldier filed a petition for their parents before they were killed in combat and their parents do not happen to have a visa to be in the U.S. on the exact date that their child was killed, the petition would be extinguished. In other words, the parent patiently waiting, playing by the rules, is turned away by the country their son or daughter died for.

In a bizarre and totally arbitrary twist, if that parent happened to get a visitor's visa to enter the country, say to help take care of the soldier's children while he was deployed, and that time in the U.S. happened to include the exact date on which their child was killed in combat, then the parent of a legal permanent resident soldier would be eligible for relief. This distinction makes no sense and we should correct it. A parent is a parent whether they are in Mexico waiting patiently or here on a tourist visa helping with the kids.

I would hope we could address these issues in conference.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding me the time, and I want to thank the chairman of this committee and the ranking member for working with me on H.R. 1799, the Fallen Heroes Immigrant Spouse Fairness Act.

Mr. Speaker, this came to my attention when I attended the funeral of a Marine who was killed in Operation Iraqi Freedom. His name was Michael

Bitz. Sergeant Bitz was married to a lady, Janina Bitz, who was from Australia, and at the time we were concerned with the fact that he had lost his life, that his wife might have to start the process again of becoming a naturalized citizen.

When I attended the funeral down at Camp Lejeune of Sergeant Bitz, I met Pat Millush, the military liaison to the Bureau of Citizenship and Immigration Service at Camp Lejeune. Pat said to me the immigrant spouses of military personnel were treated unfairly under current immigration law.

By knowing that, Mr. Speaker, I decided that I would put this legislation in that would allow the spouse of a member of the military who had lost their life, whether it be in war or by accident or in training, that if they had not reached that 2-year period of time, that they would still be able to continue the naturalization process without being penalized.

I am delighted and want to thank again the chairman of the committee and the ranking member for not only working with me on this issue but other Members who have been named today, because the men and women who serve this great Nation and their families need to be honored; and I think this bill itself is a way to honor those who have given their lives for this great Nation.

Basically what 1799 did, which has been included in this bill, allows the immigrant spouse of military personnel who die as a result of a service-connected injury or disease to continue the immigration process regardless of the number of years of the marriage. Mr. Speaker, I have outside of my office, 422 Cannon, a photograph of everyone who has died in the war for freedom in Iraq, and I am pleased and honored that this committee would accept the language in 1799 and encompass it in this naturalization bill to honor our men and women in uniform.

Mr. Speaker, again, I will close by saying I ask God to please bless our men and women in uniform. I ask God to please bless the families of the loved ones fighting for freedom; and again, I thank the leadership, the Republican leadership and the Democratic leadership, for this honor that they have given to Michael Bitz who gave his life for America.

Ms. JACKSON-LEE of Texas. Mr. Speaker, can I inquire the time remaining.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from Texas (Ms. JACKSON-LEE) has 7 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 9½ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Texas (Mr. FROST), the distinguished ranking member of the Committee on Rules and a major proponent but also author of legislation that has been part of this bipartisan legislation.

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

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

Mr. Speaker, I am here today to express my support for H.R. 1954, the Armed Forces Naturalization Act of 2003.

In the war against Saddam Hussein, noncitizen soldiers were among the first brave men and women to fall. Some were born in Mexico before joining the U.S. military like Pfc. Francisco Martinez Flores, Corporal Jose Angel Garibay, and Lance Corporal Jesus Suarez del Solar. Others were born in Guatemala, like Lance Corporal Jose Gutierrez; but all died fighting for a country where they could not even cast a vote.

Mr. Speaker, in the last Congress, in May of 2002 to be precise, I first introduced legislation to help remedy the obstacles these brave soldiers faced on their path to citizenship, and I reintroduced my bill in this Congress before the war with Saddam Hussein began. So I am pleased that we are finally here today voting to ease the burdens placed on our legal permanent resident troops.

The men and women who serve honorably in the Armed Forces have earned the respect and gratitude of every American citizen. All of those who have chosen to make the ultimate sacrifice for the defense of our country certainly have earned the full rights and privileges of U.S. citizenship.

While it is unfortunate that it took a war to shed light on the sacrifices of our green card troops and compel the House as a body to act, I am hopeful that we will focus our attention on rewarding and enhancing our military personnel in time of peace as well as times of war.

According to the Department of Defense, the number of legal permanent residents serving on active duty has risen to 37,401, or about 3 percent of our military. Additionally, thousands of immigrants serve in the Reserves and were called up for active duty.

The ranks of noncitizens serving in the Armed Forces are growing, and today's immigrants are building upon a rich legacy of service in the U.S. military. Immigrants have fought in every American conflict from the Revolutionary War to the war with Iraq. The military service of immigrants reflects the strong strain of patriotism among generations who have chosen to come to America, and the patriotism of today's large Hispanic immigrant communities is particularly strong.

However, thousands of those troops are still not citizens today because of the significant obstacles that remain.

The sacrifices of legal permanent residents in our military are unique. They choose to defend freedom of American citizens while not sharing in the full rights and privileges of citizenship themselves. Unfortunately, the process for granting citizenship to immigrants within the U.S. still places heavy burdens upon them, especially those serving in the toughest overseas assignments.

Mr. Speaker, simply stated, the Armed Forces Naturalization Act of 2003 will help remove unfair and unnecessary obstacles facing thousands of legal permanent residents serving honorably in the U.S. military trying to obtain their citizenship. While there are some differences in the bill that I originally introduced and the bill we are debating today, I am hopeful that certain changes can be made in conference.

This is why I urge my colleagues to vote in favor of this legislation. Let us honor our truly brave soldiers who have shown the willingness to make the ultimate sacrifice for the country they dearly wish to be citizens of.

□ 1515

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

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

As Americans, we owe the men and women who serve our Nation a great debt of gratitude, and that is why I rise in strong support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

Many immigrants have proven their patriotism by fighting in this country's wars. These soldiers are real patriots, adopting America as their home to honor and defend. America's armed services have long included soldiers, sailors, airmen and Marines who were noncitizen residents of the United States. These men and women fight and die along with their fellow citizen-soldiers and deserve the privilege of U.S. citizenship.

Currently, over 37,000, or 2.6 percent of active members of the armed services are noncitizens or immigrants. There is one specific American patriot I would like to honor today, Lance Corporal Jakub H. Kowalik. Sadly, having given the ultimate sacrifice, Jakub died in an ordnance explosion while serving in Iraq on May 12 of this year.

Jakub, a native of Poland, migrated with his family in 1991, settling in Schaumburg, Illinois. He played football at Maine East High School, where he graduated in 2002. Jakub enjoyed fishing with his father, Henryk, who preceded him in death 2 years after their arrival in the United States. Jakub enlisted in the Marines his senior year in high school, a few months before the attacks of September 11. His older brother, Paul, called him his best friend and hero. His mother said he just enjoyed being a Marine. Jakub is but one example of the many noncitizens who have proudly served our country.

The message of this legislation is very clear: While we can never fully repay these men and women who have willingly entered harm's way to preserve, protect, and defend our freedom

around the world, serving with courage and selflessness, we can honor and respect them for their service. Throughout history they have answered the call. Today, we have the opportunity to reply with the greatest privilege we have to offer, which is U.S. citizenship.

My colleagues, I urge passage and bipartisan support for this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. SOLIS), who was also one of the authors of legislation that contributed to this bipartisan bill that is on the floor today.

Ms. SOLIS. Mr. Speaker, I wish to thank the gentlewoman for yielding me this time, and I also would like to thank the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), the ranking member of the subcommittee, the gentlewoman from Texas (Ms. JACKSON-LEE), and others who helped to put forward this piece of legislation.

Mr. Speaker, I was moved to put forward legislation on this issue because we have several young soldiers that are in my district that are serving now, but one in particular, Francisco Martinez Flores, who actually lost his life. He lost his life just 2 weeks short of becoming a U.S. citizen. Most of his family is here legally, with the exception of his father. Without this piece of legislation, his father is out there on his own for the time being, and it would take a while for him to become a U.S. citizen.

I am very appreciative of the work that has taken place on the bill. Thirty-seven thousand legal permanent residents will be eligible, through this legislation, in 1 year to become citizens, and their family members. That is first and foremost in my mind in terms of what we need to do for the families.

I had a chance to meet with several of those families in my own district, many of whom are waiting, wanting their children to come home and hoping they do come home. The fact we are moving in this direction today to provide opportunities for them to continue to support our country is something we can all take pleasure and pride in today.

I also want to thank the gentleman from Texas (Mr. FROST) for putting forward legislation that is also incorporated in this piece of legislation, for having the foresight to put forward his idea even before the conflict began.

There are many different angles and parts of this bill that I could speak on. I know I have limited time here, but I do want to say that we should make some corrections. One piece that is amiss in the bill that I put forward was to try to allow for parents that are not here with appropriate documentation to be allowed to become legal permanent residents even if their son or daughter is serving and may be a fallen soldier.

We need to look at that and continue to work on this legislation to make sure that we take care of those family members because there are many, many that are not here, that are in Mexico or Central America waiting to hear about their children.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DREIER), the very distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend, the very, very able chairman of the Committee on the Judiciary for yielding me this time, and I thank him for the tremendous time and energy he puts into so much of the heavy lifting that goes on in this institution.

I rise in strong support of this very important legislation. As we think about the sacrifice that has been made, and it has obviously come to the forefront in the past several months, I believe that steps towards recognizing those sacrifices that have been made by people regardless of their background and citizenship, I think this piece of legislation which has been crafted in a bipartisan way to address this important need will go a long way toward sending a signal of great, unwavering appreciation of those of us in the United States Congress and the American people on behalf of that sacrifice that has been made.

I want to congratulate my fellow colleague, the gentlewoman from California (Ms. SOLIS) for her work on this, obviously the gentleman from Washington (Mr. HASTINGS), the gentleman from California (Mr. BERMAN), and the others who have been involved in this legislation; and I look forward to its speedy passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to inquire of the Speaker how much time is remaining.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from Texas (Ms. JACKSON-LEE) has 2 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 6½ minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Speaker, I thank the distinguished chairman for yielding me this time, and I appreciate his leadership on this important issue.

I rise in support of H.R. 1954. Our servicemen and women shoulder the burden of defense as one of the responsibilities of citizenship in this country. Having participated in protecting our rights of U.S. citizenship, and having met lethal force on battlefields around the world, they are more than qualified to appreciate and treasure the blessings of citizenship in the country they so proudly serve.

The relationship of citizenship to the all-volunteer force is very real. That force is a reflection of the intrinsic civic virtue of military service. That civic virtue is as strong today among America's citizen-soldiers as with the first minutemen. And making it easier for military service members to gain citizenship is a minimal act of gratitude by an often all-too-ungrateful Nation.

A citizen of the United States is accorded a number of benefits not granted to lawful permanent residents. He has the right to vote and to hold public office and may qualify for various jobs from which permanent residents are barred. But who is more deserving to receive those benefits of U.S. citizenship than a member of the Armed Forces?

I am delighted that the committee's bill incorporated my legislation, H.R. 1806, along with others, as part of the final package. It came to my attention that this was the right thing to do for our citizen-soldiers when one of my district caseworkers notified me that some of our own constituents were courageously serving in our Armed Forces, defending our freedom, and sadly, some of those who had been killed had yet to be granted U.S. citizenship.

More so than most, these individuals have earned their opportunity to become citizens of the country they defend. These active duty service members who have shown such courage and bravery in the defense of our homeland deserve to become citizens before not after they begin risking their lives to defend ours.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the distinguished chairman of the Democratic Caucus and a proponent of this legislation.

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

Mr. MENENDEZ. Mr. Speaker, I rise in support of the Armed Forces Naturalization Act, and I hope that it will give rise to some other opportunities that have been discussed here in terms of those who serve our country and their families.

I remember during the 107th Congress when a Republican colleague of ours referred to legal permanent residents as enemies of the State on this very floor during campaign finance reform debate. Thousands of these enemies of the State, as they were referred to, are serving in our Armed Forces. They fight for our country, they shed blood for the country, and in some cases, they die for this country. They are also protecting our airports, our seaports, and our borders. They risk their lives daily in Afghanistan, Iraq, and other places around the world to protect us here at home.

These members of the so-called green-card military, the more than 37,000 noncitizen legal immigrants currently serving in America's Armed Forces, have been fighting, and in some cases dying, for their adopted country. In fact, a noncitizen, Lance Corporal Jose Gutierrez of Guatemala was the first U.S. casualty in the war with Iraq,

and at least seven other noncitizen soldiers also made the ultimate sacrifice in Iraq.

So this legislation rectifies a variety of barriers faced by U.S. servicemen and women seeking to become citizens of the country that they serve and that they risk their lives for. I hope we will not only pass this, but it will give rise to other opportunities.

Mr. SENSENBRENNER. Mr. Speaker, has the time allocated to the minority expired?

The SPEAKER pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) has 30 seconds remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from California (Ms. LINDA SANCHEZ), a member of the full committee and a member of the subcommittee.

(Ms. LINDA SANCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LINDA SANCHEZ of California. Mr. Speaker, I am pleased to stand here and support this bill, but I just want to bring people's attention to one part of the bill in particular I am concerned about, and that is parents of legal permanent resident soldiers killed in combat who are not eligible for citizenship if they were outside the United States at the time their child was killed. Those same parents would be eligible for citizenship if they are here in the United States. It makes no sense to differentiate between the two.

A parent is a parent, whether or not they happen to have gone to their home country for a short time, or whether they are in the process of waiting for a visa application renewal, or whether some other circumstances have forced them to be outside the U.S. when their child was killed.

I urge the other body to correct this aspect of the bill, but I rise in support of the bill and urge my colleagues to do the same.

In this country, non-citizens have worn our military uniforms and fought in our battles throughout our history. One of my uncles served in the military as a legal permanent resident during the Korean War. Now, approximately 3 percent of our military are legal permanent residents.

I am a strong supporter of measures that provide opportunities for legal permanent residents serving in our military to become U.S. citizens. These individuals are making enormous sacrifices. Without being citizens, and without having the protections that status would give them, these immigrant men and women are willing to risk their own lives to defend this nation. The least we can do is give them something in return.

What this bill does is to provide them the opportunity to apply for citizenship after 2 years of military service, instead of the 3 years requirement in current law. It also allows for the spouse and children of legal permanent resident soldiers, killed in action, to apply for citizenship.

I commend Chairman SENSENBRENNER, and other Members of the House, for introducing legislation to address this issue. I appreciate Chairman SENSENBRENNER'S willingness and diligence in working closely with Democrats to produce a bill that we can support. I still have some concerns with aspects of this bill, however, and hope that we are able to work out these issues.

In particular, I am concerned that parents of legal permanent resident soldiers killed in combat and not eligible for citizenship if they were outside the U.S. at the time their child was killed. Those same parents would be eligible if they are here in the U.S. It makes no sense. A parent is a parent, whether or not they happen to have gone to their home country for a short time, or whether they are in the process of waiting for a visa application renewal, or whether some other circumstance has forced them to be outside the U.S. when their child was killed. I urge the other body to correct this aspect of the bill. In addition, during consideration of this bill in the Judiciary Committee, I joined with Mr. Berman in offering an amendment to provide a discretionary waiver to the Secretary of Homeland Security for three categories of people. Unfortunately, that amendment failed. I will work with Mr. Berman to encourage the other Body to include this provision in their version.

Again, I applaud Chairman SENSENBRENNER and other Members who have worked so diligently on this issue. I hope that, with continued work in conference with the other Body, we can produce a bill that truly honors our legal permanent resident soldiers.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS) to show how bipartisan we in the Committee on the Judiciary are on practically everything.

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

Mr. CONYERS. Mr. Speaker, I thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

Mr. Speaker, the reason this is on the consent calendar is that the members of the Committee on the Judiciary, as well as the Members in the House, agree that we should take steps to make sure citizenship is granted to some 37,000 military people who happen to be noncitizens. And it is in that spirit that I rise to commend the ranking subcommittee chair, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), and the subcommittee chairman, the chairman of the full committee, and all of the members on the Committee on the Judiciary that worked on this.

We are trying to still improve this measure as it goes to conference, and I would like to urge everyone to give it a rousing vote this afternoon.

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

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

Mr. GREEN of Texas. Mr. Speaker, I thank the chairman of the committee for yielding me this time, and I also want to thank the ranking member, my neighbor from Houston. I am really happy that H.R. 1954 is up today.

There is no more powerful or honorable way to serve our country than in our Armed Forces. Our military men and women are willing to put their lives on the line to defend freedom and democracy. This type of service is remarkable, particularly for our non-native born.

We have legal permanent residents who volunteer, and I have some who were actually drafted in World War II, Korea, and the Vietnam War who deserve their citizenship. We have worked with them to get them through the system with INS to get their citizenship, but this bill just gives us a statute that will make it work.

Mr. Speaker, again, I thank the chairman and I thank all the members of the Committee on the Judiciary for allowing this. We had more than 300,000 Mexican Americans that served in our Armed Forces just in World War II. I have constituents whom I have talked to who served and who were told they would get their citizenship, but they did not. Again, that is our constituent work, working together, but this makes it so much easier.

Mr. Speaker, I rise today in support of H.R. 1954, the Armed Forces Naturalization Act of 2003.

Legal Permanent Residents who volunteer in our U.S. Armed Forces demonstrate the highest level of patriotism and service to our country.

They serve, not out of obligation or a sense of duty to their homeland, but because they have embraced everything that America stands for.

These individuals are willing to risk their own lives, so that their children and grandchildren can grow up as citizens of this great land.

Legal permanent residents have a long history of serving our country and protecting our democracy.

More than 300,000 Mexican Americans served in the armed forces during World War II. Most enlisted in the army, and more Hispanics served in combat divisions than any other ethnic group.

Of the fourteen Texans awarded the Medal of Honor during WWII, five were Mexican Americans. By the end of the war, seventeen Mexican Americans had earned the Medal of Honor. Five were awarded posthumously.

Today, immigrants continue to play an important role in the United States military.

As of February 2003, more than 37,000 people in active duty status in the Army, Navy, Air Force and Marines were non-citizens.

During our war with Iraq some of the first fallen soldiers were immigrants who were not naturalized citizens. The least we can do for these individuals—who are willing to serve in ways that many American born individuals aren't—is to recognize them as citizens.

The Armed Forces Naturalization Act of 2003 will allow immigrant service men and women who have risked death—and those who have made the ultimate sacrifice—to come a step closer to fulfilling the American Dream by giving them the opportunity to become a naturalized citizen.

I urge my colleagues to vote for the Armed Forces Naturalization Act of 2003 and grant citizenship to non-citizen immigrants who have honorably served in our military.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. REYES).

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

□ 1530

Mr. REYES. Mr. Speaker, I am pleased to rise today in favor of H.R. 1954, the Armed Forces Naturalization Act, which recognizes the contributions made to our country by over 37,000 legal permanent residents serving in our armed services. As a member of the Committee on Armed Services who has had an opportunity to visit Iraq and other parts of the world where our men and women are serving proudly in the military, this bill is the right recognition for their services and for putting their lives on the line. So I strongly recommend that all my colleagues support it.

I am pleased to rise today in favor of H.R. 1954, the Armed Forces Naturalization Act, which recognizes the contributions made to our country by the 38,000 legal permanent residents serving in our armed forces. These men and women dedicate their energies and put their lives on the line to defend the freedoms and liberties of this great nation. It is only appropriate that in exchange for their sacrifice, we remove barriers to obtaining citizenship.

They have earned this.

H.R. 1954 would allow immigrants serving in our armed forces to apply for citizenship after one year of service, down from three years under current law. The bill removes administrative barriers to the naturalization process by making citizenship applications, interviews, filings, oaths, ceremonies and other such proceedings available to members of the armed forces at our military bases, diplomatic missions, and consulates overseas. The bill also waives application fees. In both this Congress and the 107th Congress, I have been a proud original co-sponsor of legislation introduced by my colleague from Texas, Congressman MARTIN FROST, known as the Citizenship for America's Troops Act, that sought to make these changes. I am pleased that they are part of the bill we are voting on today.

The bill also allows spouses, children and parents of naturalized soldiers who die in the line of duty to apply for permanent residency status. Additionally, this bill recognizes the important support that spouses provide to our soldiers by waiving the three-year residency requirement to apply for citizenship. These provisions recognize the important role that family plays and ensures that when their loved one dies in the line of duty, they are not made to suffer even more by having their residency status placed in jeopardy.

Despite these very good provisions, I must express my disappointment that the bill does nothing for immediate family members who are undocumented. I was an original cosponsor of legislation introduced by my colleague HILDA SOLIS, which would have provided immigration protections to immediate family members of soldiers who die in the lain of duty, regardless of their immigration status. A father does not cease to be a father, and a wife does cease to be a wife, just because of the immigration papers they may or may not have.

I am further disappointed, startled in fact, that the bill actually expands existing rules allowing for citizenship to be revoked from naturalized servicemembers who are discharged under other than honorable conditions. The major problem here is that there are other forms of discharge that are not termed honorable, but which are not necessarily dishonorable. The language in the bill would actually punish someone who is discharged for medical reasons. For example, someone who serves in our armed forces, applies for and obtains citizenship, continues to serve for four years and then has to be discharged for a medical condition, would have his or her citizenship revoked. I cannot believe that the authors of this bill intended for that to be the case. I strongly urge my colleagues to resolve this in conference.

On balance, Mr. Speaker, this legislation, H.R. 1954, demonstrates the appreciation of a grateful nation to the thousands of people who come to this country from around the world to contribute to the freedom, strength and prosperity of America. I would like to thank my colleagues, Representatives SOLIS and FROST, for all their work in championing this issue, and most of all, I would like to thank the members of our armed services for the sacrifices they make on our behalf. I urge all my colleagues to vote yes on H.R. 1954.

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

Mr. Speaker, H.R. 1954 is a bill that has almost universal support in this House because it is a compromise. The Committee on the Judiciary on legislation relating to the Immigration and Naturalization Act has deep divisions.

The reason this bill is so strongly supported is twofold. One is that there is a demonstrated need to provide a naturalization road and the immigration benefits to those who have served our country, their immediate families and their survivors. Everybody agrees that this is part of the immigration law that needs to be changed and updated, particularly in light of those who have paid the ultimate price in defending America's freedoms in Iraq.

But I would like to give a word of caution, because this bill is a compromise. Everybody with an oar in the water and a differing viewpoint gave up something to ease the passage of this bill. If we allow the bill to emphasize the divisions that we have in the Congress and in the Committee on the Judiciary on immigration law and in the conference, then it is not going to have an easy road from here. But what we have given up to make H.R. 1954 an agreed-upon bill that will get an overwhelming vote in a few minutes should continue to be given up in the conference so we can speedily turn this bill into law and give the benefits to the people that we want to give the benefits to. As we proceed in this, I urge all of my colleagues to keep that in mind.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 1954, a bill that honors all of the men and women who place themselves in harms way for the sake of this Nation. America is composed of individuals from across the globe—people who come from various nations all united by their strong belief in the ideals for which America stands. Some of those who have come to the United States are brave enough and committed enough to serve in the military defending our country. It is partly because of individuals like these that our democracy maintains its strength in a sometimes perilous world. Accordingly, our democracy should respect their sacrifice. A year's honorable service in the Armed Forces of the United States, especially in this time of heightened security, is surely ample proof that such a person deserves the full rights of United States Citizenship. Additionally, if such a person loses his or her life so serving, family members should not be forced to leave America—on the contrary, they should be embraced by this Nation quickly and expeditiously. Current laws are not adequate on either front: required service time is unnecessarily long, and surviving family members must undergo too much to gain immigration benefits.

I am proud to be the cosponsor of similar measures that have been introduced by my colleagues Mr. FROST and Ms. SOLIS. Those two bills, and the one before this Chamber today, uphold the spirit of honor and respect that must be accorded to any individual willing to commit themselves to the defense of our Nation. Such individuals come from New Jersey, Texas, and California, but they also come from Poland, India, and Mexico. Over 37,000 of the 1.4 million active duty members of the Armed Forces are noncitizens—they and their families deserve the right and honor of citizenship in the United States. I applaud their service, and I eagerly welcome these men and women as fellow citizens.

Mr. CONYERS. Mr. Speaker, since this Nation's founding, more than 55 million immigrants from every continent have settled in the United States. Many of these immigrants have not only payed taxes and adopted the American way of life, they have honorably defended our Nation as members of the military.

During the recent war with Iraq, immigrant soldiers have continued to defend our country in large numbers, and tragically 10 noncitizens have lost their lives. It is important that we honor the extraordinary contributions these immigrants make to the Armed Forces by facilitating their naturalization and establishing important protections for their families if they are killed in action. Surely, if these immigrants are willing to risk their lives for our country, the least we can do is grant them the citizenship they so greatly desire.

Unfortunately, the rigidness of current immigrant laws often prevents individuals like these soldiers, who are truly deserving, to be granted citizenship. In particular, a noncitizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending.

And yet even more shocking is the scenario in which a citizen or noncitizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits made by the soldier on behalf of his immediate family. This is hardly a way to show our thanks to families that have sacrificed their loved ones in the name of our country.

H.R. 1954, the Armed Forces Naturalization Act of 2003, reduces the 3 year military requirement to naturalize to 1 year, waives fees for naturalization petitions, and allows surviving family members of citizens and posthumous granted citizens to apply for immigration benefits. These substantive changes to immigration law will surely benefit those defending our Nation and will ensure that immigrant families of our fallen soldiers are not penalized for their great sacrifice to our nation.

This is not a perfect bill. For example, it does not go as far as I would have liked in helping the families of deceased servicemen and women obtain green cards. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered removable or ineligible for immigration benefits by the 1996 immigration laws will be precluded from enjoying the benefits of this bill. This means that we will be deporting many of the spouses, children and parents of soldiers who have given their lives serving our country.

I am also concerned with two amendments added to this legislation in the Judiciary Committee. The first amendment will require revocation of citizenship granted through 1 year of military service if the soldier is discharged under less than honorable terms within his first 5 years of military service. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, allowing for the revocation of naturalization for less than honorable discharge would punish Service Members in a way that does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace.

The second amendment added to the bill in the Judiciary Committee will prevent parents of citizen soldiers and the parents of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

H.R. 1954 is a positive step in loosening the rigid restrictions immigration law has imposed on immigrant soldiers and their families. H.R. 1954 would: (a) Expedite the naturalization process by allowing military members to naturalize after serving 1 year in the military, waive naturalization fees, and allow naturalization interviews and oath ceremonies to take place abroad; (b) waive posthumous citizenship fees; and (c) ensure the ability of lawful permanent resident spouses, parents legally present in the United States, and unmarried children of citizen or posthumous granted citizen soldiers killed as a result of military service to self petition for immigration benefits or continue to pursue already filed petitions as if the U.S. citizen had not died. These substantive changes to immigration law will benefit those defending our Nation and will help ensure that many immigrant families of our fallen soldiers are not penalized for their great sacrifice. I am disappointed, however, that the bill passed by the committee is not more generous in addressing the unique needs of immigrant families and, in some cases, makes existing law worse.

More than 37,000 noncitizen soldiers are currently serving on active duty in the U.S. Armed Forces and some of the first U.S. casualties in the current war in Iraq were noncitizens. Unfortunately, the rigidness of current immigration laws often prevents individuals like these soldiers, who are truly deserving, to be granted citizenship. In particular, a noncitizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending. And yet even more shocking is the scenario in which a citizen or noncitizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits made by the soldier on behalf of his immediate family.

H.R. 1954 makes many meaningful improvements to existing law. However, I would have preferred that the committee go much further in assisting the immigrant families of our fallen soldiers. One of the unjust consequences of the 1996 immigration laws is that many individuals in the U.S. became ineligible for permanent residence due to a prior unlawful entry or a minor scrape with the law many years prior. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered removable or ineligible for immigration benefits by the 1996 laws will be precluded from enjoying the benefits of this bill. This means that we will be deporting many of the spouses, children and parents of soldiers who have given their lives serving our country. In response, Reps. HOWARD BERMAN and LINDA SÁNCHEZ offered an amendment, defeated by a party line vote, that would have waived certain documentation requirements, and authorized the Department of Homeland Security, on a discretionary basis, to waive categories of inadmissibility for spouses, children, and parents of soldiers killed in service to the military. This proposal would have balanced the goal of honoring the sacrifice these families have made with our duty to national security.

I further believe that this bill does not go far enough in extending immigration benefits to all noncitizens serving the U.S. military, including the Selected Reservists. Current law grants the President authority to designate by Executive order a period of military hostilities that would trigger immediate naturalization eligibility for active duty members of the Armed Forces. Unlike traditional members of the Armed Forces, Selected Reservists are not eligible for immediate citizenship under this law if they do not serve in combat during times of hostility. Rep. ZOE LOFGREN offered an amendment, defeated by voice vote, that would have applied immediate naturalization benefits to Select Reservists during times of hostility regardless of whether they serve in combat. This amendment would have addressed the fact that the rationale for providing benefits to members of the Armed Forces and members of the Select Reserves is nearly identical because during times of hostility they both must be ready to leave family, friends, and familiar surroundings at a moment's notice and potentially die for their country.

I take great issue with two amendments added to this legislation by Rep. STEVE KING. The first amendment will require revocation of citizenship granted through 1 year of military service if the soldier is discharged under less than honorable terms. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, allowing for the revocation of naturalization for less than honorable discharge would punish Service Members in a way that does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace. I understand Rep. KING's desire to make the bill parallel to current law in 329(c) of the INA, but he overlooks that 329(c) applies exclusively to a special case in which members of the Armed Forces are eligible for immediate naturalization during a time of hostility without the requirement of any prior service or commitment to the military. The provision added to H.R. 1954 would bestow conditional citizenship on all immigrants naturalized through a demonstrated commitment to military service and would create a perverse incentive for noncitizens not to join the military. Moreover, this language would allow military authorities to routinely make legal decisions that in effect would deprive a U.S. citizen of his or her citizenship. In some cases, these decisions would be based on conduct that would be completely lawful in civilian contexts, but is considered a military offense under the Uniform Code of Military Justice.

The second amendment added to the bill by Representative KING will prevent parents of citizen soldiers and the parent of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved and parents who lawfully reside in the United States, but have left the country temporarily at the time of their child's death. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

I reiterate that the Armed Forces Naturalization Act of 2003 does not go far enough in assisting the immigrant families of our fallen soldiers. Moreover, amendments added to the bill in the Judiciary committee would punish noncitizen soldiers and their families, rather than reward them for their service and sacrifice, by creating a conditional class of citizenship and putting additional restrictions on immigrant parents of soldiers.

While this bill is not perfect, it does make many meaningful improvements to existing immigration law and takes a significant step help our soldiers and their families be granted the citizenship they so greatly desire. It is my hope that as this bill goes to conference will seriously consider the negative repercussions these two amendments will have on the people this bill intends to honor. It is for these reasons that I think we can all support this bill.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 1954, legislation that I view as a good first step towards recognizing and rewarding the significant contributions made by immigrants who serve in our armed services.

Since our Nation's founding, immigrants have played a prominent role in defending our country. For example, I have introduced H.J. Res. 125, which grants honorary citizenship to all civil war soldiers of Asian descent as a symbolic gesture to correct the historical injustices they suffered.

But just as we endeavor to correct the mistakes of the past, we should remedy current laws that treat some members of our Armed Forces unfairly. That is why H.R. 1954 is so important and I am pleased it is on the floor today.

By passing this legislation, the House of Representatives will be begin to recognize the contributions of immigrant soldiers by providing them and their family members just immigration laws.

Again, I reiterate this is a good first step, but there is much more we can do to help make immigration laws more fair in this country.

Ms. LOFGREN. Mr. Speaker, I rise today in support of our troops who serve our Nation in both peace and war and to support their families who must endure the loneliness and fear of losing a loved one to uphold the strength of our Nation.

I support this bill that not only eases requirements for immigrant soldiers to become U.S. citizens, but also extends immigration benefits to surviving family members of soldiers who gave their lives to defend our Nation. I can't think of a better way to recognize the service of immigrant soldiers and honor the memory of those that have died fighting for their country, while also showing our appreciation to their families for their tremendous sacrifices.

Although the Armed Forces Naturalization Act does much to help immigrant soldiers and their families, we could and should have done more. And we tried, but the Republican majority, so intent on limiting immigration benefits, wouldn't even allow some mothers of soldiers killed in combat to legally remain in this country.

How about this Republican logic? When an immigrant proudly serves in the military and dies for the country, it is obvious that he or she has shown devotion to our country. What about the families of soldiers whom so proudly serve our Nation? If the mother of the soldier has overstayed her visa, she is excluded from the benefits of this bill.

How about this? Your son is killed in combat: but you are deported. How are you to put flowers on your son's grave? Republicans, so caught up in anti-immigrant philosophies, want to short-change them and limit their immigration benefits. What a shame.

There are 37,000 immigrants currently serving in our military and at least 10 who have been killed in recent combat. It is time for us to recognize and honor their service to our country by granting them full and complete citizenship that extends full immigration benefits to their families.

This bill is certainly a step in the right direction, but I know that if it wasn't for the Republican majority, we could have done more.

Mr. BEREUTER. Mr. Speaker, this Member rises in reluctant opposition to H.R. 1954, the Armed Forces Naturalization Act. Certainly, this Member has no objections to expediting citizenship for noncitizen members serving in U.S. armed services and supports efforts to provide appropriate incentives for a very small percentage of few noncitizens who meet established requirements to join our professional military forces. However, in granting citizenship to these qualified men and women, it is not necessary or desirable to also grant priority to their parents, spouses, and children. And it is certainly not appropriate to waive the requirement that such family members financially support themselves in the U.S. Unfortunately, provisions in H.R. 1954 would have that effect.

Through this bill, the spouses, children under the age of 21, and parents of men and women who have been granted citizenship based on their service in the U.S. Armed Forces and who have died in the line of duty would be authorized to seek permanent resident status on an expedited basis. Then, unlike other people seeking legal immigrant status, these family members would not be required to meet financial thresholds which indicate that they would not immediately be public charges.

Most of the American public is unaware of these provisions. Enacting such excessive inducements for joining the U.S. military is a step in the wrong direction, particularly if it results in this country increasingly depending upon what could come to be thought of and called foreign mercenaries to serve in the Armed Forces. This practice has too many similarities to the mercenary forces of the Roman Empire in its decline as Roman citizens themselves became unwilling to serve in the Roman legions. Imagine, too, the reactions of foreign nations that begin to see our forces as forces that serve to gain citizenship for themselves and their families.

Mr. Speaker, this Member encourages his colleagues to vote against H.R. 1954 and to push strenuously for changing this legislation before enactment.

Mr. ISSA. Mr. Speaker, I rise today to support H.R. 1954, the ''Armed Forces Naturalization Act of 2003,'' a bill that helps the families of non-citizen military personnel killed in combat gain what their loved ones died defending—the rights and freedoms of Americans.

Camp Pendleton Marine Corps Base in my Congressional district is home to over 50,000 Marines. Many of these Marines were deployed to liberate Iraq from Saddam Hussein's oppressive regime. While many have returned to their families, some were not as fortunate. One of the Marines that died in Iraq was a non-citizen stationed at Camp Pendleton. I was told that he would receive posthumous citizenship—under current law, a strictly honorary award.

Posthumous citizenship is a hollow benefit for a fallen hero if his spouse and children are subsequently asked to leave the country he died defending. Existing immigration and naturalization law permits the President to award posthumous citizenship to non-citizens killed in any military hostility, but denies immigration benefits for their spouse and children. H.R. 1954 will honor the sacrifice of fallen heroes by allowing their spouses and children to enjoy the benefits and freedoms of the country they were fighting to defend, and would have eventually gained had their loved one not perished.

There are nearly 38,000 non-U.S. citizens serving in our nation's armed forces. These men and women are called upon to protect this nation. I want them to know that when they make the ultimate sacrifice for America their family will not face a cruel and unnecessary legal sanction. H.R. 1954 will allow surviving family members of military personnel, killed in defense of our freedom, to enjoy a real benefit from a posthumous grant of citizenship.

I thank you for the opportunity to speak on this bill. I urge all my colleagues to vote in favor of this legislation.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1954, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

PROVIDING FOR CONSIDERATION OF H.R. 760, PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 257 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 257

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Greenwood of Pennsylvania or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 760, it shall be in order to take from the Speaker's table S. 3 and to consider the Senate bill in the House. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 760 as passed by the House. All points of order against that motion are waived.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman

from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mrs. MYRICK. Mr. Speaker, on Tuesday the Committee on Rules met and granted a modified closed rule for the partial-birth abortion ban of 2003. This rule makes in order an amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Maryland (Mr. HOYER). While I personally oppose this amendment, the Committee on Rules is allowing for fair and open debate on this amendment.

H.R. 760 makes it illegal in the United States for a physician to perform a partial-birth abortion. As an original cosponsor of this legislation, I am very pleased to see it finally reach the floor of the House of Representatives. I also believe that President Bush deserves the opportunity to put an end to this horrific act of human violence by signing this legislation into law. I also want to thank my colleagues on the other side of the Rotunda for passing this important legislation.

I must tell my colleagues as a mother and grandmother, it is astonishing to me that this is still even legal in the United States today, but it is. And as we will no doubt hear on the floor today, it is practiced all too often in this country.

Partial-birth abortion is a procedure where a pregnant woman's cervix is forcefully dilated over a 3-day time period, and the vast majority of partial-birth abortions are performed on healthy babies and healthy mothers.

Although language banning this procedure has been struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-Justice majority in Stenberg v. Carhart thought that Nebraska's definition of ''partial-birth abortion'' was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed, but also the more common dilation and evacuation, or D&E method.

H.R. 760 defines partial-birth abortion as an abortion in which ''the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.''

The tighter definition not only clarifies the procedure so that the Court will not reject it; it also draws attention to the violence of partial-birth abortion by describing how far out the baby can be. I am pleased that we are bringing this to the floor again today.

We have changed the bill, adding findings of fact to overcome constitutional barriers; and I am confident that it will survive judicial review.

Mr. Speaker, the American people want this bill in overwhelming numbers, believing in their hearts that we as a Nation are better than this. We are a better people. To that end I urge my colleagues to support the rule and the underlying bill.

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

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume and thank the gentlewoman for yielding me the customary 30 minutes.

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

Ms. SLAUGHTER. Mr. Speaker, here we are again, considering the rule for the same unconstitutional bill. I must voice my grave concern with H.R. 760, the so-called Partial-Birth Abortion Ban Act of 2003. Today The New York Times says in an editorial, ''Partial Birth Mendacity,'' which means lie, that although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability.

My constituents are facing unemployment. They are losing out on child tax credit. They need more funding for our first responders, they need the promised health care for our veterans; but here we are debating a rule on legislation that violates fundamental constitutional rights and threatens women's health.

Mr. Speaker, 3 years ago the United States Supreme Court struck down similar legislation that banned safe and effective abortion procedures. They confirmed again a woman's reproductive rights as recognized in Roe v. Wade and reaffirmed 2 decades later in Planned Parenthood of Southeastern Pennsylvania v. Casey.

H.R. 760 suffers from the same constitutional flaws as the Nebraska statute thrown out by the Court. The ban on medical procedures is vague and overbroad, and it does not contain an exception from the procedure ban when a woman's health is threatened. And it goes so far as to give the father of the fetus the right to sue the woman or the doctor for money even if he has beaten his wife or rapes her or had threatened her life or has deserted her. How crazy is that?

Obstetricians and gynecologists say that the term ''partial-birth abortion'' is not a medical term, and they are right. It is purely a political creation. The definition of the procedure that H.R. 760 seeks to ban is written in non-medical language that could cover at least two different procedures, one of which is the most commonly used abortion procedure. This vague and overbroad definition, which is probably not by accident, would create so much confusion in the medical community that doctors would not know which medical procedures might land them in jail with a huge fine. We should not make our doctors into criminals.

The American College of Obstetricians and Gynecologists, the doctors who perform these procedures, say that the procedure the bill seeks to proscribe may be the best or most appropriate procedure in a particular circumstance to save the life or to preserve the health of the woman and only the physician in consultation with the patient and based on her circumstances can make this decision. The Congress of the United States has never, ever outlawed a medical procedure. What are we doing here, and what in the name of God is next?

Medical professionals and every Federal court in the country that has heard this issue, except for one, have agreed that these are safe procedures and may be the safest procedures in some circumstances; but we are going to take that away. And who will suffer for that? The American women.

Physicians and not politicians and pundits should provide women and their families with medical advice. I want a doctor to treat my daughters and granddaughters. Women and their families, not the government, should make these difficult, private, medical decisions; and if that is not the case, then every time a procedure is done, there should be a Member of Congress standing at the door okaying it.

The bill would deprive doctors of the ability to care for their patients by outlawing safe and effective medical procedures, something we have never done. We assume that once they have gone through medical school, done their internship and their residencies, they ought to know what they are doing. Congress would subject women to even more dangerous medical procedures and put their health and lives in jeopardy. Everybody deserves the best medical care based on the circumstances of their particular situation.

□ 1545

Instead of making abortion more difficult and dangerous for women, we should pass legislation that helps reduce the need for abortion by reducing the number of unintended pregnancies. That is the most important thing that we could do; and by increasing funding for title X, to require the insurance coverage of contraception, which we will not do, making emergency contraception more available, which we are afraid of, and increasing research for other contraceptive methods. Indeed, I am not at all sure that after this bill is passed and signed by the President that the sale of contraceptives will not be in danger.

H.R. 760 brazenly seeks to sidestep the Constitution. The Supreme Court

has plainly determined that the Constitution requires an exception when the woman's health is endangered. Pages and pages of congressional findings do not change or fulfill constitutional demands or protect women's health.

The authors of this bill hope that the Federal courts, most especially the United States Supreme Court, will defer to these congressional findings and waive this constitutional requirement, but the Court has unequivocally said that the power to interpret the Constitution in a case or controversy remains in the judiciary, and the Court has said that simply because Congress makes a conclusion does not, in the Court's opinion, make it true.

Just because the findings in the bill assert that there is no medical reason for a health exception does not make that true and it does not change the demand of the Constitution. As Ruth Marcus, writing in the Washington Post, noted today, ''Justice Clarence Thomas wrote in a different context that if Congress could make a statute unconstitutional simply by finding that black is white or freedom is slavery, judicial review would be an elaborate farce.'' Think about that for a moment. That if Congress could make a statute constitutional simply by finding that black is white and we were to determine that, or that freedom and slavery are not different, then why would we have judicial review?

So why are we today considering a rule for this unconstitutional bill? Richard Posner, chief judge of the U.S. Court of Appeals for the Seventh Circuit, who was appointed by President Reagan, gave us the answer. He wrote that proponents of similar legislation ''are concerned with making a statement in an ongoing war for public opinion, though an incidental effect of that opinion may be to discourage late-term abortions. The statement is that fetal life is more valuable than women's health.''

Judge Posner went on to say that if a statute burdens constitutional rights and all that can be said on its behalf is that it is the vehicle that legislators have chosen for expressing their hostility to those rights, then the burden is undue. Those are very important words, Mr. Speaker. Those are words from jurists and people who know whereof they speak.

Again Ruth Marcus' article points out that the political agenda is clear. Ken Connor, who is the president of the conservative Family Research Council, spelled it out in an e-mail after the Senate voted on a measure similar to this last March. ''With this bill,'' he wrote, ''we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade.

As the mother of three daughters, a grandmother and a longtime advocate for women's health, I strongly believe that this bill is a threat to women's health and an attempt to whittle away at a woman's constitutional right to choose.

I urge my colleagues to oppose this rule and to oppose H.R. 760.

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

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, partial-birth abortion is a gruesome and inhumane procedure and it is a grave attack against human dignity and justice. This practice must be banned. The bill before us seeks to do just that. Life is a gift, and it must be embraced and respected at all stages.

In a country which espouses the importance of protecting the inherent rights of every person, partial-birth abortion denies the rights of our most innocent and vulnerable members, our children. We as legislators must strive to uphold the truths upon which our great Nation was founded, especially that every individual is entitled to life, liberty and the pursuit of happiness.

Partial-birth abortion is not a sign that women are ''free to choose.'' It is a sign that women have been abandoned, that they have not had the support and care that they so desperately need.

There is increasing evidence, Mr. Speaker, that abortion causes extreme emotional and psychological damage. We must strive every day to ensure that each and every person is guaranteed the most basic of human rights, the right to life. Women deserve better than to endure the psychological, the physical and the emotional pain and suffering associated with partial-birth abortion, and children deserve the chance to live.

It is time for partial-birth abortion to stop. We must have the courage and the strength to fight against one of the greatest of all human rights violations, partial-birth abortion.

I urge my colleagues to vote in favor of H.R. 760, the partial-birth abortion ban. A vote for the ban is a vote for life.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, this bill is unconstitutional.

The bill before us will not prohibit any abortions. Its supporters claim it prohibits a procedure, but the abortion will still take place involving another procedure, and I will not inflame the debate by describing in detail the alternative procedures that may be used. But I will point out that Nebraska had a law banning the same procedure. Nearly 3 years ago the United States Supreme Court held in Stenberg v. Carhart that that law was unconstitutional.

The Supreme Court said five times in its majority opinion and other times in concurring opinions that in order to make a partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure, quote, ''where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.'' That is what five Supreme Court justices said was necessary to make the bill constitutional. All five are still on the Supreme Court.

In that case, the Court said:

The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Federal Constitution as interpreted in Planned Parenthood v. Casey and Roe v. Wade. We conclude that it does for at least two independent reasons.

They said the first reason was that the law lacked an exception for the preservation of the health of the mother. The Stenberg court reminded us what a long line of cases has held, that, and they say, ''subsequent to viability, the State may, if it chooses, regulate and even proscribe abortion,'' and they put this in italics, ''except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.''

It goes on to say, in quotes, in case we did not understand the italics, that the governing standard requires an exception, quote, ''where it is necessary in the appropriate medical judgment for the preservation of the life or health of the mother.''

The Court continues talking about the health exception by saying and mentions another quote:

Justice Thomas said that ''The cases just cited limit this principle to situations where the pregnancy itself creates a threat to health.'' He is wrong. The cases cited, reaffirmed in Casey, recognize that a State cannot subject women's health to significant health risks both in that context and also where State regulations force women to use riskier methods of abortion. Our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion imposed significant health risks. They make it clear that the risk to a woman's health is the same whether it happens to arise from regulating a particular method of abortion or from barring abortions entirely.

Finally, the Court says:

Nebraska has not convinced us that a health exception is, quote, ''never medically necessary to preserve the health of women.'' Rather, a statute that altogether forbids the partial-birth abortion creates a significant health risk. The statute subsequently must contain a health exception.

And if we did not get it, the Court reiterates again:

''By no means must a State grant physicians unfettered discretion in their selection of methods. But where substantial medical authority supports the proposition that banning a particular method could endanger women's health, Casey requires the statute to include a health exception when the procedure is, quote, 'necessary in appropriate medical judgment for the

preservation of the life or health of the mother.' Requiring such an exception in this case is no departure from Casey, but simply a straightforward application of its holding.''

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court in one opinion said at least five times that a health exception must be included for the statute to be constitutional. Furthermore, they put the exact phrase to be used, ''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother'' in italics and quotations.

The majority proposes that we consider a bill without this unqualified health exception. The Court made it clear that such a health exception is required and, therefore, this rule that requires us to consider a bill without that exception ought not pass.

Mr. Speaker, I ask the House to defeat the rule so that we can have a bill considered with a health exception that might possibly be constitutional.

Mr. Speaker, I include for the RECORD a Statement of Policy from the American College of Obstetricians and Gynecologists which says that this procedure may be necessary in some circumstances.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS STATEMENT OF POLICY ON ABORTION

The following statement in the American College of Obstetricians and Gynecologists' (ACOG) general policy related to abortion, with specific reference to the procedure referred to as ''intact dilatation and extraction'' (intact D & X).

1. The abortion debate in this country is marked by serious moral pluralism. Different positions in the debate represent different but important values. The diversity of beliefs should be respected.

2. ACOG recognizes that the issue of support of or opposition to abortion is a matter of profound moral conviction to its members. ACOG, therefore, respects the need and responsibility of its members to determine their individual positions based on personal values or beliefs.

3. Termination of pregnancy before viability is a medical matter between the patient and physician, subject to the physician's clinical judgment, the patient's informed consent and the availability of appropriate facilities.

4. The need for abortions, other than those indicated by serious fetal anomalies or conditions which threaten maternal welfare, represents failures in the social environment and the educational system.

The most effective way to reduce the number of abortions is to prevent unwanted and unintended pregnancies. This can be accomplished by open and honest education, beginning in the home, religious institutions and the primary schools. This education should stress the biology of reproduction and the responsibilities involved by boys, girls, men and women in creating life and the desirability of delaying pregnancies until circumstances are appropriate and pregnancies are planned.

In addition, everyone should be made aware of the dangers of sexually transmitted diseases and the means of protecting each other from their transmission. To accomplish these aims, support of the community and the school system is essential.

The medical curriculum should be expanded to include a focus on the components of reproductive biology which pertain to conception control. Physicians should be encouraged to apply these principles in their own practices and to support them at the community level.

Society also has a responsibility to support research leading to improved methods of contraception for men and women.

5. Informed consent is an expression of respect for the patient as a person; it particularly respects a patient's moral right to bodily integrity, to self-determination regarding sexuality and reproductive capacities, and to the support of the patient's freedom within caring relationships.

A pregnant women should be fully informed in a balanced manner about all options, including raising the child herself, placing the child for adoption, and abortion. The information conveyed should be appropriate to the duration of the pregnancy. The professional should make every effort to avoid introducing personal bias.

6. ACOG supports access to care for all individuals, irrespective of financial status, and supports the availability of all reproductive options. ACOG opposes unnecessary regulations that limit or delay access to care.

7. If abortion is to be performed, it should be performed safely and as early as possible.

8. ACOG opposes the harassment of abortion providers and patients.

9. ACOG strongly supports those activities which prevent unintended pregnancy.

The College continues to affirm the legal right of a woman to obtain an abortion prior to fetal viability. ACOG is opposed to abortion of the healthy fetus that has attained viability in a healthy woman. Viability is the capacity of the fetus to survive outside the mother's uterus. Whether or not this capacity exists is a medical determination, may vary with each pregnancy and is a matter for the judgment of the responsible attending physician.

INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning ''partial birth abortion,'' and ''brain sucking abortions,'' has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

ACOG believes the intent of such legislative proposals is to prohibit a procedure referred to as ''intact dilatation and extraction'' (Intact D & X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;

2. instrumental conversion of the fetus to a footling breech;

3. breech extraction of the body excepting the head; and

4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X. Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 18 weeks, intact D & X is one method of terminating a pregnancy.

The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother.

Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approval by the Executive Board. General policy: January 1993. Reaffirmed and revised July 1997. Intact D & X statement: January 1997. Combined: and reaffirmed September 2000.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, today we are considering, as has already been said, the Partial-Birth Abortion Ban Act. I have joined with 161 Members in cosponsoring this legislation, and I commend the gentleman from Ohio (Mr. CHABOT) for bringing forward this legislation. This is the fifth Congress during which this debate has taken place, four of which I have been a part of, and I believe an overwhelming majority of Americans hope this will be the last and that we will pass this bill and have it sent to the President and signed into law.

I know that it has been repeated time and time again here on the floor of the House, but this afternoon I think it is important to remind my colleagues of the details of this deplorable procedure. Partial-birth abortion is a procedure in which the mother's cervix is forcibly dilated over a 3-day period. On the third day the child is pulled feet first through the birth canal until his or her entire body, except for the head, is outside the womb. While the fetus is stuck in this position, dangling partly out of the mother's body and just a few inches from taking its first breath, the physician inserts and opens scissors into the base of the baby's skull, creating a hole in the baby's head.

The physician then either crushes the baby's skull with instruments or suctions out the baby's brain. With the head now small enough to slip through the mother's cervix, the physician pulls the now-lifeless body the rest of the way out of its mother, and discards the baby's body as medical waste.

Today you will hear some supporters of partial-birth abortion claim this procedure is a critical alternative that must remain legal to protect women's health. However, the medical profession offers no support for such claims.

I urge my colleagues to vote ''yes'' on this bill to protect the most vulnerable in our Nation.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Speaker, I rise today in opposition to this rule. The proponents of the bill claim that it addresses partial-birth abortion, but I think the American people deserve to know what we are really voting on today. We are voting to limit a woman's access to safe and accepted medical procedures, restrictions that will subject a woman to unnecessary risks when she exercises her reproductive right.

We should be promoting a woman's health. We should not be endangering it. We should be debating concrete measures to reduce the number of unintended pregnancies and to ensure that all pregnant women have affordable access to the care they need to deliver healthy babies. Instead, here we are spending our time debating legislation that the Supreme Court has already found to be unconstitutional.

The Supreme Court has clearly recognized the need for protecting the health of the mother. Yet the anti-choice lobby has chosen to forge ahead in their attempts to politicize women's health and chip away at our constitutional rights.

As terrible as it is to acknowledge, things can go tragically wrong in the final stages of pregnancy, and in these unimaginable circumstances, a woman should not be required to risk her health and future fertility by continuing a dangerous pregnancy. I am not a doctor, so I am not going to stand here and pretend that I have the necessary expertise to make medical decisions for my constituents. Instead, I want every woman in my district and every woman in the Nation to have access to whatever procedure she and her physician feel is safest and the most appropriate way for her to settle and handle the situation.

Let us be honest. The debate today is not about aborting viable, healthy children. Few late-term abortions occur in the first place.

□ 1600

Those that do are tragically necessary to save the life or health of the mother. So this debate is actually about limiting a woman's right to choose by restricting access to constitutionally protected medical procedures.

The American people deserve to know what we are really doing here today. We are really desperately trying to take away reproductive choice of every woman in America. I urge my colleagues, do not let this happen. Oppose the rule, and oppose H.R. 760.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I am pro-life. I do not apologize for it. I do not demonize people who hold a different view; but I would say respectfully to the previous speaker, to the gentlewoman, that this really is not a debate about a woman's right to choose or the right to life. It does not really find itself divided in that way. Survey after survey proves the point.

Mr. Speaker, I rise in strong support of the rule and the underlying ban on partial-birth abortion because this is just an antiseptic term for a barbaric procedure. As the late Daniel Patrick Moynihan, a Democratic Senator, said, memorably, partial-birth abortion is ''near infanticide.''

We can have arguments about this bill, about its constitutionality. The gentleman from Ohio (Chairman CHABOT) has gone to great lengths to improve this legislation, and we are confident that it is superior to the Nebraska bill that failed constitutional muster.

We can argue the medicine, and we can argue the facts; but the one thing that is inarguable is that this practice is inherently, morally wrong. What is not arguable is that the practice of delivering a newborn child alive, feet first, holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That, Mr. Speaker, is not arguable.

Today we will follow our colleagues at the other end of this building to take one more step to render that practice unlawful and make that which virtually every American knows in his heart to be evil and morally wrong also illegal in America.

Justice has always been defined in this Nation and every society by how they deal with the innocent and those who do them harm. Of the innocent and defenseless we are urged to do what we can for the least of these. Banning partial-birth abortion is the least we can do for the least of these.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 15 seconds just to say to the previous speaker that we know what the agenda is. It was pointed out today. Kent Connor, the president of the Conservative Family Research Council spelled it out. He said, ''With this bill we will dismantle, brick by brick, Roe v. Wade.''

I hope that all of my colleagues are listening in the House, because this may be the last vote we will have on choice.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to this rule and to the underlying bill.

For 30 years, women in this country have had the right to make reproductive choices over their bodies. H.R. 760 is a horrifying attempt to seize those hard-earned rights away from women. What this legislation claims to do is ban a medical procedure used in late term pregnancies, but it does not. Instead, this bill is drafted in such a way as to effectively ban a woman's right to choose at any point in her pregnancy.

Let us be clear: this bill opens the door to outlawing all abortions, regardless of the circumstances. Furthermore, this bill makes no exception for cases when a woman's health is in grave danger or when carrying a no-longer viable fetus to term would jeopardize a woman's ability to conceive children in the future.

Equally disturbing is the fact that this bill is blatantly unconstitutional. The Supreme Court has consistently ruled that, when dealing with restriction on reproductive procedures, an exception must always be made to protect both the life and the health of the mother.

I cannot support a blatantly unconstitutional bill that tells women that their health or future reproductive health must be sacrificed, nor can I support a bill that has a clear ulterior motive of banning a woman's right to make choices over her own body.

I am pro-choice and believe that the government should stay out of people's private, personal decisions. I will protect a woman's right to choose, and so I will vote against this unconstitutional, anti-woman's rights bill. I strongly urge my colleagues to do the same and to not slam the door on a fundamental right that women have had in this country for 30 years.

I urge my colleagues to vote ''no'' on the rule and to vote ''no'' on H.R. 760.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER of Ohio. Mr. Speaker, I rise to speak in support of this rule and this bill. I am from Dayton, Ohio; and this bill is incredibly important to the people of Ohio and my district, and as a result, from our experience, I believe for the people of this country.

Ohio passed its ban on this horrific procedure known as partial-birth abortion because the people of Ohio know how inhumane and how unsafe the practice is. In my district, in Dayton, Ohio, the Women's Medical Plus Center of Dayton has performed this horrific procedure, despite the fact that the facility is not properly licensed by the Ohio Department of Health. It has nothing to do with women's health; it has nothing to do with Roe v. Wade. It has to do with late-term abortions and killing viable children.

The State Health Department attempted to close the Women's Medical Plus Center of Dayton, but has been unsuccessful. This bill is an important first step in protecting women's health from this center.

A woman 5 months pregnant came to the Women's Medical Plus Center in Dayton, Ohio, to receive a partial-birth abortion. During the 3 days it takes to have the procedure, she began to have stomach pains and was rushed to a nearby hospital. Within minutes, she was giving birth. A medical technician pointed out that the child was alive, but apparently the chances of survival from the procedure were slim. After 3 hours and 8 minutes, this baby died. The community named the baby Hope. Hope was a person, a child, a baby, that fought to retain the life that others were seeking to end.

Just 6 months after Baby Hope died, another baby in the middle of this 3-day abortion procedure was born alive in the Dayton, Ohio, hospital, when her mother went into labor before the abortion could be completed. The woman was believed to be 26 weeks pregnant. This time, however, despite the massive trauma of the baby's environment, a miracle occurred. By grace, this little baby survived, and so she is now called by the community Grace.

I am appalled by the fact that these heinous partial-birth abortion attempts occur. Our local paper has indicated most are performed on healthy women, that most are performed on healthy fetuses.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am always dismayed by the fact that these fetuses are described as ''viable.'' That is one of the saddest things in the world.

I have talked to parents who had this procedure, babies who were in utero with their brains on the outside, with no lungs, no possibility of living. Always the notion is given if they were just allowed not to go through that procedure, they would get down and almost run around the room.

It is not true. It is not true. The parents who have to go through this are heartbroken over it, but it is the way they can have further children. The American College of Obstetricians and Gynecologists who perform these procedures say it may be the best or most appropriate procedure in a particular circumstance.

What if your wife or your daughter is in a particular circumstance, and you had voted to outlaw the procedure that would be the best for her future and her life and maybe even save her life? We have no right to do that, Mr. Speaker, no right at all.

Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, one of my fundamental principles is that government not interfere with the basic freedoms of our families, and a basic freedom for the health of women includes reproductive health choices. This legislation threatens that freedom by inappropriately intervening in the decisions of patients and their doctors.

Late-term abortions are, as has been demonstrated time and again, accepted medical practice that at times is the only procedure available to protect a woman's life and her ability to safely have a healthy baby in the future.

Years ago, when we first started debating this legislation on the floor of this House, I was struck that while proponents try to horrify people, I was indeed struck by the real cases of real families that would be devastated by this amendment, as was pointed out by the gentlewoman from New York.

This legislation further is part of an insidious ongoing assault to erode not just reproductive freedoms, but perpetuate a trend as shocking as it is unfortunate of some in this Congress, imposing their theology on our citizens, regardless of other people's own strongly held beliefs and individual needs.

Only weeks ago, this Congress, because of a theological clash with science, voted to make it illegal to use potentially life-saving therapies to help with Alzheimer's, Parkinson's, and other degenerative or traumatic diseases, leaving people crippled and dying. The vote was not just to deny scientific research here, but deny access to medicines developed anywhere else. They would make our loved ones suffer in their zeal to make their point.

People who oppose abortion should not have one. Nothing would make me happier than for every American woman to have the knowledge, the well-being, the medical care and the good fortune so that there would never have to be another abortion. But until such a day comes, it is wrong to prevent a woman's doctor from offering professional skills so that she and her family can determine the safest and most appropriate medical care for their family.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I rise today in the defense of the most defenseless population in our society, unborn children. Specifically, I rise to support the ban on partial-birth abortion.

This procedure is so horrific that no justification can be given for its continuation. In this procedure, a baby is brought through the birth canal and just as the baby is about to take his or her first breath, the child is killed. If this procedure were done just seconds later, it would be considered murder. I cannot think of a set of circumstances that would justify this brutal act. To allow the continuation of this practice is to devalue the sanctity of life itself.

We cannot allow children, almost born and completely viable outside of the womb, to be disposed of in such a heartless manner. Our society is based on the idea that every individual should have the right to life. I believe that right extends to those who are just about to enter our world.

I urge my colleagues to help defend those who cannot defend themselves.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I do not want to say anything contradictory to my friends on the other side who want to make sure these children are born; but if they are poor, they are not going to get the benefit of the tax rebate.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. Speaker, the supporters of this measure are so determined to end safe and legal abortion in this country, no matter what the procedure, that they are unwilling to consider reasonable amendments that would protect the health and life of the woman and also would ensure the constitutionality of the underlying bill.

We will vote shortly to reject the Greenwood-Hoyer-Johnson amendment, which would permit the particular medical procedure banned by the bill if the physician determines that it is necessary to spare the woman from serious adverse health consequences. I understand from the hearings before the Committee on the Judiciary that supporters of the bill expressed concern that the term ''health consequences'' could very well allow the attending physician too much latitude.

But what is fascinating is that another amendment that was proposed by my friend and colleague, the gentleman from Massachusetts (Mr. FRANK), and myself that would have placed even more stringent restrictions on the use of this particular procedure, permitting it only to protect the mother from serious adverse physical, and let me repeat, physical health consequences, was not made in order.

This rule should be defeated, Mr. Speaker, because without the language that I just enumerated, this bill can put women at risk and threaten their daughters with prosecution if they care for them in the way they determine to be medically safe and sound.

□ 1615

Furthermore, without this language, the bill is susceptible to being considered by the Supreme Court and ruled unconstitutional again.

Now, why pass an extreme measure that would be found unconstitutional, rather than accept an amendment that would address its potential constitutional defects? Perhaps because we are not serious about enacting a bill into law that passes constitutional muster, using this bill, if you will, as a perennial political exercise.

But I would suggest that that is not what we ought to be about. Let me submit that this bill, as it is presently before this body, is a disturbing example of legislative excess.

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

Mrs. BLACKBURN. Mr. Speaker, today I rise in support of the rule and

of the Partial-Birth Abortion Ban Act of 2003.

For the last decade, thousands of healthy babies have been tortured and murdered every year through the procedure that is commonly known as partial-birth abortion. This procedure, which is routinely used during the fifth and sixth months of pregnancy, kills a baby just seconds before he or she takes that first breath outside the womb.

Mr. Speaker, this congressional body must act now to preserve the future of the next generation of this Nation, or this Nation will reap the horrible consequences of allowing partial-birth abortion to continue.

Some opponents advocate that this bill is in violation of a fundamental right to an abortion as stated in Roe v. Wade. Mr. Speaker, they are wrong. Numerous medical practitioners and the American Medical Association have testified in committee that partial-birth abortion is never medically necessary in any situation and is severely below the standard of good medical care. In fact, partial-birth abortion can threaten the mother's health or her ability to carry future children to term.

As representatives of the people of the United States, we are charged with the duty to protect the life and the liberty of the innocent, and passage of this bill is a prime example of fulfilling that duty.

I urge all my colleagues to remember this duty and vote for H.R. 760.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, this has become an all too familiar moment for me. You see, this is the ninth time in 8 years that the Republicans have pushed a ban on so-called partial-birth abortion. Yet I continue to be outraged every year at this leadership's self-righteous attempt to turn back the clock on women's constitutionally protected rights, back to the time when women had to leave the country or risk their lives in dangerous back-alley procedures.

The Supreme Court agrees that medical decisions should be made by the patient and her doctor and not by a bunch of politicians in Washington and their special interests. This is why several medical and health organizations, including the American College of OB–GYNs, oppose this legislation.

This legislation was wrong 8 years ago, and it is still wrong. It contains no exception whatsoever for women's health. It simply puts women's lives at risk. This is a perfect example of how mean-spirited and extreme this administration can be. This is a direct attack on Roe v. Wade. But more than that, it is another example in a long line of this administration's attacks on our rights.

I cannot stand by and watch as one by one this White House and the leadership in this House chew up our rights and spit them out. I stand today as a woman and as an American to fight for our constitutionally protected rights. I urge a ''no'' vote on the rule and a ''no'' vote on the underlying bill. Wake up, America.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, today I rise in support of H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

It is true that the vast majority of partial-birth abortions are performed on healthy babies of healthy mothers. Dr. James McMahon, one of the founders of the partial-birth abortion method, in his June 15, 1995, testimony before the Committee on the Judiciary, testified that in a series of about 2,000 partial-birth abortions he performed, only 9 percent of those abortions were performed for maternal health reasons. Of that group, the most common reason given was depression.

It is clear many partial-birth abortion procedures occur for purely elective or frivolous reasons. He also cited that he performed partial-birth abortions on babies with no flaws whatsoever, even in the third trimester, many as late as 29 weeks, well into the seventh month of pregnancy.

No matter where we stand on the issue of life, most Americans agree that the brutal and horrific practice of partial-birth abortion must cease to exist. I urge my colleagues to pass H.R. 760 and to right the wrong that has existed for far too long.

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

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I rise in support of the rule and in support of the Partial-Birth Abortion Ban Act of 2003.

We are told that most of these partial-birth abortions take place in the fifth and sixth month. This is the same time that I got to share in a most wonderful experience, one of the most wonderful experiences of my lifetime. My son and daughter-in-law invited me to come in for the ultrasound of my grandbaby.

It was incredible to me as the three of us were in that room and as the technician went about moving the instrument around on my daughter-in-law's abdomen what we saw inside of that womb. We saw the profile of a little boy, a profile that made us realize that he was going to look much like his father. We saw his little faithful heart beating away. We saw the little gestures that he made with his hands. As we looked at that little boy, my daughter-in-law and my son knew what they were going to name him. They were going to name him after his great grandfather. I left that and I went out and I bought the little outfit that that little boy would wear home from the hospital.

May we end this horrible practice in our Nation, where we are endowed by our Creator of certain inalienable rights: life, liberty, and the pursuit of happiness.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to say to my colleague, the gentlewoman from Colorado, how happy I am that she had that experience. I am even more happy that that experience showed that that fetus was in good shape and would be able to be born and to be healthy.

We are talking today about women who are faced with the fact that the fetus will not be. I think we are getting astray from that.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. LINDER), another member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I rise in support of the rule. Mr. Speaker, House Resolution 257 is a fair rule that will permit the full House to work its will on H.R. 760, the Partial-Birth Abortion Ban Act of 2003. This rule makes in order the Greenwood-Hoyer amendment to H.R. 760 and provides for one motion to recommit, with or without instructions.

Why is the House debating this legislation yet again? Unfortunately, the answer to that is those who oppose it have claimed that Congress has no power to legislate a ban on partial-birth abortion because of the Supreme Court's Stenberg v. Carhart ruling.

Many of these same House Members, however, had no objection to standing up to the Supreme Court on other issues. For example, 413 House Members voted to ban child pornography even after the Supreme Court held that the 1996 Child Pornography Prevention Act was unconstitutional.

Mr. Speaker, with respect to the underlying bill, any taking of innocent life is wrong. This procedure is demonstrably offensive and wrong. When a Nation puts people in jail and fines them for destroying the potential life of an unborn loggerhead turtle or bald eagle, and pays people for taking the potential life of unborn babies, that Nation has lost its way.

Mr. Speaker, I urge my colleagues to join me in voting for the rule and the underlying bill.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today in strong support of this rule and the Partial-Birth Abortion Ban Act. Since the first time I had an opportunity to vote for this ban, I have had a nephew born who is less than 2 pounds when he was born. You could hold him in the palm of your hand.

We have an estimated 3,000 to 5,000 healthy babies that are victims of this partial-birth abortion each year, many of them larger than my nephew, who lives today. In a country founded on the principle of respect for the dignity

of life, this is deplorable and must be stopped.

Doctors agree that this is not necessary, and it has been labeled not good medicine by the AMA. It can significantly threaten the mother's health and future pregnancies; and they inflict terrible pain upon the baby, who is a few inches from being born and taking its first breath.

Twice we have passed this and President Clinton has vetoed it. Today we have an opportunity to put this into law. Thomas Jefferson had it right when he said that liberty and the pursuit of happiness begins with life. I urge my fellow Members to support this rule and to support passage.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, today is a great day for America as we are poised to pass H.R. 760, the Partial-Birth Abortion Ban. This legislation would stop the gruesome procedure that kills a child just inches from birth.

I will not go into the gory details of this particularly cruel procedure, but I will mention that numerous medical experts have testified that fetuses are able to fully feel pain after 20 weeks of development, at the time when most partial-birth abortion procedures occur.

It is also important to note that health experts agree that partial-birth abortions are never needed to save the life of the mother. Even the AMA has stated that partial-birth abortions pose serious health risks to women, and indeed, are not accepted medical practice. Yet this gruesome and evil practice continues to take place.

Today, we take a giant leap forward to end this practice. I look forward for the President to sign this bill into law. I urge passage of the rule and of the bill to protect the most innocent of our society.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, today we are voting on a bill to ban partial-birth abortion, called that because the baby is mostly delivered before being killed. Finally, after many years of debate and two vetos by our former President, this bill is going to become law.

In a Nation where we have laws to protect turtles' eggs and the developing offspring of other endangered species, finally we will extend some modest measure of protection to our own developing young humans. Finally, the deception of those who defend this procedure has been exposed. Ron Fitzsimmons, a leader in the abortion industry, admitted that they ''lied through their teeth'' when they claimed this procedure was rare.

In my State of New Jersey, there are at least 1,500 partial-birth abortions done each year at one clinic alone. They admit that most of these are done on healthy mothers carrying healthy babies. Is this the best our culture has to offer? Is this the best our society can offer to those who are in need? Is this brutal and barbaric procedure something we as a society are willing to accept and condone? What does it say about us as a civilized society, as a culture, if we cannot condemn and outlaw this kind of brutality?

Let us say today that we will not accept this, that we are better than this. Let us support this rule, and let us pass this bill.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

□ 1630

Mr. RYUN of Kansas. Mr. Speaker, today we have the opportunity to protect the lives of women and children in the United States. We must ban partial-birth abortions.

This type of abortion procedure is gruesome. I cannot imagine how anyone could have the stomach to perform it. Who, may I ask, who could possibly pull a baby from the womb by its feet first, and then stab the half-delivered child in the head and then vacuum out its brain? The child was inches from taking its first breath, but now it is dead and discarded as garbage.

The last five Congresses have supported a ban on partial-birth abortion because a partial-birth abortion is never medically necessary, and because a partial-birth abortion poses significant health risks to the mother, and because partial-birth abortion is not recognized as a valid medical procedure by the mainstream medical community.

For this reason, I support the rule. I support H.R. 760, and I oppose the Greenwood substitute. I urge my colleagues to join me in banning this inhuman procedure once and for all.

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

Mr. Speaker, I just wanted to put into the record something that is stated in a recent New York Times article, because we keep hearing that these are babies that have extreme abnormalities. And I quote from the article, ''One aspect of the debate has changed. When it began, some opponents of the ban said the targeted form of abortion was used only when a fetus had extreme abnormalities or a mother's health was endangered by pregnancy. Now both sides acknowledge that abortions done late in the second trimester, no matter how they are conducted, are most often performed to end healthy pregnancies because the woman arrived relatively late to her decision to abort.''

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

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

Mr. Speaker, first I want to say that the statistics on the clinic in Pennsylvania were really quite shocking. I thought these were all done in hospital situations. I have never heard those kinds of figures for anything.

That aside, let me read about a woman who terminated a pregnancy that, they are very rare, I still believe that.

The decision to terminate a pregnant late in term is an agonizing decision for the women and their families. Listen to the story of Viki Wilson and her family as she told it in her own words:

''In the spring of 1994, I was pregnant and expecting Abigail, my third child. My husband, Bill, an emergency room physician had delivered our other children and would do it again this time. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected that all of my previous prenatal testing had failed to detect. Approximately two-thirds of my daughter's brains had formed outside her skull. What I had thought were big, healthy, strong baby movements were, in fact, seizures.

''My doctor sent me to several specialists, including a perinatologist, a pediatric radiologist, and a geneticist, in a desperate attempt to find a way to save her; but everyone agreed she would not survive outside my body. They also feared that as the pregnancy progressed and before I went into labor, she would probably die from the increased compression in her brain.

''Our doctors explained our options, which included labor and delivery, c-section, or termination of pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process probably rendering me sterile. The doctors also recommended against a c-section because they could not justify the risks to my health when there was not any hope of saving Abigail.

''We agonized over our options. Both Bill and I are medical professionals. I am a registered nurse and Bill is a physician, so we understood the medical risks inherent in each of our options. And after discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an intact D&E.

Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies that we already face. Oppose H.R. 760.''

Mr. Speaker, for Viki and her family and for other Vikis yet to come, I hope that my colleagues will oppose this rule and oppose the underlying bill, H.R. 760. And I urge them to remember that once this bill passes the House, if it does, then it will be substituted for the Senate bill. The Senate bill at least

had the protection in it that was passed by Senator DORGAN on his request that says that Roe v. Wade would be preserved. Obviously, by substituting this bill for that bill, Roe v. Wade will not be preserved.

[From the New York Times, June 4, 2003]

''PARTIAL BIRTH'' MENDACITY, AGAIN

If the so-called partial-birth abortion ban now careering toward almost certain approval by the full House this week has a decidedly familiar ring, it is not your imagination playing tricks. The trickery here belongs to the measure's sponsors.

Although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability. Indeed, the measure replicates the key defects that led the Supreme Court to reject a strikingly similar state law a mere three years ago. In addition to its deceptively broad sweep, the bill unconstitutionally omits an exception to protect the health of the woman.

Plainly, the measure's backers are counting on the public not to read the fine print. Their strategy is to curtail access to abortion further as the inevitable legal challenge wends its way back to the Supreme Court for another showdown. They obviously hope that by that time, there will have been a personnel change that will shift the outcome their way.

House members who vote for this bill will be participating in a cynical exercise that disrespects the rule of law and women's health while threatening the fundamental right of women to make their own childbearing decisions. Representatives who care about such things will not go along.

———

[From The Washington Post, June 4, 2003]

'PARTIAL BIRTH,' PARTIAL TRUTHS

(By Ruth Marcus)

The poisonous national debate over what's known as partial-birth abortion resumes this week, and this time for real: The House is expected to handily approve a prohibition on the procedure, and the Senate has already passed its version. While his predecessor twice vetoed bills outlawing partial-birth abortion, President Bush is eager to sign legislation that he ways will ''protect infants at the very hour of their birth.''

For those who support abortion rights, partial-birth abortion is not the battleground of choice, which is precisely why those who oppose abortion have seized on the issue. The procedure is gruesome, as indeed are all abortions performed at that stage of pregnancy. Although partial-birth abortion is routinely described as a late-term procedure, this label is misleading. The procedure isn't performed until after the 16th week of pregnancy, but it's already legal for states to prohibit abortions once a fetus is viable, at about 24 weeks. More than 40 states have such bans, and properly so. The Supreme Court has said that abortions must be available even after fetuses are viable if necessary to protect the life or health of the mother, and it may be that the health exception ought to be stricter. But this has nothing to do with a partial-birth abortion ban. The law would not prevent any abortion, before viability or after. Instead, it would make one particular procedure—one that may be the safest method for some women—a criminal act.

Indeed, even as they dwell on the gory details of the partial-birth procedure, the groups pushing for a ban on it don't seem to be doing anything to make it easier for women to obtain abortions earlier. Rather, the rest of their antiabortion agenda has been devoted to putting practical and legal roadblocks in the way of women seeking abortions at any stage of pregnancy. Thus, a pregnant teenager faced with multiple hurdles—no abortion provider nearby, no money, a parental consent law—may end up letting her pregnancy progress to the point where she is seeking a second-trimester abortion.

Then there are situations arising from the availability of medical technology that permits a previously impossible glimpse inside the womb. Amniocentesis, which doctors urge for women over 35 because of the heightened risk of birth defects, is not performed until the 15th or 16th week of pregnancy. Other fetal defects may be detected on sonograms only at that stage or later. This puts women squarely in the zone where partial-birth abortion becomes an awful possibility.

When it struck down Nebraska's partial-birth abortion law three years ago, the Supreme Court cited two distinct problems. First, the law was supposed to prohibit only partial-birth abortion, in which the fetus is partially delivered and then dismembered. But, intentionally or not, it was written so inexactly that it could also apply to the most common—though scarcely less grisly—technique for second-trimester abortions, dilation and evacuation, in which the fetus is dismembered before being removed from the womb. Such a bar, the court said, would be unconstitutional because it imposes an ''undue burden'' on a woman's right to abortion before the fetus is viable.

Second, the ban made no exception that would allow the procedure to be performed when necessary to protect the health of the mother. In cases of hydrocephaly, for example, partially delivering the fetus and then collapsing the skull can reduce damage to the cervix—and possibly preserve a woman's ability to carry another child to term. The American College of Obstetricians and Gynecologists told the justices that the partial-birth procedure ''presents a variety of potential safety advantages. Especially for women with particular health conditions, there is medical evidence that [it] may be safer than available alternatives.''

The legislation now before Congress tries to avoid the first problem identified by the court by defining partial-birth abortion more precisely. Opponents contend that the new definition could still apply to the more common technique. The bill's supporters argue this is not true, but they could have explicitly exempted such abortions from the law's reach if they really wanted to make that clear.

A bigger problem is the cavalier way in which Congress leapfrogged the court's requirement for a health exception: Lawmakers simply declared that partial-birth abortion ''is never medically indicated to preserve the health of the mother.'' As Justice Clarence Thomas wrote in a different context, if Congress ''could make a statute constitutional simply by 'finding' that black is white or freedom, slavery, judicial review would be an elaborate farce.'' What if Congress, in the aftermath of Brown v. Board of Education, ''found'' that segregated schools could be equal after all?

The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled this out in an e-mail after the Senate vote last March. ''With this bill,'' he wrote, ''we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade.' Indeed, in urging the overturning of partial-birth abortion laws in Illinois and Wisconsin, federal appeals court Judge Richard Posner, one of the nation's most prominent conservative jurist, said such statutes have nothing to do with protecting fetuses. Rather, said the judge, ''they are concerned with making a statement in an ongoing war for public opinion. . . . The statement is that fetal life is more valuable than women's health.''

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

Mrs. MYRICK. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I rise today to express my strong support for the rule on the passage of the Partial-Birth Abortion Ban Act of 2003. As a member of the bipartisan congressional prolife caucus and as a doctor who has dedicated over 2 decades of my life to my obstetrics practice, I believe this unnecessary procedure should be banned.

As a physician who has delivered over 3,000 babies, I am personally opposed to any type of abortion, but in particular the only reason to select the partial-birth abortion procedure is to ensure that the baby is dead when it is delivered.

As a physician, I recognize that serious complications can occur during the last trimester of pregnancy. However, if the mother's health dictates that the pregnancy must be concluded and a normal birth is not possible, the baby, of course, may be delivered by hysterotomy or cesarean section. Whether the infant lives or dies depends upon the severity of the medical complications and the degree of prematurity, but that outcome is dictated by the disease process itself. The fate of the infant during a partial-birth abortion procedure is predetermined by the nature of the procedure performed, and it is uniformly fatal.

During my 2 decades of the practice of obstetrics, with my share of high-risk pregnancies, I never encountered a situation where the partial-birth abortion procedure was required. I believe that it is inhuman and never medically necessary. The procedure itself, always fatal to the baby, carries substantial risk for the mother as well.

Partial birth abortions are done in the third trimester when an unborn child has developed organs and all the characteristics of a newborn baby. Through the use of technology, patients now have the opportunity to see how life develops before birth. Parents can now watch the beating of an unborn child's heart as early as 20 days after conception and can see movement of the child's arms and legs after 3 months' gestation.

In 1995, a panel of 12 doctors representing the American Medical Association voted unanimously to recommend banning partial-birth abortion, calling it ''basically repulsive.''

I agree with my colleagues at the AMA that it is repulsive and unnecessary. I strongly support the Partial-Birth Abortion Ban Act of 2003. I believe the United States Constitution is

very clear when it guarantees a right to life. Partial-birth abortion has no place in a civilized society.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency, I am unable to be present for the debate and vote on H. Res. 257, the rule providing for consideration of the bill H.R. 760. However, I wish to submit this statement for the RECORD to ensure that my position on this legislation is clear.

While I am opposed to H.R. 760, I am encouraged that the Rules Committee has finally allowed a substitute amendment to this bill. For the fifth time in nine years, this bill has been brought to the floor of the House for a vote. But, for the first time, a compromise substitute amendment is being allowed. I support the substitute amendment offered by Representatives GREENWOOD and HOYER and therefore, if I had been present, would have voted in favor of H. Res. 257 to allow this compromise to be brought to the floor.

Mrs. MYRICK. 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.

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

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

The Sergeant at Arms will notify absent Members.

Following this vote, proceedings will resume on 3 motions to suspend the rules considered earlier today and those votes will be conducted as 5-minute votes.

The vote was taken by electronic device, and there were—yeas 280, nays 138, not voting 15, as follows:

[Roll No 236]

YEAS—280

Aderholt	Brown-Waite, Ginny	Davis, Tom
Akin	Burgess	Deal (GA)
Alexander	Burns	DeLay
Bachus	Burr	DeMint
Baker	Buyer	Diaz-Balart, L.
Ballenger	Calvert	Diaz-Balart, M.
Barrett (SC)	Camp	Dingell
Bartlett (MD)	Cannon	Doolittle
Barton (TX)	Cantor	Doyle
Bass	Capito	Dreier
Beauprez	Cardoza	Duncan
Bereuter	Carter	Dunn
Berry	Castle	Ehlers
Biggert	Chabot	Emerson
Bilirakis	Chocola	English
Bishop (GA)	Coble	Everett
Bishop (UT)	Cole	Feeney
Blackburn	Collins	Ferguson
Blunt	Costello	Flake
Boehlert	Cox	Fletcher
Boehner	Cramer	Foley
Bonilla	Crane	Forbes
Bonner	Crenshaw	Ford
Bono	Cubin	Fossella
Boozman	Culberson	Franks (AZ)
Boswell	Cunningham	Frelinghuysen
Boyd	Davis (CA)	Gallegly
Bradley (NH)	Davis (TN)	Garrett (NJ)
Brady (TX)	Davis, Jo Ann	Gerlach
Gibbons	Linder	Rogers (AL)
Gilchrest	Lipinski	Rogers (KY)
Gillmor	LoBiondo	Rogers (MI)
Gingrey	Lucas (KY)	Rohrabacher
Goode	Lucas (OK)	Ros-Lehtinen
Goodlatte	Lynch	Ross
Gordon	Manzullo	Royce
Goss	Marshall	Ruppersberger
Granger	Matheson	Ryun (KS)
Graves	McCotter	Saxton
Green (WI)	McCrery	Schiff
Greenwood	McHugh	Schrock
Gutknecht	McInnis	Sensenbrenner
Hall	McIntyre	Sessions
Harris	McKeon	Shadegg
Hart	McNulty	Shaw
Hastings (WA)	Mica	Shays
Hayes	Michaud	Sherwood
Hayworth	Miller (FL)	Shimkus
Hefley	Miller (MI)	Shuster
Hensarling	Miller, Gary	Simmons
Herger	Mollohan	Simpson
Hill	Moore	Skelton
Hinojosa	Moran (KS)	Smith (MI)
Hobson	Murphy	Smith (NJ)
Hoekstra	Murtha	Smith (TX)
Holden	Musgrave	Snyder
Hostettler	Myrick	Souder
Houghton	Neal (MA)	Stearns
Hoyer	Nethercutt	Stenholm
Hulshof	Ney	Strickland
Hunter	Northup	Stupak
Hyde	Norwood	Sullivan
Isakson	Nunes	Sweeney
Israel	Nussle	Tancredo
Issa	Obey	Tanner
Istook	Ortiz	Tauzin
Janklow	Osborne	Taylor (MS)
Jenkins	Ose	Taylor (NC)
John	Otter	Terry
Johnson (CT)	Oxley	Thomas
Johnson (IL)	Paul	Thompson (CA)
Johnson, Sam	Pearce	Thornberry
Jones (NC)	Pence	Tiahrt
Kanjorski	Peterson (MN)	Tiberi
Keller	Peterson (PA)	Toomey
Kelly	Petri	Turner (OH)
Kennedy (MN)	Pitts	Turner (TX)
Kennedy (RI)	Platts	Upton
Kildee	Pombo	Vitter
King (IA)	Pomeroy	Walden (OR)
King (NY)	Porter	Walsh
Kingston	Portman	Wamp
Kirk	Pryce (OH)	Waters
Kleczka	Putnam	Weldon (FL)
Kline	Quinn	Weldon (PA)
Knollenberg	Radanovich	Weller
Kolbe	Rahall	Whitfield
LaHood	Ramstad	Wicker
Lampson	Regula	Wilson (NM)
Langevin	Rehberg	Wilson (SC)
Latham	Renzi	Wolf
LaTourette	Reyes	Young (AK)
Leach	Reynolds	Young (FL)
Lewis (CA)		

NAYS—138

Abercrombie	DeGette	Kaptur
Ackerman	Delahunt	Kilpatrick
Allen	DeLauro	Kind
Andrews	Deutsch	Kucinich
Baca	Doggett	Larsen (WA)
Baird	Dooley (CA)	Lee
Baldwin	Edwards	Levin
Ballance	Emanuel	Lewis (GA)
Becerra	Engel	Lofgren
Bell	Etheridge	Lowey
Berkley	Evans	Majette
Berman	Farr	Maloney
Bishop (NY)	Fattah	Markey
Blumenauer	Filner	Matsui
Boucher	Frank (MA)	McCarthy (MO)
Brady (PA)	Frost	McCarthy (NY)
Brown (OH)	Gonzalez	McCollum
Brown, Corrine	Green (TX)	McDermott
Capps	Grijalva	McGovern
Capuano	Gutierrez	Meehan
Cardin	Harman	Meek (FL)
Carson (IN)	Hastings (FL)	Meeks (NY)
Case	Hinchey	Menendez
Clay	Hoeffel	Millender-McDonald
Clyburn	Holt	Miller (NC)
Conyers	Honda	Miller, George
Cooper	Hooley (OR)	Moran (VA)
Crowley	Inslee	Nadler
Cummings	Jackson (IL)	Napolitano
Davis (AL)	Jackson-Lee (TX)	Olver
Davis (FL)	Jefferson	Owens
Davis (IL)	Johnson, E. B.	Pallone
DeFazio	Pascrell	Towns
Pastor	Sanders	Udall (CO)
Payne	Sandlin	Udall (NM)
Pelosi	Schakowsky	Van Hollen
Price (NC)	Scott (GA)	Velazquez
Rangel	Scott (VA)	Visclosky
Rodriguez	Serrano	Watson
Roybal-Allard	Sherman	Watt
Rush	Slaughter	Waxman
Ryan (OH)	Solis	Weiner
Sabo	Spratt	Wexler
Sanchez, Linda T.	Stark	Woolsey
Sanchez, Loretta	Tauscher	Wu
	Thompson (MS)	Wynn
	Tierney	

NOT VOTING—15

Brown (SC)	Gephardt	Oberstar
Burton (IN)	Jones (OH)	Pickering
Carson (OK)	Lantos	Rothman
Dicks	Larson (CT)	Ryan (WI)
Eshoo	Lewis (KY)	Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1658

Messrs. HONDA, SPRATT and BERMAN changed their vote from ''yea'' to ''nay.''

Messrs. HINOJOSA, JOHN, ISRAEL and BUYER changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Con. Res. 177, by the yeas and nays;

H. Res. 201, by the yeas and nays; and

H.R. 1954, by the yeas and nays.

Remaining electronic votes will be conducted as 5-minute votes.

RECOGNIZING AND COMMENDING ALL WHO PARTICIPATED IN AND SUPPORTED OPERATION ENDURING FREEDOM IN AFGHANISTAN AND OPERATION IRAQI FREEDOM IN IRAQ

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 177, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 177, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 2, answered ''present'' 8, not voting 17, as follows:

[Roll No. 237]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
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.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
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
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
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
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Honda
Kucinich

ANSWERED ''PRESENT''—8

Farr
Lee
Lofgren
McDermott
Miller, George
Paul
Schakowsky
Stark

NOT VOTING—17

Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Hart
Hunter
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Pickering
Rothman
Rush
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1706

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. HART. Mr. Speaker, on rollcall No. 237 I was unavoidably detained. Had I been present, I would have voted "yea."

SENSE OF THE HOUSE COMMENDING NATION'S BUSINESSES AND BUSINESS OWNERS FOR SUPPORT OF OUR TROOPS AND THEIR FAMILIES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 201.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and agree to the resolution, H. Res. 201, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, answered ''present'' 7, not voting 16, as follows:

[Roll No. 238]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
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.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
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
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
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
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—7

Conyers
Kucinich
Lee
McDermott
Owens
Stark
Waters

NOT VOTING—16

Barton (TX)
Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Peterson (PA)
Pickering
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1713

Ms. WATERS changed her vote from ''yea'' to ''present.''

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ARMED FORCES NATURALIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of suspending the rules and passing the bill, H.R. 1954, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1954, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 5, not voting 14, as follows:

[Roll No. 239]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
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, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
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.
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
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
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
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
Slaughter
Smith (NJ)
Smith (TX)
Snyder
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
Tiahrt
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
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Bereuter
Goode
Hostettler
Johnson, Sam
Smith (MI)

NOT VOTING—14

Brown (SC)
Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Pickering
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1721

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE SUPPLEMENTAL REPORT ON H.R. 1086, STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have permission to file a supplemental report on the bill H.R. 1086, the Standards Development Organization Advancement Act of 2003.

This request has been cleared by the minority.

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

There was no objection.

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I call up the bill (H.R. 760) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 257, the bill is considered read for amendment.

The text of H.R. 760 is as follows:

H.R. 760

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Partial-Birth Abortion Ban Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the United States Supreme Court opined ''that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure'' for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an ''undue burden'' on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the ''health'' of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not ''clearly erroneous''. A finding of fact is clearly erroneous ''when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed''. Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985). Under this standard, ''if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently''. Id. at 574.

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the ''clearly erroneous'' standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in ''gaining nondiscriminatory treatment in public services,'' the Court stated that ''[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.''. Id. at 653.

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the ''bail-out'' provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that ''congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose''. City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D. D. Col. 1979) aff'd City of Rome, Georgia v. U.S., 446 U.S. 156 (1980).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be ''seriously jeopardized''. The Turner I Court recognized that as an institution, ''Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here''. 512 U.S. at 665–66. Although the Court recognized that ''the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,'' its ''obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' Id. at 666.

(12) Three years later in Turner II, the Court upheld the ''must-carry'' provisions based upon Congress' findings, stating the Court's ''sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that ''[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to ''amass and evaluate the vast amounts of data'' bearing upon' legislative questions,'' id. at 195, and added that it ''owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'' Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a ''health'' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, and 107th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, and 107th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption,

amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, ''there are very few, if any, indications for . . . other than for delivery of a second twin''; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is ''not an accepted medical practice,'' that it has ''never been subject to even a minimal amount of the normal medical practice development,'' that ''the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,'' and that ''there is no consensus among obstetricians about its use''. The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is ''ethically wrong,'' and ''is never the only appropriate procedure''.

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child ''in a state of being born and before actual birth,'' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a ''person'' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a ''person''. Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are ''ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb''. According to this medical association, the '''partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body''.

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL-BIRTH ABORTIONS

''Sec.
''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

''(b) As used in this section—

''(1) the term 'partial-birth abortion' means an abortion in which—

''(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

''(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

''(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

''(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion.

''(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

''(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

''(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Partial-birth abortions ..... 1531''.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in

order to consider an amendment printed in House Report 108–139, if offered by the gentleman from Pennsylvania (Mr. GREENWOOD) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes of debate on the bill.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 760.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, H.R. 760, the Partial-Birth Abortion Ban Act of 2003, would prohibit the gruesome and inhumane procedure of partial-birth abortion that, unfortunately, we are all too familiar with. An abortionist who violates this ban would be subject to fines, a maximum of 2 years' imprisonment, or both. The bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother. An identical bill, H.R. 4965, was approved by this Chamber last summer by a 274–151 vote, but the then-Democratic leadership in the other body chose not to bring it up for a vote.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and should be prohibited. Contrary to the claims of advocates of this gruesome procedure, the procedure remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession. Unfortunately, two Federal bans that were passed by prior Republican Congresses and sent to President Clinton's desk were promptly vetoed.

In June 2000, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar, but not identical, to bans previously passed by Congress. The Court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from the other more commonly performed second trimester abortion procedures. The Court also held, on the basis of highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

H.R. 760's new definition of partial-birth abortion addresses the Court's first concern by clearly and unambiguously defining the prohibited procedure. The bill also addresses the Court's second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings, that, contrary to the factual findings of the district court in Stenberg, a partial-birth abortion is never medically necessary to preserve a woman's health, poses serious risk to a woman's health, and in fact is below the requisite standard of medical care.

H.R. 760's lack of a health exception is based upon Congress's factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress's factual conclusions. In doing so, the Court has recognized that Congress's institutional structure makes it better suited than the judiciary to assess facts upon which it will make policy determinations.

As Justice Rehnquist has stated, the Court must be, ''particularly careful not to substitute its judgment of what is desirable for that of Congress, or its own evaluation of evidence for a reasonable evaluation by the legislative branch.'' Thus in Katzenback v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress's factual determination that section 4(e) would assist the Puerto Rican community in ''gaining nondiscriminatory treatment in public services,'' stating: ''It is not for us to review the congressional resolution'' of the various issues it had before it to consider. Rather, ''It is enough that we are able to perceive a basis upon which the Congress might resolve the conflict as it did.''

Similarly in Fullilove v. Klutznick, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority.

□ 1730

In addition to the health risks to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly born infant as virtually all the infants upon whom this procedure is performed are alive and feel excruciating pain. Furthermore, a child upon whom a partial-birth abortion is being performed will not be significantly affected by medication administered to the mother during the performance of the procedure.

As credible testimony received by the Subcommittee on the Constitution confirms, ''Current methods for providing maternal anesthesia during partial-birth abortions are unlikely to prevent the experience of pain and stress'' that the child will feel during the procedure. Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth abortion are unsubstantiated.

H.R. 760 enjoys overwhelming support from members of both parties precisely because of the barbaric nature of this procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are ''ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the womb.'' Thus, the ''partial birth'' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns but all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting, indeed it must, to prohibit this inhumane procedure.

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

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

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

Mr. GREEN of Texas. Mr. Speaker, I rise today opposing H.R. 760 and supporting the substitute.

Mr. Speaker, I rise today to express my opposition to H.R. 760, the Partial Birth Abortion Ban of 2003.

This is always an ugly and difficult debate. I am not comfortable with the notion of a pregnancy being terminated when a woman is in the last trimester.

I doubt that many people believe a woman who is eight months pregnant should be able to just change her mind and terminate the pregnancy. And I really don't believe that that situation happens.

But there are times when late term abortions are necessary to protect the life and health of the mother, or to save the fetus from undue pain and suffering due to irreversible birth defects.

In those cases, we should make sure that women have access to safe, appropriate medical procedures.

Unfortunately, the legislation we are considering today is almost identical to a Nebraska law that the Supreme Court found unconstitutional.

In Stenberg v. Carhart, the Court found that the Nebraska law outlaws several procedures, including the safest and most commonly used method for performing pre-viability second trimester abortions.

Second, the Court ruled that any ban on methods of abortion must provide an exception for women's health, and also struck down the Nebraska law for failing to include such an exception.

H.R. 760 continues to flout the Supreme Court's rulings by continuing to ban certain procedures, and failing to protect the life of the mother.

If we are serious about banning truly late-term abortions, than we should do what Texas did.

My home state has a law which says that ''No abortion may be performed in the third trimester on a viable fetus unless necessary to preserve the woman's life or prevent a ''substantial risk of serious impairment'' to her physical or mental health or if the fetus has a severe and irreversible abnormality.''

I supported this law when it passed the State Legislature, and support the Hoyer-Greenwood Amendment being offered today, which provides similar protections for women facing this awful choice.

I urge my colleagues to reject H.R. 760, and instead support the Hoyer-Greenwood substitute, which is similar to common sense Texas law.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to thank very much the ranking member of the subcommittee on Judiciary that is managing this bill, I want to thank him for the great work that he and the Judiciary staff have done in trying to bring some understanding to the significance of what we are doing here today.

First of all, let us begin the discussion by recognizing that the term ''partial-birth abortion'' is a political term or a rhetorical term. It is not found in the medical journals. It is not found in the textbooks on medicine. The reason is that it was invented in the Congress. Okay?

The bill before us is different from other bills that have attempted to ban abortion because this bill has now determined that they would get around the Supreme Court ban on these procedures which require the health of the mother be taken into consideration by saying, we have a bill here that has about 14 pages of findings, congressional findings, that now make it unnecessary to follow Roe v. Wade and the other major case that precludes these bills from being constitutional. They have been struck down repeatedly, repeatedly, repeatedly. But this bill is now going to be okay because we have congressional findings.

Flash to the Congress. All congressional findings are not approved by the Supreme Court. Sorry about that, gentlemen. We have here, that I will put into the RECORD, and I hope we will have some discussion on it, the Turner Broadcasting case, Supreme Court case; the Morrison case, the Penhurst case, we go on and on with a long list of cases that say all findings are not findings and that therefore the Supreme Court is going to say, oh, okay, you had two or three doctors testify before your subcommittee and from this you draw findings and so, therefore, now all the Supreme Court decisions about the protection of the health and life of the mother are void. Not so.

The reason is that H.R. 760 simply states that the district court erred in its finding of fact and law, but as a matter of fact, this bill does not add a health exception, but instead simply states that the procedures covered by the bill are not necessary and that therefore their use pose no risk to the mother's health.

We listen to some doctors, we then determine that we have now exceptions and we pack them into this bill and we say, That's it. We don't need to determine that the health and welfare of the mother is as critical as the Supreme Court used to think because now we have findings, congressional findings. And the Supreme Court has got to follow congressional findings. Right? Wrong.

It would seem that on the basis that this was done, it will be pretty easy for the Supreme Court to look behind this bill, H.R. 760.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan is right. The Supreme Court is not required to accept congressional findings. In the cases that I have cited, they have given great deference to congressional findings. Here in the Stenberg case, the Supreme Court accepted the findings of the district court. We believe the district court's findings were in error. That is why there are extensive findings contained in H.R. 760 which we hope are substantiated by extensive hearing records and that the Supreme Court will give the same type of deference that it has done in the past in civil rights and employment cases.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time. Partial-birth abortion is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. The procedure is violent, it is gruesome, it is horrific, it is barbaric, it is infanticide.

Proponents of this procedure will tell you a different story today. They want you to believe it is about politics or ideology. They will do anything to divert attention from the cold, hard facts about partial-birth abortion.

I want to remind everybody that we have seen these same tactics for many years and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997. We might recall that the executive director of the National Coalition of Abortion Providers admitted that he, quote, ''lied through his teeth when he stated that partial-birth abortions were rarely performed.'' He went on to say that the procedure is most often performed on healthy mothers who are about 5 months pregnant with healthy fetuses.

So as we debate this compassionate bill today, I ask that you remember the truth: Partial-birth abortion remains an untested, unproven and dangerous procedure that has never been embraced by the mainstream medical community.

I would like to take a few minutes to discuss this legislation in more detail. Two years ago in Stenberg v. Carhart, the United States Supreme Court struck down Nebraska's partial-birth abortion ban which was similar, but not identical, to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas. First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Opponents of this legislation claim that doctors will be confused by the definition of partial-birth abortion. Despite the assertions of the abortionists who defend this procedure, the new definition provides physicians anatomical guideposts so that there will be no confusion about which procedure is prohibited.

Second, our legislation addresses the Stenberg majority's opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the health of the mother. The Stenberg court based its conclusion on the trial court's factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed.

Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the clearly erroneous standard. Rather, as the Supreme Court explained in Turner Broadcasting System, Inc. v. Federal Communications Commission, the United States Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence. That is exactly what we have done in this legislation.

The first section of our legislation contains Congress' extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortion poses serious risks to women's health, is never medically indicated, and is outside standard medical care. In fact, the district court's factual findings in Stenberg are inconsistent with the overwhelming weight of authority regarding the safety and medical necessity of partial-birth abortion.

According to the American Medical Association, ''There is no consensus among obstetricians about its use, it

has never been subject to even a minimal amount of normal medical practice development, and it is not in the medical textbooks.'' In addition, no controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods.

Leading proponents of partial-birth abortion also acknowledge that it poses additional health risks because of the many difficulties required in that particular procedure. It has even been called a rogue procedure.

Partial-birth abortion is truly a national tragedy. Fortunately, the American people and the President recognize the horrors of partial-birth abortion and are waiting for Congress to again take action. On March 13, 2003, the other body passed virtually identical legislation by a 64 to 33 vote.

I urge my colleagues to support our bill and help end this barbaric and inhumane practice once and for all in this country. It is now time for us to pass this legislation. I feel confident that we will do so today.

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

Mr. Speaker, today we have a very bad combination, a combination of Members of Congress who want to play doctor and Members of Congress who want to play Supreme Court. When you put the two together, you have a prescription for some very bad medicine for the women in this country.

We have been through this debate often enough to know that you will not find the term ''partial-birth abortion'' in any medical textbook. There are procedures that you will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science. This bill is so vague that it could be read to prohibit many common procedures used during the second trimester. This, the Supreme Court has said, Congress may not constitutionally do.

The bill as written fails every test the Supreme Court has laid down for constitutional regulation of abortion. It reads almost as if the authors went through the Supreme Court's controlling decision in Stenberg v. Carhart and went out of their way to thumb their noses at the Court. Unless the authors think that when the Court has made repeated and clear statements over the years of what the Constitution requires in this area, they were just pulling our leg, this bill has to be considered facially unconstitutional.

In addition, in just one example of an obnoxious clause, the bill allows the husband of a woman who seeks an abortion to sue her and her doctor if the husband did not consent to the procedure. This would include a husband who had abused the woman, punched her causing massive damage to the fetus, deserted her, and then allow him to realize a huge windfall after she is left alone to deal with the consequences of his wrongdoing.

This is the position of people who call themselves pro-life? It is an obscenity and people who support it should not be proud.

The Supreme Court has repeatedly said any restriction on the right to choose must have a clear exception to preserve the life and health of a woman at any stage of pregnancy.

□ 1745

The bill lacks an exception for the health of the woman. I know that some of my colleagues do not like the constitutional rule that has been in place and reaffirmed by the Court for 30 years; but that is the supreme law of the land, and no amount of rhetoric, even if written into legislation, will change that. Even the Ashcroft Justice Department in its brief defending an Ohio statute before the Court has acknowledged that a health exception is required by law.

The sponsors say that findings in the bill to the effect that so-called partial-birth abortion is never medically necessary will satisfy the constitutional requirement of a health exception to any limitation on the right to choose an abortion. But while the Court has made clear that it now requires Congress to support our legislation with findings of fact and that the Court has arrogated to itself the right to decide whether the facts established are sufficient to establish that the legislation is appropriate and proportionate to the evil to be remedied in order to render the legislation constitutional, that is an affirmative requirement within the power of Congress to legislate.

It is not. The Court has said the opposite. The Court has not said where Congress has no power to legislate, such as abortion regulation, without an exception for the health of the woman, that findings of fact can expand the power to legislate. The fact requirement is established by the Court as a limitation on Congress, not as an expansion of the power of Congress.

Whatever deference the Court may have shown to Congress's fact findings, the Court has made clear it is the final arbiter of the fact, not Congress, even if we put so-called fact findings in the bill. I do not like that anymore than other Members of the House, but there you have it; and frankly, the contention that the findings in this bill negate the necessity for the health exception to make this constitutional is laughable, and I do not believe any Member who knows anything about constitutional law can seriously and honestly suggest anything other than that.

While I realize many of the proponents of this bill view all abortion as tantamount to infanticide, that is not a mainstream view. The proponents of this bill are attempting to foist a marginal view on the general public by characterizing it as having to do with abortions involving healthy fetuses that are already viable. But, of course, the definition in this bill will go into second trimester abortions also.

If they really wanted to deal with post-viability abortions and situations in which a woman's life and health are not in jeopardy, then let them write a bill dealing with late-term abortions. We already have such laws in 40 Sates, and they would not find much opposition, if any opposition, to that. But it is clear that the majority is not interested in a bill that could pass into law and naturally be upheld as constitutional. What they want is simply an inflammatory piece of rhetoric to start undermining the political support of Roe v. Wade. The real purpose of this bill is not, as we have been told, to save babies, but to save elections.

We now have a President who has expressed a willingness to sign this bill. He may in fact get his chance.

Perhaps here in the Halls of Congress the health of women takes a back seat to the most extreme views of the anti-choice movement. Perhaps the President does not care about the health of women. We will find that out, perhaps.

Let us hope that this administration does not get the opportunity to pack the Supreme Court with fanatics who are also indifferent to the lives and health of women. Until then, fortunately, the Constitution still serves as a bulwark against dangerous, malicious, destructive, and misogynistic particular bills like this one. I am thankful for that.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, what really amazes me when you listen to the debate on this bill is the huge disconnect between the rhetoric we hear and what the bill actually before us is about.

This bill is not about choice, and this bill is really not about abortion. This bill substantively, when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious, that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

The overwhelming testimony is that a partial-birth abortion is never necessary to protect the health of the mother. This procedure is infanticide, and its cruelty stretches the limits of human decency.

This issue comes down to one simple question: Is there no limit, is there no amount of pain, is there no procedure that is so extreme that we can apply to this unborn child or this fetus that we are willing as a country to say that just goes too far and we cannot allow that to happen? That is what partial-birth abortion does. It goes too far. That is why it is so important that we pass this bill today.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, after commemorating the 30th anniversary of the Supreme Court's decision in Roe v. Wade just 6 months ago, we are reminded again today that the fight to preserve a woman's right to choose is far from over. We are here today considering a ban on so-called partial-birth abortions for the ninth time in 8 years because the proponents of this bill disagree with the Supreme Court. They want to overturn Roe v. Wade and Stenberg v. Carhart and go back to the days when women had no options, when they left the country or died in back alleys.

In reflecting on the long debate over this bill starting in 1995, I was struck by something Sandra Day O'Connor said on CNN recently. Justice O'Connor said that she was drawn to the law because she saw the role it plays in shaping our society. ''I don't think law often leads society,'' she said. ''It really is a statement of society's beliefs in a way.''

The proponents of this bill and I would likely agree with Justice O'Connor, except I believe that Roe v. Wade continues to express our society's beliefs, and they do not. Roe said that the decision to terminate a pregnancy is private and personal and should be made by a woman and her family without undue interference from the government. I, and the American people, still believe that. Supporters of the bill do not.

Roe and Stenberg said that a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's life and health must come first and be protected throughout pregnancy. I and the American people still believe that. Supporters of the bill do not.

Roe and Stenberg said that determinations about viability and health risks must be made for each woman by her physician. A blanket government decree about medicine is irresponsible and dangerous. I and the American people still believe that. Supporters of the bill do not.

The supporters of H.R. 760 disagree with the Court's reflection of our society and reject the principles embodied in its decisions. Holding their opinion is their right. Disregarding the Constitution is wrong.

The Supreme Court's decisions in Roe v. Wade and Stenberg v. Carhart rested on precedent, including Marbury v. Madison, decided 200 years ago this year. Marbury was critically important to the development of our democracy because it established the Supreme Court as the final and ultimate authority on what the Constitution means.

In 1803, the Supreme Court became in fact, not just on paper, an equal partner in government, co-equal with the executive and the legislature. But in 2003, this Congress has decided to ignore the Court. The Court made clear that a partial-birth abortion ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women.

Yet the bill before us contains no protection for the health of the woman, leaves no role for the physician treating a woman, and never mentions fetal viability. Congress ignores women, families, doctors and the Supreme Court, and makes all the decisions.

Congress is wrong to pass this ban and the President would be wrong to sign it. I urge my colleagues to respect the law of the land, support American values in Roe v. Wade, Stenberg v. Carhart, leave decisions in the hands of families, protect the health of women. Please vote against this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would kindly ask Members to mute electronic devices while on the floor of the House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding. And I deeply appreciate both Chairman SENSENBRENNER's and Chairman CHABOT's courageous leadership on this human right issue.

Mr. Speaker, slowly, but inexorably, the movement to reinfranchise unborn children in law as respected and cherished members of the human family is growing.

The most recent issue of Newsweek, it is a cover story entitled, ''Should a Fetus Have Rights; How Science Is Changing the Debate,'' absolutely shatters the myth that unborn children are somehow less human and less alive than their born brothers and sisters.

Indeed, a second Newsweek story also in this week's edition, ''Treating the Tiniest Patients,'' notes that ''medicine has already granted unborn babies a unique form of personhood, as patients.''

Newsweek points out that, ''Once just grainy blobs on a TV monitor, new high-tech fetal ultrasound images allow prospective parents to see tiny fingers and toes, arms and legs, and a beating heart as early as 12 weeks. While these images make a parent's heart leap for joy, they also pack such an emotional punch that even the most hard-line abortions rights supporters may find themselves questioning their beliefs.''

Mr. Speaker, let us hope so. May the questioning begin. We have lived in denial concerning the violence of abortion for far too long. We have, by our actions, or more so by our inaction, enabled and empowered abortionists to dismember, decapitate and chemically poison more than 43 million innocent and precious babies since 1973.

Today, Mr. Speaker, we can stop some of this violence against children. Today we can take one of those weapons out of the hands of the abortionist. Today we can tell America that partially delivering a baby, only to stab that child in the skull so that his or her brains can be sucked out, is the nightmarish world of a Hannibal Lecter, not American medicine or jurisprudence.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, if Members could actually wade through the absurd and fallacious rhetoric that is being bandied about today, it would not be difficult to see that this unconstitutional legislation is not actually about so-called partial-birth abortion; it is about two things and two things only.

The first is the question of who gets to make the medical decisions about a woman's health, the actual woman, in consultation with her family and physician, or the agitated and hyperbolic politicians in attendance today? I vote for the woman.

The second is the fact that passage of this bill is one more step down the path where a woman's right to choose no longer exists, and that is clearly what the House and Senate and White House have said all along.

Do not be fooled. There is no actual procedure called this. So-called late-term abortions are quite rare, and they usually occur under the most difficult of circumstances.

To pass this legislation is to elevate the rhetoric of politicians over the sound medical advice of doctors. To pass this bill today is to deny women a safe and legal procedure when tragedy strikes.

If the other side really cared about these types of abortions, they would vote for women's health, which they do not. They would not pass an unconstitutional bill which is wasting this body's time, when we could be talking about child tax credits and other issues and not spending all of this money. They could really put their efforts on stopping unwanted pregnancies in general.

I urge my colleagues to think rationally and compassionately and vote ''no'' on this terrible piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, life, life is a precious gift. Life is a precious gift from God. Partial-birth abortion is a gruesome procedure that has no place in our society, has no place in a civilized society.

Partial-birth abortions are performed in the U.S. They are performed thousands of times annually on healthy babies and healthy mothers. In 1997, Ron Fitzimmons, executive director of the National Coalition of Abortion Providers, estimated that the method was used 3,000 to 5,000 times annually. ''In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along,'' Fitzimmons said.

Not that polls are all that important on this issue, it is what is right or wrong, but in January of 2003 a Gallup Poll found that 70 percent of Americans favored a law making it illegal to perform a partial-birth abortion except in cases necessary to save the life of the mother.

□ 1800

These folks recognize the preciousness of the gift of life. H.R. 760 would prohibit the partial-birth abortion procedure unless it is medically necessary to save the life of the mother.

H.R. 760 addresses the concerns identified by the Supreme Court when it struck down Nebraska's partial-birth abortion ban by a 5–4 ruling. The five-Justice majority thought that the Nebraska law was too vague. H.R. 760 contains a new and a more precise definition of the prohibited procedure.

I thank my colleague for bringing this bill forward. I hope that today this House will join the other body in moving this legislation forward and, hopefully, moving it to the President's desk. We have passed similar legislation a number of times, but never have we been able to get it on the President's desk where the President will sign it.

Let us move this bill and let us get it on the President's desk.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Mr. Speaker, I rise today for my annual statement in opposition to this bill. Republicans say they are for smaller government. In reality, they want to make government just small enough to fit inside our bedroom.

This bill forces government to step between pregnant mothers and their doctors, interfering with the doctor's ability to make the safest and healthiest decisions for the mother, never mind that this bill is certifiably unconstitutional.

Proponents of this bill should be ashamed to go home to their wives, their daughters, nieces, sisters, and women constituents and explain to them why they voted for a bill that not only blatantly disregards their health, but tries to claim that it is not an issue; explain to them why they voted for a bill that would criminalize the behavior of their doctors, who acted in their best interests, because the law said that their health did not matter.

This bill is not about late-term abortion or even a so-called ''partial-birth abortion'' procedure, which has no medical definition in this bill. This bill is about banning safe abortion procedures that sometimes are the safest method of previability, second-trimester abortions.

For us to be true to the Constitution, to be true to the sentiments of equality and freedom, women must have control over their bodies. Instead, proponents of this bill, including the Bush administration, are using this bill as part of a broader agenda to take away a woman's constitutionally guaranteed right to choose.

This assault on a woman's right to control her body and her health must stop. I urge my colleagues to vote ''no'' on H.R. 760.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have heard from the people who oppose this legislation that it infringes on Roe v. Wade. Roe v. Wade very clearly gives Congress and the several States the right to prohibit abortions on viable babies.

There is one State in the Union, Kansas, that collects statistics on partial-birth abortions. Let me quote from page 17 of the committee report: ''The experiences of the State of Kansas, the only State to require physicians to report the performance of partial-birth abortions, are instructive on this point. Under its mandatory reporting scheme for partial-birth abortions, in 1998, 58 partial-birth abortions were performed, all of which were on viable babies and all of which were necessary to prevent a substantial or irreversible impairment of a major body function, which was the impairment of the patient's mental function.

''Similarly, in 1990, 182 such procedures were performed,'' all for the same reason, and again, all on viable babies.

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

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, let us all be clear: the bill before us is unconstitutional because it does not contain an exemption for the health of the woman who seeks to exercise her reproductive rights. There is no doubt about that. This is because the U.S. Supreme Court has already ruled on very similar legislation in Stenberg v. Carhart. Opponents of the right to reproductive choice should know that.

This bill likely will not prevent a single abortion, but it does defeat the rights of women. I believe that equal protection under the law and the right to privacy should be freedoms enjoyed by women as well as men, but women will not be equal to men if this constitutionally protected right is denied. This bill infringes on those rights for women. That is why I will oppose it.

Throughout my career, I have worked to reduce the need for abortions by preventing unwanted pregnancies through comprehensive sex education, birth control, and increased access to health care. I think that all of my colleagues would agree that we should work to prevent unwanted pregnancies that lead to abortions.

I will continue those efforts, but the bill before us today is the wrong way to do that. Advocates of this bill who want to stand in defense of life would be helpful if they worked to support families with adequate child care funding, child tax credit relief for vulnerable families, and peace.

For some, this debate is only about politics. The fact that other abortion legislation, the Unborn Victims of Violence Act, has been advanced on the publicity of the Laci Peterson tragedy shows the unfortunate politicization of this debate.

I know there are many who are sincere in their desire to reduce the need for abortions. In leading this Nation towards this goal, we must preserve constitutional rights. We must respect the freedom and equality of women. The best path for our country is not to escalate the divisiveness and political nature of this debate. Rather, it is to remember the principles of this Nation and refrain from undermining freedom of choice. We must respect the basic human dignity of women to make personal decisions.

This House can do better to truly work to reduce the need for abortions while respecting the freedom of choice. For these reasons, I will oppose the bill today.

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

Mr. PITTS. Mr. Speaker, partial-birth abortion is what some call getting away with murder on a technicality. By law, a baby who has taken a breath outside the womb is considered a human being, a person. No one would think of killing it. To kill him would be murder.

To get around this technicality, abortionists turn the baby around so they can partially deliver the baby feet first, like a breech birth. While the baby's head remains in the birth canal, then they stick him in the back of the neck with surgical scissors and suck out his brain. Because the baby's head is held inside the mother's birth canal, the law does not count it as murder. Therefore, it is called getting away with murder on a technicality.

This is one of the most disgusting ways of circumventing the law I can think of. How can we justify saying a baby who can live on its own is not allowed to survive simply because someone is holding its head inside its mother's body? We cannot, not if we believe in the dignity of human life.

But we can stop this terrible procedure and save thousands of lives of healthy babies who are dying every year. Vote for this bill and close this loophole that allows people to literally get away with murder and infanticide.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise deeply troubled that the House is again voting on this ill-conceived bill to ban a medical procedure. Let us be honest: The underlying issue is really about whether or not a woman should have the legal right to choose to end a seriously flawed pregnancy.

As my colleagues stated, the term ''partial-birth abortion'' cannot be

found in any medical literature. Lawmakers have continued this misnomer, ''partial-birth abortion,'' and have succeeded in confusing the public's understanding of the issue.

Federal law already bans procedures performed after fetal viability unless the mother's health is at risk. But this bill directly defies the Supreme Court because it once again lacks an adequate health exception, and it could outlaw procedures used in the first or second trimester before viability that can safely protect the health of the mother.

By criminalizing these constitutionally protected procedures, physicians are left with limited options when treating a patient in a crisis. The ban would force a woman to undergo potentially more damaging, risky, and rarely performed procedures or otherwise continue a very unsafe pregnancy.

Sadly, there are times when it may be necessary for a woman to terminate a wanted pregnancy. It is often impossible to detect fetal abnormalities before the second trimester, and it is at this stage that certain preexisting medical conditions exacerbated by pregnancy may worsen for a woman. At these unfortunate times, a woman, in consultation with doctors and families, must freely be able to determine the best course to preserve her life, her health, her future fertility.

Congress is treading in dangerous waters with this legislation. In this Chamber we often insist that we should not be telling doctors how to practice medicine, we should not usurp the opinions of medical experts when considering patient safety, standards of care for diseases, and the administration of drugs.

But with this bill today, Congress, comprised predominantly of lawyers, is entering into a hospital room, acting as a gatekeeper, and dictating what doctors can and cannot do in medical practice.

For these reasons, I support the Hoyer-Greenwood substitute. This substitute clearly and in medical terms bans all post-viability abortions except in cases where serious, adverse health consequences could result to the woman's health, or the woman's life is at stake.

This amendment would allow physicians to continue to make these critical medical decisions. I urge my colleagues to reject the underlying bill and to support the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I rise in support of this important bill. Not one of us looks in society and we see the changes, the abuse against our children. Not one of us has stared in incredulity at the actions of new mothers who have disposed of their children in disposals, or placed them in a wastebasket and went back to the dance.

We cannot overlook our treatment of the unborn, and especially this treatment of the unborn in a partial-birth abortion, and the changes that we find in society.

Mr. Speaker, I rise in strong support of the bill and request our colleagues to support this gentleman's fine bill.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, if there is one frivolous late-term abortion in America, in my book that is one too many. But this bill is a false promise for two reasons.

First, it is clearly unconstitutional, since it has no health exception for the mother. Passing an unconstitutional bill will not save one child. That is a fact.

Second, supporters of this bill have misled the American people to think the bill outlaws late-term abortions. It does not. The truth is, this bill focuses on prohibiting one type of late-term abortion while keeping perfectly legal other types of late-term abortion procedures.

Let me state a fact that is going to surprise many Americans who have been misled regarding this bill. The truth is, this partial-birth abortion bill will allow late-term abortions to remain legal. Supporters of this bill have never really honestly answered this question. If they really believe a woman is a monster and wants to abort a late-term fetus for absolutely frivolous reasons, then why are Members just banning one procedure? That will just let her tell the doctor to use another procedure. They have not saved one child and they know it.

Perhaps the real answer to that question, Mr. Speaker, lies in the statement of Ralph Reed, who said several years ago that this partial-birth abortion bill is a silver political bullet. This bill is about sound-bite politics and campaign attack ads, not saving babies.

In contrast, 16 years ago as a Texas State senator I worked with pro-choice and pro-life groups to pass a constitutional bill that did not ban one late-term abortion procedure; we banned in 1987 all late-term abortion procedures. Then we worked with those groups in good faith, put in a constitutionally mandated health exception. We knew that health exception was necessary 16 years ago, and they know it is necessary today.

I think it is a shame that the House leadership has put politics above policy. I hope some people will wake up to recognize that had that not been the case, we could have passed a ban on all late-term abortion procedures in this Congress and it would have been signed into law 8 years ago. Instead, we are voting today on a false promise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

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

Mr. Speaker, we have heard the allegation that this is about politics. This is about protecting innocent, unborn, little human beings who cannot defend themselves, and so, under this Supreme Court decision, it is necessary for Congress to take action. We believe that this bill does pass constitutional muster.

We have also heard that these are generally seriously flawed pregnancies. We have heard earlier this afternoon time and time again that these were rare, and that they were done basically because there was a baby that was in jeopardy.

The New York Times in a recent article dated April 22, not exactly a bastion of conservative newspapers, said, ''One aspect of the debate about partial-birth abortion has changed. When it began, some opponents of the ban,'' in other words, those on the other side of the aisle who are in favor of continuing to allow it in this country, ''said the targeted form of abortion was used only when a fetus had extreme abnormalities or the mother's health was endangered by pregnancy. Now both sides acknowledge that abortions done late in the second trimester, no matter how they are conducted, are most often performed on healthy pregnancies.''

□ 1815

So there are some times when these are pregnancies that are in jeopardy, but overall the statistics now show that these are healthy mothers, that these are healthy babies. That is the bulk of the partial-birth abortions that are performed in this country. It is not about politics. It is about protecting those innocent human lives. And we have already heard the other side, again, who clearly stated in their own words, they were lying through their teeth when they indicated that these abortions are rare.

Most of the experts say there are anywhere from 2,200 to 5,000 of these performed in this country every single year. These are lives that have a right to be born and they are destroyed. It is exactly as the gentleman from Pennsylvania (Mr. PITTS) said, this is murder, is what it amounts to. We need to protect these babies.

Mr. NADLER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman makes the comments about an inhumane form of abortion, but of course, the fact is the gentleman would not support any form of abortion. He does not care that one form is more or less humane than the others. That is why this bill makes no sense at all.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank my colleague for yielding me time and I congratulate him on his extraordinary leadership on this issue.

Mr. Speaker, I first would like to respond to my colleague on the other side of the aisle who referenced an article in the New York Times. I would like to place into the RECORD the

Times editorial from today, not only the New York Times editorial but the Washington Post editorial, both of which strongly came out against the Republican bill before us today.

The bill is extreme, it is vicious, mean-spirited, antiwoman, and it is unconstitutional.

We have heard a great deal of graphic rhetoric from the majority party today. But let me tell you what we have not heard and that is their true agenda, which is to roll back, chip away at a woman's right to choose. That is what this debate is about. That is totally what it is about. And since the Republican majority came to Congress in 1994, I have kept a score card on their antichoice votes. Today marks their 202nd vote against a woman's right to choose. It is on my Web site.

Mr. Speaker, I ask my colleagues today to stand in defense of a woman's reproductive health and to vote against this bill which deprives women of safe, quality medical care at a time when they need it most. The right to choose is meaningless without the access to choose. And this bill is so broadly written that it would, in effect, undermine a woman's legal right to abortion in this country.

When I go home, my constituents ask me about many things, but believe me, they have never asked me to be their doctor, nor do they want Members of Congress to be making medical decisions. It is unprecedented. It is wrong. It is unconstitutional. Vote against this Republican bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY) on this bipartisan bill.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 760. The abomination of this procedure, the facts of it are undisputed. It is an inhumane practice. It cannot be tolerated in a civilized today society and it cannot be tolerated amongst people who value the sanctity of human life.

It is often overlooked that partial-birth abortion can cause physical and emotional harm. Women who undergo this procedure can have difficulty conceiving children in the future and can experience gut-wrenching guilt and regret.

In 1993, a nurse practitioner named Brenda Pratt Shafer described such an incident in her testimony before Congress. She was a pro-choice nurse in an abortion clinic, who quit her job the day that she witnessed the grief of a woman who received a partial-birth abortion. She told Members of Congress, ''What I saw is branded forever in my mind. The woman wanted to see her baby after the procedure, so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time as she kept saying, 'I am so sorry. Please forgive me.' I was crying too. I could not take it, a baby boy with the most perfect, angelic face I had ever seen.''

It amazes me that in the year 2003, the United States still permits this procedure, this act of death. Allowing partial-birth abortion to remain legal would be a tragedy for all. It would lower our standards of conscience and humanity. I strongly urge my colleagues to join me in supporting H.R. 760 and bringing an end to this era of suffering in our Nation.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished 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, I have another story; it is one that I have watched and heard and seen over the years that we have been dealing with this concept, political concept of partial-birth abortion.

I have the story of several women appearing in the Committee on the Judiciary room some years ago. I believe at that time there may have been only two women on the Committee on the Judiciary, each of us having our own personal story of childbirth and understanding the enormous challenge, burden and emotion of that particular act or procedure along with family members encouraging and hoping for a wonderful live birth.

We listened to women from around the country who came and said that had it not been for a procedure that allowed them to live, they might not have been able to procreate ever again. We heard women say that they had tried and tried and tried to retain the pregnancy, but that under the advice of their doctors in certain months, they were asked to have that particular pregnancy terminated.

Mr. Speaker, this is not a foolish nor is it a frivolous nor is it a political question. This is a question of privacy. We recently honored the 30th anniversary of the landmark Roe v. Wade decision and that decision reaffirmed a woman's right to choose.

I respect my opponents for they have their own reasons, but I will say that I respect life and I respect the right of a woman to make that decision between her god, her family, and her physician.

Partial-birth abortion is not a medical term. The opponents know that. They know that the Supreme Court has reaffirmed a woman's right to choose. They also realize that it does not allow a health exemption which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion. They realize that this bill is flawed. They realize that it will not save lives.

But most importantly, what we are doing here today is not promoting the sanctity of life, but we are saying to women that you do not count. They count. Vote against this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) is wrong. This bill will save lives. It will save the lives of viable babies who are subjected to this brutal and inhumane treatment. The gentlewoman from Texas (Ms. JACKSON-LEE) was not listening when I quoted the Kansas report that said of the partial-birth abortions that were reported under their State law, most of them were on viable fetuses.

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

Mr. SESSIONS. Mr. Speaker, I appreciate the gentleman yielding me time.

Mr. Speaker, what we are talking about today is extending the debate that took place yesterday in the Committee on Rules on this exact same subject as we were rendering a rule about this debate that would take place today.

I found yesterday, as I find today, that many of the speakers on the other side do not understand that there are three types of late-term abortions. One of those three is called a partial-birth abortion. There are two other procedures.

Today, this bill is about partial-birth abortion. And for anyone to characterize this debate as it is not going to stop another abortion, it is not going to do anything, it is meaningless, that is simply not only untruthful, but it is disregarding the facts that are being placed before our colleagues today.

What we are going to stop is a late-term abortion, and we recognize that there are two other types of late-term abortions that take place. There are some who suggest that as a result of Supreme Court laws and tests, that because those abortions would take place, in essence, in the womb, that they would not be legal.

We, today, my party, this Committee on the Judiciary, this House of Representatives, is debating and will outlaw that which is known as partial-birth abortion.

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

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

Mr. EDWARDS. Mr. Speaker, let me ask and I would like to have an honest debate on this. I appreciate what the gentleman has said. He has been very honest and straightforward about outlining one procedure and not two others.

My question is, if we assume a mother is going to take a perfectly healthy baby later term and have that child aborted for frivolous reasons, why would she not go and use one of the other two procedures? What babies have you saved?

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. MEEKS).

(Mr. MEEKS of New York asked and was given permission to revise and extend his remarks.)

Mr. MEEKS of New York. Mr. Speaker, I oppose this legislation, not because of political ideology, not because I believe my wife, my two sisters, and my three daughters should have the right to decide when to bring a child into this world, but because I read the bill. I researched the history and I understand the real issues involved here.

Unfortunately, H.R. 760, the so-called partial-birth abortion ban and, again, partial-birth abortion is not a medical term, distorts the issue. H.R. 760 is a broadly written piece of legislation that would outlaw some of the safest and most common abortion procedures and makes no exception to preserve a woman's health or her fertility.

There are other so-called facts in this bill that are not supported by medical research. Contained in the bill, it is written that the procedure is never necessary to preserve the health of the woman. The key word here is never necessary. Well, I say ask Vikki Stella, a diabetic who, after examining all other options with her doctor, made a decision, along with her husband, to terminate her pregnancy of a much-wanted son. Vikki's option to choose this procedure was believed to be the safest and most appropriate, leaving her the opportunity to live a healthy life with her husband and two young daughters, as well as the opportunity to bear the son that they later gave birth to, Nicholas.

This bill distorts the truth and politicizes a constitutional right of all women in this country. And the in rulings of Roe, Casey and Stenberg by the Supreme Court, the Court stated that every abortion restriction must contain a health exception that allows an abortion when necessary in appropriate medical judgment for the preservation of the life or health of the mother.

This bill does not do it. I ask my colleagues to vote ''no'' on this bill in its present form.

Mr. Speaker, I come before this body with two purposes in mind. First, to discuss the demons I battled as I came to a conclusion regarding my position on the legislation before us today. Secondly, to hopefully educate those listening and watching this debate taking place before us.

As I sat in my office yesterday evening confronting my long-held beliefs and realizing the possible collision that my surfacing position on this issue may have with my political ideology, I chose to delve deep into the heart of the issue and question my beliefs regarding abortion that I had never questioned before. As I further focused over the legality and morality of ending a pregnancy, the rights of a woman, and the rights of an unborn child pre-viability and post-viability, I came to the decision to oppose this legislation. No, not to oppose it because of political ideology. No, not to oppose it because I believe my wife, two sisters, and three daughters should have a right to decide when to bring a child into the world. But because, I read the bill, I researched the history, and I came to terms with the real issue. Unfortunately, H.R. 760, the so-called Partial Birth Abortion Ban of 2003 distorts the real issue—preventing members in this body and constituents throughout the nation from truly understanding what is at stake.

H.R. 760 is a broadly written piece of legislation that would outlaw some of the safest and most common abortion procedures, and it makes no exception to preserve a woman's health or future fertility. As the supporters of this bill incorrectly label the procedure of dilation and extraction, commonly known as D & X, but for the purposes of this bill as partial birth abortion, they vividly describe a procedure that they wish to ban in 2000 was found constitutional in the Supreme Court case Stenberg v. Carhart.

First, I will address the manner in which this legislation describes the fetus as a child. Medical journals describe the object in the womb of the mother as a fetus until fully delivered. And I, like many of you, not being a member of society who holds accredited medical credentials must follow the standards put forth by the medical society. The proponents of the bill truly attempt to be creative in its attempts to have readers of the language imagine an actual child going through this procedure. It almost worked on me, but that is when I looked closer at the language and focused on Section 2, subsection 5 of the legislation. There, contained in the bill, it is written that the procedure ''is never necessary to preserve the health of a woman.'' And here is where H.R. 760 further distorts the truth. They key phrase here is never necessary. Well, this all depends on what one values as a necessity. Yes, one procedure could have an advantage over another in certain cases. Where one doctor may prefer dilation and evacuation, commonly known as D & E, which involves a doctor inserting an instrument into a woman's womb and dismembering the fetus, because it is the safest procedure to ensure the woman's life and health, that same doctor may choose D & X for another patient because it is the safest and most appropriate procedure for that particular patient to ensure the woman's life and health. Unlike the proponents of this bill, I will stand on this House floor today and admit that sometimes this gruesome procedure is a necessity for some women. For example, it was the only option for Vikki Stella—a diabetic who, after examining all other options with her doctor, made the decision along with her husband to terminate her pregnancy of her much-wanted son. Vicki's option to choose this procedure was believed to be the safest and most appropriate—leaving her the opportunity to live a healthy life with her husband and two young daughters—as well as the opportunity to bear the son she later gave birth to, Nicholas.

My colleagues, this bill distorts the truth and politicizes a constitutional right of all women in this country. Incorrectly labeling the procedure and overriding the ruling of the Supreme Court as reaffirmed by the majority in Stenberg that a woman's health must be the paramount consideration, women across the nation are being denied their constitutional right. As a result of the ruling by the Supreme Court, every abortion restriction must contain a health exception that allows an abortion when ''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.'' H.R. 760 does not do this. And for this reason, I find the so-called Partial Birth Abortion Ban of 2003 unconstitutional and unworthy of my support, the support of my colleagues, and the support of the people of this great Nation. I ask my colleagues to vote against this bill in its present form.

Mr. SENSENBRENNER. Mr. Speaker, I am prepared to close general debate if the gentleman from New York (Mr. NADLER) wants to use the rest of his time.

Mr. NADLER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New York (Mr. NADLER) has 1 minute remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 3½ minutes remaining.

Mr. NADLER. Mr. Speaker, I thought I had 3 minutes remaining.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 1 minute remaining.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, two key points to be made. One, if the real purpose of this bill is to ban late-term abortions with all the gruesome descriptions we have heard, you could do it very simply by including a health and life exception for the mother as the Supreme Court requires. No one would oppose it. We have such laws in 40 States.

□ 1830

That is not the goal here. The goal is a propaganda goal.

Second point, the declaration by the majority here that they can get around the health exception requirement of the Supreme Court by saying, by a legislative finding that such a procedure is never necessary for the health of the mother runs into the observation by Justice Clarence Thomas in a different context that ''if Congress 'could make a statute constitutional simply by finding that black is white or freedom, slavery, judicial review would be an elaborate farce.' What if Congress, in the aftermath of Brown versus Board of Education found that segregated schools could be equal after all?''

With reference to Ruth Marcus' column in The Washington Post, from which I just quoted, this morning she points out that Judge Posner, a distinguished conservative appeals court judge, said the purpose of this statute is that they are concerned with making a statement in an ongoing war for public opinion. The statement is that fetal life is more valuable than women's health.

That is the real purpose of this bill, not to protect babies, not to save lives, but to undermine Roe v. Wade, to undermine a woman's right to choose and to declare that fetal life is more sacred than the life of the existing woman.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman's time has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the major argument that gets to the substance of this bill that the opponents have stated in the last hour is that the findings that Congress makes that are contained in H.R. 760 the Supreme Court will just completely ignore.

I will be the first to concede that the Supreme Court does not have to accept congressional findings, nor does the Supreme Court have to accept findings that have been made by lower courts either that reach their own conclusions; but there is a string of cases in

the last 20 years or so that have indicated that the Supreme Court will defer to congressional fact finding, and they have been highly and historically deferential to Congress's factual determination, regardless of the legal authority upon which Congress has sought to legislate, as the following case quotes demonstrate.

First, ''The fact that the Court is not exercising a primary judgment but sitting in judgment upon those who also have taken the oath to observe the Constitution and who have the responsibility for carrying on government compels the court to be particularly careful not to substitute our judgment of what is desirable for that of Congress, or our own evaluation of evidence for a reasonable evaluation by the legislative branch.'' That is Rostker v. Goldberg, 1981.

Second, ''It is for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did.'' Katzenbach v. Morgan, 1966.

Third, ''Here we pass on a considered decision of Congress and the President. We are bound to approach our task with appropriate deference to the Congress, a co-equal branch.'' Fullilove v. Klutznick, 1980.

Fourth, ''The Supreme Court 'must afford great weight to the decisions of Congress. The judgment of the legislative branch cannot be ignored or undervalued. When the Court faces a complex problem with many hard questions and few easy answers, it does well to pay careful attention to how the other branches of government have addressed the same problem.''' Columbia Broadcasting System v. The Democratic National Committee, 1973.

Fifth, ''Congress is far better equipped than the judiciary to amass and evaluate the vast amounts of data bearing upon an issue as complex and dynamic as that presented here.'' Turner Broadcasting System v. FCC, 1994.

Finally, ''We owe Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'' Turner Broadcasting System, Inc. v. FCC, 1997, which was the second case.

What the opponents of this bill are saying is they do not agree with the findings that are contained in H.R. 760. That is their right, and that is their prerogative; but if this bill passes, they are in the minority, and the majority who voted for this bill will have disagreed with their conclusion on those findings.

Mr. BRADY of Texas. Mr. Speaker, partial birth abortion is one of the more barbaric procedures of modern times. Doctors confirm it is never medically necessary. Never. So much so that it is not even taught in our nation's medical schools.

Yet more than 3,000 healthy babies are subject to this horrible procedure each year. Too many of them are more than 5 months old in fetal development—able to live outside the womb if just given the same chance as you and me.

Today we have an opportunity to protect our nation's mothers.

Today we can save the lives of precious babies too tiny to save themselves.

Today we ban partial birth abortions and close this grisly chapter in America's history.

Mr. VAN HOLLEN. Mr. Speaker, today the House considers a measure which will seriously impinge on a woman's right to choose a safe and legal abortion. A women's right to choose is a fundamental one, and the Congress should not tell a woman how to manage her health or reproductive care. Unfortunately, what should be a private matter between a woman and her doctor has become a political football.

Each individual case is different and involves a variety of factors. The decision in each case should be left to the woman and her family, in consultation with her doctor. We must not pass legislation that curbs the ability to make a decision which might be necessary to protect the life and health of the mother.

Moreover, we cannot exert a power we do not have. The Supreme Court, in Roe v. Wade, has determined that a woman has a constitutional right to choose a safe and legal abortion during the pre-viability period. Many people have been misled into believing that this so-called ''partial-birth'' abortion bill is about banning late term abortions. It is not. It applies to all abortions in which a certain medical procedure is used regardless of when the abortion is performed. We should leave it to the doctors—not politicians—to determine what method is necessary to best protect the health of a woman. Limiting a woman's sovereignty over reproductive choice and restricting access to the best health options comprise the essence of this bill. I urge my colleagues to oppose it.

Mr. FILNER. Mr. Speaker and collagues, I rise to voice my opposition to H.R. 760, the so-called Partial Birth Abortion Ban.

This is a bill that immediately provokes strong feelings on both sides of the abortion issue. No one is in favor of abortion. I am not in favor of abortion, and in Congress, I am focused on making abortions less and less necessary.

However, in a few situations each year, the procedure that this bill seeks to ban is necessary to protect the life or the health of the mother—or because of multiple abnormalities of the fetus, making viability virtually impossible.

A woman, in this situation, has the constitutional right to an abortion, and there is a wealth of credible medical evidence that this procedure in some instances is much safer than other available procedures. H.R. 760 seeks to criminalize these safe, legal, and rare abortion procedures.

A major problem with this bill is its name. The term, ''partial birth,'' is not a medical term. There is no medical definition of a ''partial birth'' abortion. It is a loaded, political term made up by the anti-choice movement to inflame the debate. It is not helpful to an enlightened discussion of this issue.

In addition, as I have said, the bill is unconstitutional. In 2000, the Supreme Court found Nebraska's ''partial-birth'' abortion ban unconstitutional in Carhart v. Stenberg because it prevented a women's constitutional right to choose by banning safet abortion procedures and because it lacked the constitutionally-required exception to protect women's health. The Court noted that ''the absence of a health exception will place women at an unnecessary risk of tragic health consequences''. These flaws are also present in H.R. 760.

This bill definitely endangers women's health. Doctors will be forced to choose between providing care that is safe for their patients and going to jail. Despite repeated opportunities, anti-choice lawmakers refuse to include in their bills an exception to protect women's health.

Finally, a majority of Americans agree that government has no place in private medical decisions that need to be made by a woman, her family, and her physician. Politicians should not be legislating medical care. H.R. 760 is an unprecedented intrustion into the doctor-patient relationship.

This bill is opposed by a large number of respected medical and health organizations such as the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association, and the American Public Health Association, and the American Medical Association has withdrawn its support of these bans.

As difficult as this vote may be, there is no way to vote for H.R. 760. A vote for this bill would be a vote for legislation that is unconstitutional, that allows government to intervene in personal and private decisions, and that provides no protections for women's health.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency, I am unable to be present for the debate and vote on H.R. 760, the Partial-Birth Abortion Ban Act of 2003. However, I wish to submit this statement for the record to ensure that my position on this legislation is clear.

While I am against late term abortions, H.R. 760 fails to make an exception for instances where the procedure was deemed medically necessary for preservation of the life or health of the mother. If enacted, this legislation would most likely stop physicians form performing lifesaving medical procedures when a fetus will not survive, or when a woman's life, health, or future reproductive capacity may be severely threatened. Therefore, had I been present I would have opposed this bill.

However, I do support the compromise substitute amendment offered by Representatives GREENWOOD and HOYER, which would prohibit all late-term abortions, irrespective of procedure, with exceptions only to protect the life of the mother and to avert serious, adverse consequences to her health. Had I been present, I would have voted in favor of this amendment. Additionally, I would have voted in favor of the motion to recommit offered by Representative BALDWIN to return H.R. 760 to committee to include exceptions for the preservation of the life or health of the mother.

Mr. FARR. Mr. Speaker, I rise today in strong opposition to the ongoing campaign to undermine the constitutionally established right to privacy, which threatens women's access to safe and comprehensive reproductive healthcare. The latest attack on these rights is H.R. 760, The Partial Birth Abortion Ban of 2003. The proponents of this legislation have consistently used vague language and shock tactics in an attempt to undermine the basic

tenets of the Supreme Court's decisions in Roe v. Wade and Stenberg v. Carhart.

In 1973, the Supreme Court handed down its decision, Roe v. Wade, which gave women a constitutionally protected right to an abortion. The Court allows a state to ban abortions after fetal viability (the point at which a fetus may survive independent of a woman, but not independent of technology), but only if the state provides exceptions for the protection of a woman's life and health. In 2000, in the case of Stenberg v. Carhart, the Court struck down a Nebraska ban on partial birth abortions because it did not contain an exception for the protection of the health of the woman, and utilized a vague definition of which procedures would be banned.

Disregarding 30 years of established Supreme Court precedent, the Partial Birth Abortion Ban of 2003 contains the same flaws as the ban ruled unconstitutional in Stenberg v. Carhart.

H.R. 760 fails to provide an exception to protect the health of the mother. Rather, this legislation presumes that the authors' findings overrule those of the Supreme Court. The very text of this bill audaciously promotes ignoring the Supreme Court ruling in Stenberg v. Carhart.

The definition of the banned procedure in H.R. 760 is vague and could be interpreted to prohibit some of the safest and most common abortion procedures that are used before viability during the 2nd trimester. This legislation could have been written using precise, medical terms, and exemptions for procedures that are used pre-viability. However, the bill's unclear definition reveals the broad anti-choice agenda that this bill promotes.

The Supreme Court's decisions have clearly, and correctly protected a woman's right to make personal, and sometimes difficult decisions regarding her reproductive health. In addition to a legal obligation established by the Supreme Court, we have a moral and ethical obligation to protect the health of the mother. Every woman deserves the honest, accurate, professional advice of her doctor, a right that is endangered by H.R. 760. There is no place for Congress in the very private relationship between doctor and patient.

Furthermore, this ban is opposed by many groups of healthcare professionals who take their responsibility to preserve the health of their patients very seriously. These organizations include: the American College of Obstetricians and Gynecologists (ACOG), the American Medical Association (AMA), the American Nurses Association (ANA), and the California Medical Association (CMA).

Let me assure you that I grappled with the issue of partial birth abortion and determined that this procedure should be used only when medically necessary to protect the life and health of the mother. My decision to oppose legislation banning this procedure was based on my personal conversations with one of my constituents who faced this terrible situation and relied on the medical judgment of her doctor to make the only medically sound decision that preserved her ability to have children in the future.

I urge all of my colleagues to oppose H.R. 760 and vote against this harmful and unconstitutional legislation.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 760, the Partial-Birth Abortion Ban Act, I strongly believe that the Congress must act now to pass this important bill. We should no longer allow the abhorrent killing of a partially-delivered baby to be lawful.

Leading up to a partial-birth abortion, a pregnant woman's cervix is forcibly dilated over a three-day time period. On the third day, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix. While the fetus is stuck in this position, dangling partly out of the woman's body, and just a few inches from a completed birth, the abortionist punctures the base of the skull with a surgical instrument, such as a pair of long scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby. The corpse is discarded, usually as medical waste.

H.R. 760 would ban performance of this heinous procedure except if it were necessary to save a mother's life. The bill would permit use of the procedure if ''necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.''

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester, which is the seventh month and later. Many of these babies are old enough to survive outside the womb, and many of them are developed enough to feel the pain of this horrendous procedure.

Most of us have seen the dreadful images of these near-to-term victims of an abortionist, and while recoiling in horror, we have resolved to end this painful outrage. Twice previously, both houses of Congress voted to ban partial-birth abortion, only for the bans to be vetoed. Now, with a president who values the sanctity of life and who will sign this important protection into law, we have the greatest chance ever to end this contemptible practice. We must pass H.R. 760 to ensure that partially delivered babies are protected and that the gruesome procedure used to perform partial-birth abortions is banned under law.

Mr. CONYERS. Mr. Speaker, the Supreme Court has accorded some deference to congressional findings as Congress is the legislative body representing the people. The Court has ruled that it is not necessary for Congress to present conclusive evidence when declaring findings, and Congress has the discretion to weigh evidence and make reasonable inferences.

Nonetheless, the courts do not blindly follow congressional findings. In numerous cases, including Turner, Morrison, and Pennhurst, courts review evidence and look at sworn testimony that is subject to cross-examination before coming to a conclusion. Thus, the implication in H.R. 760 that courts strictly defer to congressional findings is not correct.

H.R. 760 cites Turner Broadcasting System, Inc. v. Federal Communications Commission (''Turner I'') and Turner Broadcasting System, Inc. v. Federal Communications Commission (''Turner II'') to show that the Court pays great deference to congressional findings. However, in Turner I and Turner II, the Court deferred to the overwhelming array of factual evidence presented by Congress. Evidence presented included extensive case law, Senate Reports, numerous hearings held by numerous committees and subcommittees, declarations, and reports. The Court paid great deference to the factual propositions Congress presented. The Court stated that Congress could weight the evidence it uncovered and make ''reasonable inferences based on substantial evidence.''

The key difference is that H.R. 760 simply states that the District Court erred in its findings of fact and law. Gainsaying, no matter how presented, is not the same as fact findings. For example, H.R. 760 does not add a health exception but instead simply states that the procedures covered by the bill are not necessary and that their probation poses no risk to the mother's health. This declaration goes directly against the ruling of the Supreme Court in Stenberg and the findings of fact in the lower court. The ''findings,'' in effect, are an attempt to overturn Stenberg. Congress cannot simply refute findings of fact made by the District Court by presenting its own ''findings'' that are contrary to the evidence the Court depended upon to make its ruling.

In Pennhurst State School and Hospital v. Halderman, a patient at a Pennsylvania hospital for the mentally retarded challenged the conditions of the hospital. The patient claimed Pennhurst Hospital had violated the terms of § 6010 of the Developmentally Disabled Assistance and Bill of Rights Act of 1976 (''DDABRA''). §§ 6010(1) and (2) of the DDABRA was ''the bill of rights provision,'' and it ''grant[ed] to mentally retarded persons a right to 'appropriate treatment, services, and habilitation' in 'the setting that is least restrictive of . . . personal liberty.' ''In § 6010, Congress made a series of findings that were repudiated by the Court. The Court found that § 6010 ''is simply a general statement of 'findings' '' and ''does no more than express a congressional preference for a certain kind of treatment.'' The Court held that the ''bill of rights'' did not create a requirement for States to provide the least restrictive environment or to provide certain kinds of treatment to the mentally retarded.

Likewise, in United States v. Morrison, the Court struck down a section of the Violence Against Women Act (''VAWA'') as a violation of the Commerce Clause in the face of overwhelming congressional findings that domestic violence affected interstate commerce. The Court stated, ''[T]he existence of congressional findings is not sufficient, by itself, to sustain the constitutionality of Commerce Clause legislation.'' Therefore, although the Court defers to congressional findings, findings alone are not sufficient to make an unconstitutional act constitutional.

As with Pennhurst, the ''findings'' in H.R. 760 express a congressional preference, and it is unlikely that any court would defer to the findings. The language in the proposed bill is similar to the challenged language in Pennhurst in that the ''findings'' include precatory language. For example, the ''findings'' include the statement that so-called ''partial-birth'' abortions are never medically necessary even though the Court in Stenberg concluded otherwise.

H.R. 760 also purports to rely on the Supreme Court's holding in Katzenbach v. Morgan for the proposition that the Court will employ a ''highly deferential review of Congress's factual conclusions.'' However, Katzenbach involved Congress's power under section 5 of the 14th Amendment to craft a remedy to a 14th amendment violation Congress had identified. Congress went beyond what the Supreme Court had deemed required as a remedy by the 14th Amendment. In that case, the Court held that provisions of the Voting Rights Act prohibiting the enforcement of a New York law requiring the ability to read and write English as a condition of voting was an appropriate exercise of Congress's section 5 powers. Specifically, the Court said that while Congress could use its enforcement power to provide additional protections for a right guaranteed by the 14th Amendment, it could not narrow that right. H.R. 760 would do exactly the opposite of what the Court approved in Katzenbach in that it narrows, rather than enforces a right protected under the 14th Amendment; in this case, the right to choose as delineated in Roe.

Moreover, in the intervening years, the Court has become far less deferential to Congress's enforcement powers under sec. 5, and to Congress as a finder of fact.

It is unclear what types of procedures are covered by the legislation. Although some believe the legislation would apply to an abortion technique known as ''Dilation and Extraction'' (D & X), or ''Intact Dilation and Evacuation,'' it is not clear the term would be limited to a particular and identifiable practice. For example, the American College of Obstetrics and Gynecologists has noted that the definitions in the bill ''are vague and do not delineate a specified procedure recognized in the medical literature. Moreover the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.'' As a result, the bill could well apply to additional abortion procedures known as D & E (Dilation and Evacuation), and induction.

In the wake of the controversies over partial birth abortions, a number of states have taken up similar legislation. Like the federal bill, most of the state measures are so vague and so broad that they cover a wide range of abortion methods.

The overwhelming majority of courts to have ruled on challenges to state so-called ''partial-birth abortion'' bans have declared the bans unconstitutional and enjoined their enforcement. In the last three years, medical providers have challenged the state statutes that ban ''partial-birth abortion'' in twenty states. In eighteen of those states—Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, Nebraska, New Jersey, Rhode Island, West Virginia, and Wisconsin—the bans are currently enjoined, in whole or in part. In a nineteenth, Alabama, the state attorney general has limited the ban's enforcement to post-viability abortions. In only one state, Virginia, has a court considered the constitutional challenges but nevertheless permitted enforcement of the statute pending further proceedings. Six federal district courts have entered permanent injunctions against statutes that are virtually identical, word for word, with H.R. 760.

The reality concerning quantitative data is that there is no national figures on the absolute number of D & X procedures performed. The two authorities which have the most comprehensive information on abortion—the Centers for Disease Control and Prevention (CDC) and the Alan Guttmacher Institute (AGI) do not compile data on the number of D & X procedures before or after viability.

According to AGI, in the most recent year for which data is available—1996—the total number of abortions nationally fell to 1.35 million from a high of 1.61 million in 1990. Of these, ''an estimated total of 31 providers performed the [D&X] procedure 2,200 times in 2000, and 0.17% of all abortions performed in that year used this method.''

Proponents of H.R. 760 also ignore the fact that most women do not simply elect to delay the time of their abortion or gratuitously choose the D & X procedure. The causes for delay are varied, including a dearth of abortion providers in many poor or rural areas, lack of availability of Medicaid funding, fear of violence at local clinics, teenagers fearful of notifying their parents or subject to delays caused by notice and informational requirements, and women who only learn of severe fetal abnormalities as a result of late term ultrasound or amniocentesis tests (which is subject to a mandatory wait for results). Physicians will not recommend a particular type of abortion procedure—D & X or otherwise—unless they believe it to be the safest for their patients.

Mr. STARK. Mr. Speaker, I rise today to strongly oppose H.R. 760, the so-called Partial-Birth Act.

I'd like to ask my colleagues, in what medical book can the procedure partial-birth abortion be found? Nowhere. This is a conjured up term used by opponents of abortions. ''Partial birth'' is a political term, not a medical one. At this very moment, Congress is legislating medical protocols that should be the determination of doctors and their patients. Most members have no medical training and are unequipped to make medical determinations of this nature.

The medically accepted, rarely-used procedure that is being targeted today, which is so graphically described by the supporters of this ban, is nearly always used in the third trimester when the life or health of the mother is in danger. But this bill put forward by proclaimed anti-choice proponents goes far further than that. Their ban would not just apply to procedures performed in the third trimester. It criminalizes numerous abortion procedures—including the safest and most commonly used methods of abortion that are performed in the second trimester.

If this legislation passes, it opens a Pandora's box of restrictions on the rights of women and on the ability of doctors to practice medicine. Just imagine the country we will live in. In communities across the nation, law enforcement officers will be conducting sting operations in doctors' offices to arrest pregnant women and their physicians. Is that what we want for America? I certainly don't.

This bill isn't about banning one procedure. Let's be honest. It is an attempt to re-ignite an anti-abortion campaign to eviscerate Roe v. Wade.

Just 3 years ago, the Supreme Court in Stenberg v. Carhart, struck down as unconstitutional a Nebraska law virtually identical to legislation before us today. Moreover, countless medical organizations disagree with this legislation—the American Medical Association, the American College of Obstetricians, the American Nurses Association, and the California Medical Association to name a few.

H.R. 760 could ban what may be the safest choice to protect a woman's life and health. Once again, this difficult decision is one I believe wholeheartedly is best left in the hands of those who have the skills to make these medical determinations, and those patients and families the decision is affecting—not Congress.

Vote no on H.R. 760.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious sociopolitical problem of our age. The lack of respect for life that permits abortion significantly contributes to our violent culture and our careless attitude toward liberty. As an obstetrician, I know that partial birth abortion is never a necessary medical procedure. It is a gruesome, uncivilized solution to a social problem.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised Roe v. Wade ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of Roe v. Wade.

Unfortunately, H.R. 760 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language used in this bill does not further the pro-life cause, but rather cements fallacious principles into both our culture and legal system.

For example, 14G in the ''Findings'' section of this bill states, ''. . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . .'' The question I pose in response is this: Is not the fact that life begins at conception the main tenet advanced by the pro-life community? By stating that we draw a ''bright line'' between abortion and infanticide, I fear that we simply reinforce the dangerous idea underlying Roe v. Wade, which is the belief that we as human beings can determine which members of the human family are ''expendable,'' and which are not.

Another problem with this bill is its citation of the interstate commerce clause as a justification for a federal law banning partial-birth abortion. This greatly stretches the definition of interstate commerce. The abuse of both the interstate commerce clause and the general welfare clause is precisely the reason our Federal Government no longer conforms to constitutional dictates but, instead, balloons out of control in its growth and scope. H.R. 760 inadvertently justifies federal government

intervention into every medical procedure through the gross distortion of the interstate commerce clause.

H.R. 760 also depends heavily upon a ''distinction'' made by the Court in both Roe v. Wade and Planned Parenthood v. Casey, which establishes that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this illogical ''distinction,'' I fear that H.R. 760, as I stated before, ingrains the principles of Roe v. Wade into our justice system, rather than refutes them as it should.

Despite its severe flaws, this bill nonetheless has the possibility of saving innocent human life, and I will vote in favor of it. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

Mr. STEARNS. Mr. Speaker, today opponents of the proposed ban on partial birth abortion will levy a great deal of unfair derision against those of us who will stand today to speak on behalf of the unborn. These same opponents repeatedly deny the terrible facts regarding partial birth abortion despite overwhelming evidence. They fight against common sense efforts such as parental notification and demonstrate, through their actions, that the unborn are not worthy of protection in their eyes. I emphatically disagree.

The phrase ''partial-birth abortion'' describes the process employed in this late-term abortion procedure. It refers to any abortion in which the baby is delivered ''past the navel . . . outside the mother's body'' and then is killed by any means effective. This method is usually employed after 24 weeks gestation at which point these babies have eyebrows and eyelashes and have shown to be sensitive to pain.

It is difficult and painful for all of us to hear of the violence against these unborn children. It is mournful that any child has ever known such brutality and in this case with the permission of the law.

Opponents of the ban have a difficult task before them because the truth of the matter is so painfully clear. They attempt to rationalize that if the baby's head and shoulders are still inside of the mother that it is worthless tissue to be discarded without regret. Is the line between murder and medical procedure really only five inches!? Such an argument is baseless and preposterous.

I am hopeful that this year's debate will be our last and we will finally ban this abhorrent procedure.

Mr. PORTMAN. Mr. Speaker, as an original co-sponsor of the Partial-Birth Abortion Ban Act, I want to express my strong support for outlawing the troublesome practice of partial-birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the testimony of abortion providers and medical experts. Former Surgeon General of the United States C. Everett Koop has said that there is ''no way'' he can see a medical necessity for this barbaric procedure. The American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial-birth abortions.

Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this bill. Again, we are facing a bill that deprives women of safe, high quality medical care at a time when they need it most. And yet again, this bill places undue burden on a woman's right to seek an abortion.

Let's put this bill in perspective. Since the majority party took power in 1994, I've kept a scorecard. This is their 202nd strike against reproductive rights, and you can check the list at any website *www.house.gov/Maloney.*

Language similar to this bill has already been struck down in Stenberg v. Carhart on the grounds that it fails to take the health of the woman into account.

What this bill is about is the right to choose. The bill is extreme, it's vicious, and it's unconstitutional. The Supreme Court, The New York Times and the Washington Post agree, and I ask permission to place a copy of the Times and Post editorials in the RECORD.

The fact is that this bill says it's banning intact dilation and extraction, a procedure acknowledged by the experts, the American College of Obstetrics and Gynecology, as safe to end late-term pregnancy—when it's necessary. The opposition shows horrible pictures and yells about how grotesque this procedure is. It is, but so are lots of medical procedures. But they're still good care. This bill flatly disrespects medical opinion.

My constituents ask my opinion on important things—like low income women asking where their child tax credit went; like the Federal Communications Commission's ruling to consolidate access to news in the hands of a few. That's important, that's dangerous. But, I gotta tell you, not one of my constituents has asked me to be their doctor!

The Supreme Court has said that neither the Court nor Congress may ban a medical procedure appropriate to save the woman's life and health. Period

The blatant disregard for this fact and for the rights of women to choose is astonishing. I urge you all to vote ''no'' on this measure.

[From the New York Times, June 4, 2003]

''PARTIAL BIRTH'' MENDACITY, AGAIN

If the so-called partial-birth abortion ban now careering toward almost certain approval by the full House this week has a decidedly familiar ring, it is not your imagination playing tricks. The trickery here belongs to the measure's sponsors.

Although promoted as narrowly focused on a single late-term abortion procedure, the measure's wording adds up to a sweeping prohibition that would, in effect, overturn Roe v. Wade by criminalizing the most common procedures used after the first trimester, but well before fetal viability. Indeed, the measure replicates the key defects that led the Supreme Court to reject a strikingly9 similar state law a mere three years ago. In addition to its deceptively broad sweep, the bill unconstitutionally omits an exception to protect the health of the woman.

Plainly, the measure's backers are counting on the public not to read the fine print. Their strategy is to curtail access to abortion further as the inevitable legal challenge wends its way back to the Supreme Court for another showdown. They obviously hope that by that time, there will have been a personnel change that will shift the outcome their way.

House members who vote for this bill will be participating in a cynical exercise that disrespects the rule of law and women's health while threatening the fundamental right of women to make their own childbearing decisions. Representatives who care about such things will not go along.

[From the Washington Post, June 4, 2003]

''PARTIAL BIRTH,'' PARTIAL TRUTHS

(By Ruth Marcus)

The poisonous national debate over what's known as partial-birth abortion resumes this week, and this time for real: The House is expected to handily approve a prohibition on the procedure, and the Senate has already passed its version. While his predecessor twice vetoed bills outlawing partial-birth abortion, President Bush is eager to sign legislation that he says will ''protect infants at the very hour of their birth.''

For those who support abortion rights, partial-birth abortion is not the battleground of choice, which is precisely why those who oppose abortion have seized on the issue. The procedure is gruesome, as indeed are all abortions performed at that stage of pregnancy. Although partial-birth abortion is routinely described as a late-term procedure, this label is misleading. The procedure isn't performed until after the 16th week of pregnancy, but it's already legal for states to prohibit abortions once a fetus is viable, at about 24 weeks. More than 40 states have such bans, and properly so. The Supreme Court has said that abortions must be available even after fetuses are viable if necessary to protect the life or health of the mother, and it may be that the health exception ought to be stricter. But this has nothing to do with a partial-birth abortion ban. The law would not prevent any abortion, before viability or after. Instead, it would make one particular procedure—one that may be the safest method for some women—a criminal act.

Indeed, even as they dwell on the gory details of the partial-birth procedure, the groups pushing for a ban on it don't seem to be doing anything to make it easier for women to obtain abortions earlier. Rather, the rest of their antiabortion agenda has been devoted to putting practical and legal roadblocks in the way of women seeking abortions at any stage of pregnancy. Thus, a pregnant teenager faced with multiple hurdles—no abortion provider nearby, no money, a parental consent law—may end up letting her pregnancy progress to the point where she is seeking a second-trimester abortion.

Then there are situations arising from the availability of medical technology that permits a previously impossible glimpse inside the womb. Amniocentesis, which doctors urge for women over 35 because of the heightened risk of birth defects, is not performed until the 15th or 16th week of pregnancy. Other fetal defects may be detected on sonograms only at that stage or later. This puts women squarely in the zone where partial-birth abortion becomes an awful possibility.

When it struck down Nebraska's partial-birth abortion law three years ago, the Supreme Court cited two distinct problems. First, the law was supposed to prohibit only partial-birth abortion, in which the fetus is partially delivered and then dismembered. But, intentionally or not, it was written so

inexactly that it could also apply to the most common—though scarcely less grisly—technique for second-trimester abortions, dilation and evacuation, in which the fetus is dismembered before being removed from the womb. Such a bar, the court said, would be unconstitutional because it imposes an ''undue burden'' on a woman's right to abortion before the fetus is viable.

Second, the ban made no exception that would allow the procedure to be performed when necessary to protect the health of the mother. In cases of hydrocephaly, for example, partially delivering the fetus and then collapsing the skull can reduce damage to the cervix—and possibly preserve a woman's ability to carry another child to term. The American College of Obstetricians and Gynecologists told the justices that the partial-birth procedure ''presents a variety of potential safety advantages. Especially for women with particular health conditions, there is medical evidence that [it] may be safer than available alternatives.''

The legislation now before Congress tries to avoid the first problem identified by the court by defining partial-birth abortion more precisely. Opponents contend that the new definition could still apply to the more common technique. The bill's supporters argue this is not true, but they could have explicitly exempted such abortions from the law's reach if they really wanted to make that clear.

A bigger problem is the cavalier way in which Congress leapfrogged the court's requirement for a health exception: Lawmakers simply declared that partial-birth abortion ''is never medically indicated to preserve the health of the mother.'' As Justice Clarence Thomas wrote in a different context, if Congress ''could make a statute constitutional simply by 'finding' that black is white or freedom, slavery, judicial review would be an elaborate farce.'' What if Congress, in the aftermath of Brown v. Board of Education, ''found'' that segregated schools could be equal after all?

The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled this out in an e-mail after the Senate vote last March. ''With this bill,'' he wrote, ''we are beginning to dismantle, brick by brick, the deadly edifice created by Roe v. Wade.'' Indeed, in urging the overturning of partial-birth abortion laws in Illinois and Wisconsin, federal appeals court Judge Richard Posner, one of the nation's most prominent conservative jurists, said such statutes have nothing to do with protecting fetuses. Rather, said the judge, ''they are concerned with making a statement in an ongoing war for public opinion. . . . The statement is that fetal life is more valuable than women's health.''

Mrs. EMERSON. Mr. Speaker, I rise today to speak in support of a measure soon to be considered by this legislative body, H.R. 760, the Partial-Birth Abortion Ban Act, and to call to attention the moral duty of the United States House of Representatives to ban this procedure.

It is not necessary for me to walk you through the gruesome steps required for a physician to commit a partial birth abortion procedure as you are certainly well familiar with it from the testimony of previous speakers today. While the means of the procedure need not be repeated, the end to these means must be restated. Simply put, this procedure results in the end of a human life. A life that was moments before on the path towards formally entering the world—a path leading toward a life of loving, dreaming, learning—a path of potential. No, I do not need to define for you the cold, methodical death procedure that is a partial birth abortion or the pain experienced by the fetus. A child is deprived of a future; that should be moral reason enough to suspend the practice.

For this fetus, this baby, all rights are forbidden in order for the mother to exercise her right to personal privacy under the Fourteenth Amendment. In America, we do not hold the rights of one person over those of another; there is equal treatment under the law. This is of course with the exception of abortion, where restrictions cannot be made on an abortion procedure unless the potential life of the fetus is considered ''viable.'' Even though I do not personally require the fetus to be viable in order for a life to be significant, it is an important justifying factor to the Supreme Court that many partial-birth abortions are performed on viable fetuses. A legal reason to suspend the practice.

I do not believe that we, in Congress, are in any position to pick one life over another, which is why I believe that when the life of the mother is in danger, abortion should remain an option. Mr. Speaker, please know that I do not favor legislation that would decide for a family who should die, the mother or the child, but H.R. 760 is careful to address this issue. This measure includes a factual finding demonstrating that partial-birth abortion is never necessary to protect the health of a woman.

Mr. Speaker, this legislation not only protects the rights of the unborn, but it is also a carefully crafted piece of legislation that addresses the concerns of the U.S. Supreme Court expressed in Stenberg v. Carhart. For a few thousand children, upon whom the partial-birth abortion procedure will be committed in the next year, H.R. 760 is not just legislation; it is life. Mr. Speaker I urge my colleagues to pass H.R. 760.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 760. By debating this bill, this Chamber is once again considering anti-choice legislation that is unconstitutional and dangerous to women's health. As I have in the past, once again I oppose this legislation.

We recently honored the 30th anniversary of the landmark Roe v. Wade decision. This decision reaffirmed a woman's right to choose. H.R. 760 is not only unconstitutional but it is yet another attempt to ban so-called ''partial birth abortions.'' This is a non-medical term. The U.S. Supreme Court struck down a similar statute in Stenberg v. Carhart. The Court invalidated a Nebraska statute banning so-called ''partial birth abortions.'' So, this legislation is at odds with the court's ruling. In Roe v. Wade, the court held that women had a privacy interest in electing to have an abortion, based on the 5th and 14th Amendments' concept of personal liberty.

Despite the fact that the Supreme Court struck down legislation virtually identical to H.R. 760 in the year 2000, anti-choice Members of Congress continue to jeopardize women's health by promoting this legislation to advance their ultimate goal of eliminating a woman's right to choose altogether.

H.R. 760 is unconstitutional for the same two reasons the Supreme Court found other statutes attempting to ban partial birth abortions unconstitutional. First, H.R. 760 lacks a health exception, which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion. Second, the non-medical term ''partial birth abortion'' is overly broad and would include a ban of safe, previability abortions. Banning the safest abortion option imposes an undue burden on a woman's ability to choose.

There are several safe procedures at issue in H.R. 760: the intact dilation and extraction or dilation and extraction (''intact D&E'' or ''D&X''), the dilation and evacuation (''D&E''), and induction abortions. The proponents of H.R. 760 claim the bill would ban only the D&X procedure, but medical experts argue otherwise.

D&E is the most commonly used procedure for second-trimester abortions. Together, D&E and D&X abortions comprise approximately 96 percent of all second-trimester abortions performed in this country. Induction abortions account for the majority of the remaining 4 percent of second-trimester abortions, require hospitalization, and are more expensive than D&E or D&X abortion. While induction is a safe procedure, for some women, it poses unacceptable risks.

With the vast majority of second-trimester abortion procedures performed using the D&E or D&X methods or by induction, banning these procedures would ban virtually all previability second-trimester abortions in this country. If H.R. 760 passes, physicians will be left with very few options to protect the safety of their patients. Physicians will have to choose between performing practically all second-trimester abortions under threat of criminal and civil prosecution, changing their medical practices to the detriment of the maternal health and financial health of their patients, or stop providing second-trimester abortions altogether.

Forcing physicians to choose from these limited options, prevents physicians from electing a procedure that is within the accepted standard of care, is safe, and for some women may be safer than the options remaining. The D&X abortion procedure offers a variety of safety advantages over other procedures. Compared to D&X abortions, D&X involves less risk of uterine perforation or cervical laceration because the physician makes fewer passes into the uterus with sharp instruments. There is substantial medical evidence that D&X reduces the risk of retained fetal tissue, a complication that can cause maternal death or injury. The D&X procedure is a safer option than other procedures for women with particular health conditions. Finally, D&X procedures usually take less time than other abortion methods used at a comparable stage of pregnancy, which can have significant health advantages.

In fact, as the American College of Obstetricians and Gynecologists (ACOG) has concluded, D&X may be ''the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

H.R. 760 would improperly put the legislature in the physician's office. Allowing physicians to exercise their medical judgment is not only good policy—it is also the law. In Stenberg v. Carhart, 530 U.S. 914 (2000), the Supreme Court rules that all abortion legislation must allow the physician to exercise reasonable medical judgment, even where medical opinions differ. The Court made clear that exceptions to an abortion ban cannot be limited to situations where the health risk is an ''absolute necessity,'' nor can the law require

unanimity of medical opinion as to the need for a particular abortion method.

The proponents of H.R. 760 have further compromised the medical safety of women by refusing to draft an exception to the ban on certain abortion procedures to protect women's health. Such an exception is required under the Constitution. The Supreme Court has concluded in several cases that a women's health is always the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health.

The bill's ban on safe abortion procedures that are within the standard of care strips physicians of the discretion they need to make critical medical judgments. This will result in an unacceptable risk to women's health. Given the safety advantages of D&E, D&X and induction procedures over other abortion procedures, banning these procedures will necessarily harm women and deprive them of optimal care. As a physician and a woman, I consider this result unacceptable.

The findings to H.R. 760 attempt to justify the fact that the bill directly conflicts with Carhart by suggesting that the Supreme Court must defer to Congressional fact-finding, even if Congress's so-called ''facts'' conflict with the preponderance of evidence in litigation before the Court. But the drafters of H.R. 760 are wrong. First, a fundamental tenet of our constitutional structure, which establishes three separate branches of the Federal government, is that Congress can enact laws, but it cannot decide whether those laws are constitutional. The power to decide what laws are constitutional is exclusively the Supreme Court's role.

Second, the Supreme Court is not required to defer to Congressional fact-finding. Rather, the Court has the power and the duty to independently assess the evidence that is presented to it, as it did in Carhart, and has no obligation to defer to Congressional findings on ''partial-birth abortion.''

The drafters of H.R. 760 are clearly wrong in asserting that they can overrule Carhart through legislation. Prior attempts by Congress to undo disfavored Supreme Court rulings (such as Congress's attempt to legislatively overturn Miranda v. Arizona, 384 U.S. 436 (1966), and Employment Division, Dep't of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990)) have been soundly rejected by the Supreme Court. Given the utter absence of legal support for this bill, it must be seen as a purely political gesture, not as a serious attempt at legislation.

The ACOG, whose more than 44,000 members represent approximately 95 percent of all board-certified obstetricians and gynecologists practicing in the United States, opposes abortion ban legislation and has stated that ''. . . [t]he intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.''

In addition to ACOG, other medical groups have opposed attempts by Congress to enact abortion ban legislation, including:

The American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical Student Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women Psychiatrists, the National Asian Woman's Health Organization, the National Association of Nurse Practitioners in Reproductive Health, the National Black Women's Health Project, the National Latina Institute for Reproductive Health, the National Women's Health Network, and the Rhode Island Medical Society.

Mr. Speaker, the medical community has voiced wide-spread opposition to H.R. 760. Likewise, the Supreme Court has opposed the bans on abortion procedures proposed in H.R. 760. I join the medical community and the Supreme Court is standing up for women's constitutionally protected right to choose safe abortion procedures. I oppose H.R. 760 and I urge my colleagues to do the same.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 760, the Partial-Birth Abortion Ban Act.

I am pro-choice, but believe late-term abortions are wrong. Abortion is a very personal decision and a woman's right to choose whether to terminate a pregnancy subject to the restrictions of Roe v. Wade must be protected. In my judgment, however, the use of this particular procedure cannot be justified.

I have personally spoken with doctors, both pro-choice and pro-life, who made it very clear to me that the ''partial-birth'' procedure is never medically necessary.

The debate on partial-birth abortion has been difficult for me. I voted against the ban back in 1996 believing this procedure was rare and used mostly in cases where it was necessary to save the life of the pregnant woman, to prevent severe consequences to her health, or when severe fetal genetic deformities exist.

After voting, I learned this procedure was not as uncommon as it was made out to be; rather than a few hundred partial-birth abortions each year, there have been thousands. Now, choice advocates acknowledge this procedure is often used for elective abortions of healthy fetuses.

For this reason, Mr. Speaker, I have voted for the ban since 1997 and urge my colleagues to support this bill.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 760, I rise in strong support of the Partial-Birth Abortion Ban Act of 2003. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in a most gruesome way.

During this procedure, which is used in second and third trimester abortions, the infant's body is delivered, leaving only the head in the womb. At that point the abortionist pieces the back of the infant's skull with a sharp instrument and then proceeds to vacuum out the infant's brain tissue, thus collapsing the skull, allowing the now-dead infant's body to be extracted.

This legislation makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under H.R. 760, anyone who knowingly preforms a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother, and further provides that those findings may be admissible at trial.

The House has passed legislation in each of the last four Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. Thanks to President Bush, this Congress has an opportunity to finally ban the gruesome procedure without the threat of a presidential veto. By passing H.R. 760 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, have their lives taken.

Mr. EVANS. Mr. Speaker, I believe that the decision to terminate a pregnancy is one that should be made between a woman, her doctor, and her God. Ending a pregnancy is not done lightly; it is the most difficult decision a woman can make. As a Member of Congress, I do not believe that it is the role of this legislative body to make deeply personal, medical decisions for the women of this nation.

Three years ago, the Supreme Court heard a case involving late-term abortion. In Stenberg v. Carhart (2000), the Court found a Nebraska law banning a specific late-term abortion procedure to be unconstitutional because the statute lacked any exemption for the preservation of the health of the mother. It also found that the law violated Roe v. Wade (1973), in that the language in the law was so vague that it may be applied to a common, safe, early-term abortion practice as well as a late-term abortion procedure.

Today, we see on the floor an attempt to make this rare, life-saving medical procedure into a criminal act. The circumstances that make late-term abortions necessary are largely due to a tragic illness or event that compromises either the health of the fetus or its mother. This bill, H.R. 760, seeks to interfere with a woman's access to necessary health care services by making doctors criminally liable and subject to imprisonment. This is the punishment for performing a procedure that is in the doctor's judgement the best option for the mother's life or health.

I cannot support H.R. 760; I stand by American women's right to safe and legal reproductive health care.

Mr. LANTOS. Mr. Speaker, I deeply regret that once again the time of this House and its members will be spent dealing with the so-called ''partial birth abortion'' issue. I would emphasize that the term ''partial birth abortion'' is not a medical term, but rather a political term which the sponsors of this legislation have created in order to shock people into supporting this legislation.

I will not be able to cast my vote today when the roll call is taken on this pernicious piece of legislation, so I would like to take this opportunity to indicate my views on the underlying legislation (H.R. 760) and on the Greenwood/Hoyer/Johnson (of Connecticut) amendment that will be offered to this bill.

Mr. Speaker, the amendment in the nature of a substitute that our colleague from Pennsylvania, Mr. GREENWOOD, is offering makes it unlawful to knowingly perform an abortion after the fetus has become viable, unless, in the medical judgment of the attending physician, it is necessary to preserve the life of the woman or to avert serious adverse health consequences to her. I am not in support of the Congress substituting its judgment for that of a physician in a matter of medicine and health, but clearly this amendment is a substantial improvement over the original text of

H.R. 760. I want to commend our colleagues—Mr. GREENWOOD, Mr. HOYER, and Ms. JOHNSON of Connecticut—for offering this amendment. If I where able to be here for the vote on this amendment, I would cast my vote in favor.

Mr. Speaker, even if the more reasonable and moderate language of the Greenwood Amendment is approved by this house, however, I would cast my vote against this bill if I were here when the House considers final passage later today. Even with the Greenwood language, the House is being asked to specify that a rarely utilized medical procedure is illegal. It seems to me that it is not particularly useful for the Congress of the United States to tell physicians how to practice medicine. The matter of terminating a pregnancy is a deeply personal and private matter, and it ought to be left to the woman and her physician. It is not a matter for the Congress of the United States to decide. I find it hypocritical that most members of the majority party in this body are anxious to keep the federal government out of the lives of Americans, but in the case of this most personal and most private of decisions, they seek to have the federal government take over that decision.

Mr. Speaker, I urge my colleagues to vote ''no'' on H.R. 760.

Mr. COLLINS. Mr. Speaker, America has always been a nation which values human life. We have spent trillions of dollars, and sacrificed the best and bravest of our men and women in far-flung lands to prevent the destruction of innocent life. We as a nation fight for the right of every man and woman to live without tyranny.

Our foundational document, the Declaration of Independence states ''We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life . . .''

The issue before us today is not about choice. It is not about convenience. It is not about privacy. The issue before us today is whether the United States will live up to its responsibilities, its foundational principals, and protect innocent human life.

I won't describe the brutal and barbaric practice of Partial Birth Abortion. What I will do, is urge every person within the sound of my voice to consider what allowing this practice to continue says about the American people.

In the most prosperous nation in the world, we currently allow 4,000 to 5,000 infants each year to be brutally murdered in this manner moments before they take their first, liberty laden breath.

On September 11, 2001, more than three thousand Americans lost their lives. This tremendous loss of life lead to tremendous outrage, military action, and was the most tragic experience this nation has ever faced. Yet each year we allow the brutality of between four and five thousand partial birth abortions to occur.

Mr. Speaker, I am proud to be an original cosponsor of this bill. I am proud that the American people have said ''enough'' and elected us to represent them here today so that we can prevent any more needless, tragic, painful, barbaric deaths from partial birth abortion.

I urge my colleagues to defend these innocent ones. I urge the Members of this House to support this ban on partial birth abortion.

Mr. MILLER of Florida. Mr. Speaker, I rise in strong support of H.R. 760, the Partial Birth Abortion Ban Act. I would like to thank Mr. CHABOT for introducing this important legislation and for his leadership in protecting the life of the unborn.

As elected officials, banning this horrific practice may be one of the most important matters we will ever do. For years I have listened to the dislike opponents have for this bill and for this cause. And in all honesty, their concerns deeply disturb me.

Throughout this debate, we have repeatedly heard the details of this so-called ''medical procedure.

Doctors have described to us how the baby is pulled partly out of the mother's body, only inches from a completed birth and how an abortionist inserts scissors into the skull creating a hole where the baby's brain can be suctioned out. We have all seen pictures of the life-less body pulled from the mother and tossed away like trash.

After seeing this, why is their even debate? Partial Birth abortion is murder. Anti-life advocates claim this is about a woman's right to choose. The are wrong. This is about a child's right to live.

President Reagan wrote in his work ''Abortion And The Conscience Of The Nation'', that ''every legislator, every doctor, and every citizen needs to recognize that the real issue is whether to affirm and protect the sanctity of all human life, or to embrace a social ethic where some human lives are valued and others are not. As a nation, we must choose between the sanctity of life ethic and the quality of life ethic.'' For me, like our former president, the choice is simple. We must ensure that the sanctity of human life is never compromised. The unborn child has no voice and cannot protect itself. It is up to all of us to guarantee their voices are heard and their right to life is protected.

I urge my colleagues to help protect the lives of the most innocent, helpless and defenseless among us and support the Partial Birth Abortion Ban Act.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial birth abortion extremely disturbing. It is an agonizing experience for the mother, a slow painful death for the child and is utterly unnecessary. Supporters of Partial Birth Abortions will say that these procedures are necessary for the mother, that it may be the safest procedure for some women in emergency situations. I ask them to consider the facts of the procedure. It is important to understand the procedure that we are banning in this bill.

The woman is subjected to three days of slow dilation of the cervix. The feet, body and arms of the baby are delivered. Only the head is not delivered. Then the abortionist kills the child by puncturing the back of the child's neck and removing his/her brain. If the baby's head were three inches further out of the birth canal, this practice would be recognized as murder under our court system.

The procedure is not in the best interest of women and even the American Medical Association has said that the procedure is ''not good medicine.'' In fact, it presents a number of serious risks to mothers. No woman and no child should be subjected to this gruesome and unnecessary procedure. In fact, this procedure is no troubling that scores of prochoice Members of Congress have joined us in voting to ban this procedure.

Opponents of this bill are attempting to add an exemption for the mother's ''health.'' I know and they know that the courts have defined the term ''health'' to include a definition of mental health so broad as to make any ban virtually meaningless.

President Bush has said that he would sign a bill banning this practice. My hope is that the 108th Congress will give the President the Partial Birth Abortion Ban Act of 2003 for him to do just that. I urge my colleagues to do the right thing today and vote for this ban.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of H.R. 760, the ban on the procedure known as partial birth abortion. I was appalled when I learned of the partial birth abortion procedure and have been working diligently to abolish it ever since. This heinous procedure involves partially delivering fully formed babies, and then killing them. It is one of the most horrible forms of abortion practiced. The difference between abortion and murder is literally a few inches. I believe that there is no justification for this brutal and heartless procedure, and only the most calloused among us can hear the description of this procedure and not react with disgust.

We must act now to ban this appalling procedure and protect the innocent unborn from violent deaths. A vote in favor of H.R. 760 will stop the killing of innocent children and will send a message to the world that our Nation views life as a sacred and precious gift.

The overwhelming majority of the American people want to ban partial-birth abortions and no matter what your position is on abortion, this grisly procedure is indefensible in a civilized society. Thus, this vote on H.R. 760 gives all of us an opportunity to join together in protecting innocent children from this horrific and gruesome procedure.

H.R. 760 is effective legislation to ban an unbelievably gruesome act. I urge each of my colleagues to support this legislation and to protect those who cannot protect themselves.

Mr. SMITH of Texas. Mr. Speaker, I support the Partial Birth Abortion Ban Act, which bans partial-birth abortions unless they are necessary to save a mother's life. Partial birth abortion is a gruesome and inhumane procedure.

The American Medical Association has stated that partial-birth abortion is ''not an accepted medical practice,'' is ''ethically wrong,'' and is ''never the only appropriate procedure.''

A recent survey of abortion providers estimated that 2,200 partial birth abortions were performed in 2000. Most of these abortions are performed in the fifth and sixth months of pregnancy. Infants then are usually viable—that is, if they are born premature at this stage, they are born alive and usually enjoy long lives. This makes the procedure even more disturbing.

The Senate recently passed this legislation and the American public overwhelmingly supports this ban. A poll this year found that 70 percent of those asked favored a law to make partial birth abortions illegal except in cases where needed to save the life of the mother.

This bill is the same text that the House passed last year. Congress has twice approved a ban on partial-birth abortions, but both times the bills were vetoed by President Clinton. Hopefully, this time, because President Bush supports the ban, we will be successful in implementing a new policy.

Ms. ROS-LEHTINEN, Mr. Speaker, this critical legislation would prohibit physicians from

performing partial-birth abortions, a horrific and heinous procedure.

Mr. Speaker, there is overwhelming evidence that shows that partial-birth abortion is not medically necessary to preserve the health of the woman, but rather poses serious consequences to her health.

Even organizations such as the AMA have said that this procedure is ''not good medicine'' and is not medically necessary.

Partial-birth abortion is a gruesome and inhumane procedure in which the child is forcibly pulled from the mother, with only the head remaining inside the cervical canal. The head of the child is then punctured at the base of the skull, and the brain is removed with a powerful vacuum. This is a barbaric act that is a grave attack against human dignity and justice, and it must be banned. Life is a gift, and it must be embraced and respected at all stages.

In a country which espouses the importance of protecting the inherent rights of every person, partial-birth abortion denies the rights of our most innocent and vulnerable members, our children. We, as legislators, must strive to uphold the truths upon which our great Nation was founded, especially that every individual is entitled to life, liberty, and the pursuit of happiness.

Partial-birth abortion is not a sign that women are ''free to choose.'' It is a sign that women have been abandoned. They have not had the support and care that they so desperately need. Rather, abortion is the only option offered. There is increasing evidence that abortion causes extreme emotional and psychological damage. It has been determined that many abortions occur later in pregnancy when women do not want an abortion at all, but rather feel pressure to hid their pregnancy from their boyfriends or parents.

We must strive to ensure that each and every person is guaranteed the most basic human rights, the right to life. Women deserve better than to endure the physical and emotional pain and suffering associated with partial-birth abortion, and children deserve the chance to live.

I ardently support efforts to protect the dignity of women and children. As women, we have a unique role in society, to nurture and protect that dignity. Such dignity is only possible if it is promoted on every level.

It is time for partial-birth abortion to stop. We must have the courage and the strength to fight against the greatest of all human rights violations—partial-birth abortion. Women deserve better than abortion. I urge my colleagues to vote in favor of H.R. 760 the Partial-Birth Abortion Ban. A vote for the ban is a vote for life.

Mr. FRANKS of Arizona. Mr. Speaker, I rise today in support of legislation offered by colleague, Mr. CHABOT, to ban the procedure known as partial-birth abortion. Over the past 30 years, abortion has placed 42 million separate scars on America's soul. Each time, a mother was never quite the same. Each time, a nameless baby died a tragic and lonely death and all the gifts the child might have brought to humanity were lost forever. Mothers were impoverished while doctors were enriched.

I recently read the story about Samuel Armas, a three and a half year old from Villa Rica, Georgia. Samuel underwent experimental surgery at 21 weeks of gestational age to close a hole at the bottom of his spinal cord. An astonishing photo from this surgery shows Samuel's innocent and curious little hand emerging from his mother's womb during the surgery—an irrefutable example of just how precious and fragile a human life can be. The grasp of Samuel's five tiny fingers stunningly illustrates the miracle of life within the womb. The unspeakable and far-reaching cost of diminished respect for human life, born and unborn, is beginning to dawn in the hearts of us all. I urge my colleagues to vote in favor of this legislation to ban this horrific procedure, and oppose any amendment that would allow for exceptions. I commend my colleague Mr. CHABOT for this gallant legislation made in the interest of children and humanity everywhere.

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

The SPEAKER pro tempore. All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREENWOOD

Mr. GREENWOOD. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. GREENWOOD:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Late Term Abortion Restriction Act''.

SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has become viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

The SPEAKER pro tempore. Pursuant to House Resolution 257, the gentleman from Pennsylvania (Mr. GREENWOOD) and a Member opposed each will control 30 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the Greenwood substitute and claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will control the time in opposition.

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

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent to yield 15 minutes to the gentleman from Maryland (Mr. HOYER) for the purposes of control.

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

There was no objection.

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

Debates as the one we are having today always focus on the differences between us; and there are, in fact, differences between us.

We who offer this substitute amendment believe that the 90 percent of abortions that occur in the first trimester of pregnancy should be private and legal. The proponents of this bill do not. We believe that the 99.6 percent of all abortions performed in the country that are not affected by this legislation at all should be private and legal. They do not.

But there are points of agreement. We all believe that abortions that might be performed post-viability, that are not done to protect the life or preserve the health of the woman, should be illegal. We agree on that; and now let us see which of these bills, theirs or ours, actually accomplishes this goal.

Proponents of the underlying bill claim that their legislation will stop a particular type of abortion. They are wrong. It will not.

Thirty-one States have passed this legislation and the United States Supreme Court in the famous case of Stenberg v. Carhart deemed those bills, which are essentially identical to this bill, unconstitutional; and fundamentally, they said that what was wrong with those bills was that they made no exceptions for when the woman's health was a serious issue. Our substitute, not the underlying bill, complies with the Court's requirement that there must be a health exception.

Secondly, proponents claim that they want this dilation and extraction procedure, which is what it is actually called, they say it is being performed on healthy women. Yet their bill makes no exceptions for sick women. We have heard over and over again this procedure is done on healthy women with healthy babies. Then put a bill in, as we have, that talks about making the procedure illegal for women who are healthy, but allows it for those who are sick and need it.

Third, the proponents of this legislation claim that they want to eliminate late-term abortions. Yet their bill fails to accomplish this not once, but twice. First, it does not limit itself to post-viability pregnancies, late-term abortions; but it reaches way back into the early second trimester. Secondly, it fails to ban post-viability abortions by other means, as has been said repeatedly. So women who seek post-viability abortions for important medical reasons, who would be denied access to dilation and extraction procedures under this legislation, would still be perfectly free to use other, albeit more dangerous, procedures.

Our substitute bill bans all post-viability abortions by any means, not just one means but all means, unless the woman has a serious medical reason for needing that procedure. Our substitute substitutes policy for politics, and I urge its passage.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this substitute is identical to H.R. 809, and that bill is a phony ban which would grant a giant loophole that allows abortionists to perform partial-birth and third-trimester abortions at will. The substitute, which would prohibit the performance of an abortion after the unborn infant became viable, would not prohibit any abortion, from the substitute, ''if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.''

The proponents of this substitute admit that their measure would allow any abortion at any stage of pregnancy if the mother's mental health is at risk. Thus, by its own term, this bill would not prohibit partial-birth abortions, nor would it prohibit late-term abortions because it grants the abortionist, who has a financial interest in performing as many abortions as possible, unbridled discretion to determine whether a partial-birth or third-trimester abortion may be performed.

Abortionists have demonstrated that they can and will justify any abortion on the grounds that it, in the judgment of the attending physician, is necessary to avert serious adverse health consequences to the woman. For example, Dr. Warren Hern of Colorado, the author of the standard textbook on abortion procedures who also performs many third-trimester abortions, has stated, ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.'' This is a man who has a financial interest in performing the abortion, and this is the physician who under the Greenwood substitute would be able to certify that the loophole is proper and the abortion can be performed.

I will quote from Dr. Hern again: ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.''

The substitute sponsors have stated that even psychological trauma caused by the pregnancy could justify an abortion, including a partial-birth abortion at any stage of pregnancy, including the third trimester.

The substitute would also have no effect on most partial-birth abortions because the bill only prohibits abortions after the fetus is viable in the vast majority of partial-birth abortions are performed on babies 4½ to 5½ months in development. Before it can be proven beyond a reasonable doubt that a given baby is viable, remember we are dealing with criminal statutes here; and prosecution, if this bill becomes law, the substitute becomes law, must prove that the fetus is viable in order for the ban to kick in.

The lung development of babies at this stage of pregnancy is such that most of them cannot survive if delivered from the mother's womb prematurely. Many of them can survive, but the percentages are such estimates of 39 percent of babies born at 23 weeks that it would be impossible for the government to prove beyond a reasonable doubt that any given one of these babies would have survived in a given case.

Given the substitute's failure to define the term ''viable,'' it would not be sufficient to show that the baby had a one in three or one in two or even a three in four chance of survival. Unless the baby was in the seventh month of pregnancy or later, reasonable doubt would remain as to whether that particular baby would have survived outside the womb.

Furthermore, the notion that viability is a prerequisite for giving any legal protection to a child is misguided. Premature infants who are born before the third trimester with little or no chance of survival are fully entitled to the protections of law while they are alive. A person could not, for example, just walk into a neonatal intensive care unit and kill an infant who was born 23 weeks into the pregnancy and is in an incubator struggling to survive. That child has only a 39 percent chance of surviving, but his ultimate viability has no bearing on whether or not he is entitled to the protections of the law.

In the same way, partially born children with little or no chance of survival outside the womb are entitled to the protections of law. Viability is simply not a prerequisite for legal protection of born or partially born children.

For these reasons, I urge my colleagues to vote against the substitute.

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

□ 1845

Mr. HOYER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, first, let us stipulate, I hope, that no one on this floor is pro-abortion any more than George Bush is pro-war. I supported President Bush, and I am not pro-war. There are times, though, when the health of the mother, her life, and, yes, her psychological health require and dictate, and the Supreme Court has upheld her right to seek, the termination of a pregnancy.

I do not believe that anyone here truly believes in his or her heart that abortion is a desired outcome to a woman's pregnancy. And I think, Mr. Speaker, without question, that this belief is even stronger when an abortion is obtained in the late stages of pregnancy. Yet the authors of the Partial-Birth Abortion Ban Act cannot escape the indisputable fact that their legislation would not prevent one late-term abortion or, I suggest, any other abortion at any other time, period. Not simply because the legislation they offer is undoubtedly unconstitutional, but also because there are alternative ways to terminate a pregnancy.

If my colleagues' interpretation of their legislation is that it precludes all types of termination of pregnancy, then they ought to state it as such. If, however, as they state, it is simply the elimination of a procedure, with admittedly alternative procedures available, then it does not prevent any abortion.

Mr. Speaker, on an issue of this magnitude, an issue that is fraught with emotion, that is susceptible to demagoguery and that requires us to balance a woman's right to personal autonomy with the rights of an unborn fetus, this House should seize what common ground exists.

Common ground, we do not find common ground in this House very often. We ought to find it on this issue. That is precisely what this bipartisan substitute, the Late-Term Abortion Restriction Act would do.

In short, this substitute addresses the very heart of the matter in this contentious debate, the termination of viable fetuses in the late stages of pregnancy. Unlike the Partial-Birth Abortion Ban Act, this bill focuses on when abortions are performed rather than how they are performed. It would ban all late-term abortions. Hear me: It would ban all late-term abortions constitutionally. That is to say, the Supreme Court has articulated exceptions that must be in legislation; specifically, protection of the life of the mother and the health of the mother. Thus, this substitute comports with the constitutional requirements articulated in Stenberg v. Carhart.

Recall that the Court in Stenberg struck down a Nebraska law prescribing partial-birth abortions because it, one, lacked the requisite exceptions, and two, impermissibly placed an undue burden upon a woman's right to choose. It is evident that where the Late-Term Abortion Restriction Act is constitutional, the Partial-Birth Abortion Ban Act, which deliberately excludes an exception for the health of the mother, is not.

The authors of the Partial-Birth Abortion Ban Act recognize the constitutional infirmity of their bill and thus seek to alter the facts upon which Stenberg was decided. Specifically, they reject the court's findings that partial-birth abortion may in some circumstances be the safest abortion procedure, and they state that partial-birth abortion is never necessary. But let me read to my distinguished friend a justice that I do not usually support the opinion of. In this case I think he is absolutely correct.

Justice Clarence Thomas, in a different context, says if Congress ''could make a statute constitutional simply by finding that black is white or freedom, slavery, judicial review would be an elaborate farce.'' It is not an elaborate farce and, therefore, we cannot simply state that this is constitutional or this is not necessary. That will be subject to proof and the Court's determination.

I urge my colleagues to vote for this substitute, which resembles the law in 41 States of the Nation, including the

chairman's State and my own. Let us not be driven further apart by our differences, but seize what common ground exists in this daunting debate.

I would tell my friend that our statute is not a criminal statute. If my friend will read it, it is a civil statute, a civil penalty, and, therefore, the burden of proof would be much less. And I say that in this context: If the doctor is a charlatan, if the doctor is not going to follow the law, no matter what we pass will make no difference. However, it will make a difference in the final analysis because the court, the jury, the finder of fact and the finder of the law will in fact be able to make a determination that there was not the risk of serious adverse health consequences to the mother and, therefore, in that instance, a late-term abortion was not appropriate.

I am not for late-term abortion except in an instance where the life of the mother must be saved or serious health care consequences must be avoided. But let me say this. Not all of my colleagues, some are, I think, intellectually consistent, but some give credence to an exception for abortion if it results from rape or incest. That, of course, is a psychological exception not a physical exception.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. HYDE).

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

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

Mr. Speaker, I was just thinking, an idle mind, I guess crazy thoughts go through your head. I was thinking of theme songs, and I was thinking for the pro-life people, ''People Who Need People Are the Luckiest People in the World.'' I think it is a great theme song for us, and I am trying to think of a funeral dirge that would fit the so-called pro-choice people, but I cannot.

My good friend, the gentleman from New York (Mr. NADLER), said this is designed to undermine Roe v. Wade. Not at all. This is designed to say there ought to be civilized limits on the exercise of the abortion license. With 1.5 million abortions a year, one would think somebody would look at that and say, what can we do to stem that tide.

We are talking about human life. We are talking about death. We are talking about abortion, which does not terminate a pregnancy, it exterminates a pregnancy. And we are talking about a particularly hideous, gruesome form of abortion called partial-birth abortion.

Yesterday, we decided that flags were not for burning. I hope today we decide that little infants are not for killing. Partial-birth abortion is exactly what the pro-choice late Senator from New York said it is: infanticide.

The substitute offered by my friend from Maryland is a tactical maneuver in the ongoing war between the quality-of-life people, who think if you cannot have a decent quality of life, life is not worth living; and the sanctity-of-life people over here who think every life is important and has intrinsic value.

The victim is a nearly-delivered baby, four-fifths delivered out of the birth canal. The doctor takes a Metzenbaum scissor, jams it in the neck of the little baby, sucks out the brains and collapses the skull. How can we defend a process that we would not impose on a laboratory dog or a hamster? Cruel? Can we understand the pain that that little one must feel? Oh, my colleagues might deny it, but the medical texts are clear, absolutely.

The law exists to protect the weak from the strong. I cannot think of anything weaker than a little baby, a little nearly born infant, with little legs flailing, little arms flailing waiting for the knife to hit him in the back. The people we pretend to defend, the powerless, those who cannot escape, who cannot rise up in the streets, those are the ones that ought to be protected by the law. The law exists to protect the weak from the strong.

Let me just say this: The great Horace Mann said something interesting. He said, ''You ought to be ashamed to die unless you have achieved some victory for mankind.'' Well, I think if we can put partial-birth abortion into the torture chamber, where it belongs, and get rid of it, that may not be a major victory, but it will be a victory for humanity. I want to be on that side.

Mr. GREENWOOD. Mr. Speaker, I yield myself 30 seconds, and our theme song is ''We Trust the Women of America to Do What Is Right.''

But to respond to my friend, the chairman of the Committee on the Judiciary, who argued that our health exception is too broad and allows loopholes. Their response is to have no health exception whatsoever. If the issue here is that we want to make sure that this procedure is only used where health requirements demand it, then we should be working together to create a very tight health exception not eliminating one entirely.

Mr. Speaker, I yield 3 minutes to the gentleman Illinois (Mr. KIRK).

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

Mr. KIRK. Mr. Speaker, I want the gentleman from Illinois (Mr. HYDE) to know that he is still my hero, and with a gentle heart, I rise in opposition to the position he outlined.

Mr. Speaker, our goal is to end late-term abortions, and therefore, we must pass legislation that will be upheld by the Supreme Court. If we are to save babies, then we must do it effectively. When the underlying bill passes the House today, it will sit for 2 years while lower courts enjoin it, the Supreme Court reviews it and eventually declares it unconstitutional. So what is our goal, to end late-term abortions or to make a political statement?

The Supreme Court of the United States clearly indicated in Stenberg that any law prohibiting late-term abortions ''requires that the statute include a health exception from the majority holding.'' H.R. 760 does not include a health exception and goes far to declare that the procedure is ''never medically necessary.'' We are setting Congress up for a defeat at the hands of our highest Court, rendering the action we take today totally ineffective and the current law permitting late-term abortions unchanged.

I was not elected to Congress as a medical doctor and do not intend to tie the hands of physicians who should have the right to discuss all available options with their patients. Are Congressmen competent to regularly vote now on common medical procedures as never medically necessary? If we set this massive precedent to declare what a physician can and cannot do in their medical judgment, we give an awesome power to future Presidents and Congresses that will not share our gentle philosophy or our calm responsibility. Congressmen cannot suddenly declare they have medical degrees and are board certified to practice medicine. If my wife and I were faced with this dilemma, I would certainly hope that our physician was not hamstrung by distant Congressmen in Washington.

I urge my colleagues to support the Greenwood substitute, which effectively bans late-term abortions. To do otherwise only serves the interest of pressure groups and lawyers that will make a killing as the Supreme Court strikes down the underlying bill. The Court in Stenberg gives us a clear direction. While the underlying bill cannot survive in the Supreme Court, the substitute offered by the gentleman from Pennsylvania (Mr. GREENWOOD) does.

I oppose late-term abortions and will support effective measures to change the law and make the ban effective. Unlike H.R. 760, the Greenwood substitute bans late-term abortions in a way the Supreme Court will sustain. Passage of the Greenwood substitute would mean a quick end to litigation and a rapid change in U.S. law.

□ 1900

Failure to pass the substitute means continuing litigation and defeat at the hands of the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, make no mistake about it, the Greenwood-Hoyer substitute is not a real ban at all. It is a giant loophole that allows partial-birth abortions and third-trimester abortions on demand. The substitute contains no definition of ''viable.'' It imposes no objective criteria that would bind an abortionist. An abortionist has unconstrained discretion to define and declare whether or not any given child is deemed to be viable.

If Members vote for this substitute, they might as well vote against the

ban on partial-birth abortion. Why do so many Members want to ban this horrific procedure? I have never seen one. I would venture to say nobody in this room has probably seen one before, but one person did. Brenda Schaefer who was a registered nurse for Dr. Martin Haskell, the physician in Dayton, Ohio, who is credited with developing this horrible practice.

She describes it as follows: ''Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal, and then he delivered the baby's body and the arms, everything except the head. The doctor kept the head just inside the uterus. The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head, and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is falling. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby moved in the pan. I asked another nurse, and she said it was just reflexes. That baby boy had the most perfect, angelic face I think I have ever seen in my life.''

That is what Brenda Schaefer witnessed with her own eyes, and that is why so many of us want to pass this today, and pass it in a form that will really mean something; and that means passing it without this phony ban, without this substitute.

Mr. Speaker, if Members vote for this substitute, they might as well vote against the bill.

Mr. HOYER. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Maryland for introducing this substitute along with the gentleman from Pennsylvania (Mr. GREENWOOD).

I have voted for the ban on partial-birth abortion at every other point when it has come up. We are talking about a procedure that represents less than one-fifth of 1 percent of the abortions that are performed in this country. Every one of us wants abortions to be rare; none of us favor abortion. We would love to see not just the issue taken off the floor, but that option taken off the table so that every family could have a healthy baby and every mother could continue to live a full life.

I am changing my vote, and I could suggest it is for legalistic intellectual reasons. I could cite the Stenberg v. Carhart decision in Nebraska where the so-called partial-birth abortion law was struck down. The Supreme Court has already deemed it unconstitutional. But my decision is not coming from the mind as much as the heart. It is because I have talked to too many families I know that I represent.

These are devoted parents, loving partners that want their children, who place their family above everything else; but when a family finds that they have a seriously deformed fetus or where they find that the mother has a very serious illness, cancer, heart disease, any number of other possible illnesses, that couple sits down at the kitchen table, or lies together at night agonizing, as agonizing a decision as they could make, and what right do we have to barge into their bedroom, to sit down at their kitchen table and put our hands on our hips and preach to them what they should do.

Do we for a moment think that they love their child in the concrete less than we do in the abstract? We are talking about the abstract here. They are talking in the concrete. We have got to respect the sovereignty of the American family. That is what this is about. They have the right to make this decision, and only they do in the context of their religion, their family, what is right for their family, what is right for each other. They know best; they know better than we do. Support the substitute.

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

Ms. HART. Mr. Speaker, I rise in opposition to the substitute and in support of the original bill, H.R. 760, the Partial-Birth Abortion Ban Act.

Supporters of the substitute claim it would restrict late-term abortions, meaning after a child is viable unless a physician determines that the abortion is necessary to avert a serious health consequence to the woman; but it leaves so many doors open to the exceptions that it will have no practical effect whatsoever. It would do nothing to ban the partial-birth abortion procedure which is what we are trying to accomplish today.

As a sponsor of the substitute has stated, health consequences can mean almost anything, a level of mental health problem or a psychological trauma. The substitute also does nothing to ban a gruesome procedure known as partial-birth abortion which is shamefully legal in this country. It simply refers to late-term abortions. Seventy percent of the American people understand that this procedure is horrific, and they want it banned. The substitute ignores their pleas.

If this substitute becomes law, partial-birth abortions would continue to be performed, which is especially troubling at a time when this procedure has become even more common. Since 1994, the Alan Gutt Marker Institute noted that the number of partial-birth abortions has tripled. In fact, the substitute places no restrictions on these abortions in the fifth or sixth month of pregnancy when the vast majority of these abortions are performed. The main health reason for performing these is mental health, but it is undefined in the law.

Under Kansas law, abortion providers must report the reason for this type of abortions. Of the 182 performed last year, none of these were performed because of a problem with health of the mother or the child. It was simply and generically ''mental health.'' What does this mean? According to testimony before the Committee on the Judiciary, Dr. James McMann, who developed the procedure, said the most common reason for performing this procedure was depression.

Finally, as the findings in the bill note, partial-birth abortions are a health risk to the mother. We have had endless testimony in the last several sessions stating this. Our bill will ban it; the substitute will not. In a country where we allow such things, we should be ashamed. We should take the opportunity now to support the bill and say no to the substitute.

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

Mr. Speaker, I would state that the gentlewoman from Pennsylvania (Ms. HART) indicated that the people of this country are calling for this kind of a law. In the three States where this has been on a referendum, it has been defeated in each case.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the Committee on Rules for making this amendment in order. This is a very important issue because it involves the balancing of conflicting rights, the right of the fetus and the right of the mother; and it is because balancing rights is the very hardest thing a democracy has to do that this is a constitutional issue. It ought to matter to the proponents that every single State law has been found wanting and been overturned because it does not balance these rights fairly. It does not allow the mother, the woman, to consider her health; but the system can only consider her life and every court has overturned every single State law for this constitutional deficiency.

Some Members wonder why I am so passionate about this subject. I can tell Members it is not because I am pro-abortion. I oppose abortion. I do not like abortion. But my husband trained as an obstetrician and gynecologist in this country when abortion was illegal.

I do not know what song, Henry, you would like to have on your side, but I wonder what song you would sing to this family. My husband stood by the bedside of a woman, the mother of five children with her husband sitting there weeping as she died of an aseptic abortion because abortions were not legal and she could not get the care she desperately sought. But she and her husband, in accord with their beliefs and conscience, had sought a very early termination to preserve their ability to parent their five children.

And, yes, he saw a beautiful young woman, 22 years old, single, die of an aseptic abortion.

This bill, because it is so broad, will have such a chilling effect on the availability of abortions that there will be many forced to go back alley and will die as a consequence. I think that matters. I think there is a balance of competing rights here. That is why the American College of Obstetrics and Gynecology said D&X may be the best and most appropriate procedure in a particular circumstance to save the life or preserve the health of a mother. A particular circumstance. We do not know that circumstance. We will not be in the operating room when that circumstance comes up, and yet we are going to tell the physician you cannot do this.

Do Members know what the physician might do instead that would be perfectly legal? He can do a hysterectomy. He will have taken care of what he considers to be a life-threatening situation without running the risk of suit, which we are putting on him now; without running the risk of jail time, which we are putting on him now. This is not in the interest of the woman's life or her health.

In my substitute, we take a very evenhanded approach. We balance the rights, we allow the exception for life and serious adverse health consequences. This is not lighthearted, and I think it is a slap at all women that anyone would put out that out of fear of open space, that that would represent an adverse impact on your health. That is ridiculous and it is demeaning to women. But in certain situations you need to be able to consider health as well as life. Our amendment is evenhanded. It bans all forms of abortion after viability and all procedures equally.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), whose name was taken in vain.

Mr. HYDE. Mr. Speaker, my name was not taken in vain. The gentlewoman is incapable of taking a name in vain.

Mr. Speaker, I just want to say that it is tragic that that woman died from a bungled abortion; but every abortion is lethal and fatal to the baby, so that is a greater tragedy in my opinion.

By the way, I thought of the theme song for the pro-choice people, ''Mahler's Tenth.'' You ought to hear it. It will really make you feel sad.

Mr. SENSENBRENNER. Mr. Speaker, the example the gentlewoman from Connecticut (Mrs. JOHNSON) gave would have fallen under the exception that is contained in H.R. 760. The subsection which is the ban does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

□ 1915

The real-life story that the gentlewoman from Connecticut's husband faced would have fallen under the exception and would have allowed a partial-birth abortion. That is why this bill should pass and the substitute should be defeated.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING).

(Mr. KING of Iowa asked and was given permission to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Speaker, I very much appreciate the gentleman yielding me this time.

As I looked at this situation, there were two things that jumped out at me that cried to be answered. One of them was, as I thumbed through the Washington, D.C., phone book, I came across, by accident, ''Abortion Services.''

And we talk about viability, there is ad after ad after ad in there, multiple pages, that advertise they will provide abortions up to 24 weeks. It is in print, it is standard practice, and that is past that point of viability that has been talked about here.

It is chilling to see that, for someone who comes from the Middle West where we do not have such a thing. There is nothing in any phone books that I have seen in the Middle West. But it shocked me.

Another issue, as I sat in the Committee on the Judiciary and listened to remarks, and I am going to speak specifically to the remarks that were made by the gentleman from New York who said that we were cynical about this, that we simply wanted to ban partial-birth abortion for political reasons and that 41 States have banned late-term abortions, and that if we were serious, we would just go forward and do that. And that is what this amendment seeks to do. I rise in opposition to this substitute for that reason, because we know why it would not be effective and why it would gut this bill.

I am not a lawyer. I grew up in a cornfield and rode out on a bulldozer, but I can tell you I know this much about law. How did we get here to this point? I do not think anybody has referenced it now, and that is the case in 1965, Griswold v. Connecticut, right to privacy, when Connecticut outlawed contraceptives and the Supreme Court ruled that the State of Connecticut had no business getting into the privacy of the family and, therefore, found their law that outlawed contraceptives unconstitutional. That is the foundation for right to privacy.

Just a few years later, 8 years later, along came Roe v. Wade. That was the piece that said, well, that right to privacy extends to the woman's womb and in our declaration where it defines life, liberty, pursuit of happiness, those rights are prioritized except that the right of the liberty of the pregnant female takes priority over the life of the unborn. And then Roe v. Wade, of course, outlawed, though it did not make an exception for, late-term post-viability abortions.

But same day, concurrent decision, Doe v. Bolton gave that definition that I think we have heard that addresses the health of the mother. It does not prohibit any abortion if in the medical judgment of the attending physician the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman, a hole you could drive a truck through. That is also what this amendment seeks to do, and that is another reason that I oppose it.

Planned Parenthood v. Casey reaffirmed Roe v. Wade. That is what it looks like to this fellow who did not go to law school, but does read the cases and that precedent of right to privacy takes us to the floor of this House Chamber tonight to debate something that would be a chilling concept to us if we had been confronted with that in the environment when we were children.

And so Stenberg v. Carhart. I will just say this, it is a ghastly, ghoulish, gruesome procedure and that child is one inch from screaming for its own mercy. If ultrasound could hear the silent scream, we would not be in this debate tonight.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I support the Hoyer-Greenwood amendment for two reasons. First, this amendment makes illegal all late-term abortion procedures, unlike the underlying bill that only outlaws one late-term abortion procedure while, amazingly, allowing all other late-term abortion procedures to be left perfectly legal.

Second, passing an unconstitutional bill is not going to save one child's life. Not one. We know what the Supreme Court decision has said. It said it June 28 of 2000. The Supreme Court said, even in italics, that if you do not have a health exception, the bill will not become law. To put it in italics by the Supreme Court makes it about as clear as we can make the English language be.

I find it, Mr. Speaker, amazing that those who say their goal, and I trust their convictions, is to save babies' lives, why would you not want to ban all late-term abortions? If you assume these women are such monsters that just seconds before a perfectly healthy childbirth they would want to kill that baby, then I guess you could also assume very understandably she would just ask the doctor to use one of the other late-term abortion procedures.

Sixteen years ago, as a member of the Texas Senate, I was not interested in sound bites or partisanship. I was interested in banning all late-term abortion procedures, because no matter how a baby dies, if he dies frivolously late term, that is morally wrong in my book. But we knew then what we know today and that is, if you tonight have a health exception, your bill will not be law.

I ask once again, to the supporters of this bill, the question that has never been answered. If you assume a woman wants to kill a baby in the last seconds before a normal childbirth, why are you allowing her to do that under your bill just using other procedures?

This bill is a false promise. Vote for the Hoyer-Greenwood amendment and we can stop all late-term abortion procedures.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY) who knows more about delivering babies than practically all of us.

Mr. GINGREY. Mr. Speaker, I rise in strong opposition to this substitute amendment. The Greenwood-Hoyer substitute, make no doubt about it, will gut this bill to ban late trimester pregnancy termination just as surely as the procedure itself barbarically guts the life out of nearly born healthy children.

There are physicians who, unfortunately, and for a generous consultation fee, will readily certify that a woman's health is endangered by the pregnancy. In fact, the coauthor just a few minutes ago said that health exceptions would include psychological syndromes such as, you name it, extreme anxiety, as well as nebulous physical syndromes, such as chronic adult fatigue. So, in essence, the mother's health exception could be claimed literally in every one of these cases if we approved this substitute amendment and we would have no bill.

You talk about the fact that the Supreme Court could possibly rule this ban on partial-birth abortion as unconstitutional. If we vote in support of this substitute amendment, the bill dies right here tonight. In fact, the so-called consultant that I mentioned theoretically could come into the delivery room and declare the woman's health to be endangered within minutes of a spontaneous live birth.

The gentlewoman from Connecticut talked about sepsis. I have actually seen these tools that are used to perform this abominable procedure called partial-birth abortion. And you talk about the risk of sepsis developing after that type of a procedure. The gentleman from Virginia talked about the loving parents who would want to terminate the life of a child who was not going to be born perfect. A loving parent will allow that child an opportunity for life no matter how short it may be.

Mr. HOYER. Mr. Speaker, I yield myself 1 minute.

I ask this because I believe it is the nub of the debate. Does the gentleman from Georgia believe there is a procedure to terminate a pregnancy that is more humane or more appropriate than the partial-birth abortion?

Mr. GINGREY. If the gentleman will yield, will the gentleman mind repeating that question?

Mr. HOYER. Do you believe there is a procedure that is more humane or more acceptable than partial birth for the termination of a pregnancy?

Mr. GINGREY. The gentleman from Texas earlier talked about other late-term pregnancy termination procedures other than this one we know as partial-birth abortion. I do not know exactly what he or you are referring to.

Mr. HOYER. Reclaiming my time, and obviously I do not have more time, I wish I had more time because this is an important debate. My question to you is, A; let me ask you this, yes or no, if you can. Do you believe the only way to terminate an abortion is late-term, the procedure referred to in this bill?

Mr. GINGREY. I do not believe there is another way to terminate a pregnancy in late term.

Mr. HOYER. In late term than this? Is that correct?

Mr. GINGREY. I am sorry. I am not understanding you.

Mr. HOYER. In late term, this is the only way to terminate a pregnancy?

Mr. GINGREY. It is the only way to terminate a pregnancy without delivering a live born child. These pregnancies can be terminated by injecting saline or they can be terminated by performing a cesarean section, but the problem there is it is a live child.

Mr. HOYER. In which case, reclaiming my time, the child would not be live; am I correct?

Mr. GINGREY. In those instances, the child would be alive.

Mr. HOYER. You believe that that is more humane.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I rise today in support of the Hoyer-Greenwood substitute. As a pro-choice, pro-child Member of Congress and mother, I believe that abortions should be safe, legal and rare. For more than a quarter of a century, the Supreme Court has drawn a very clear line on this issue. As Americans and lawmakers, we are bound by the Constitution and we must realize that a ban on a specific late-term procedure that fails to include the life-and-health-of-the-mother standard the Supreme Court established in Roe and upheld in both Casey and Webster will be overturned by the Supreme Court.

What is wrong with the underlying bill? First, it does not take into consideration the health of the mother. Second, it bans an overly broad class of medical procedures that are also useful during pre-viability stages.

The Hoyer-Greenwood substitute gives Congress an opportunity to do the right thing. This bipartisan bill would prohibit all late-term abortions, but it makes the constitutionally required exception for when it would be necessary to save the mother's life or avert serious health consequences. Congress should leave a decision as deeply personal as whether to have an abortion to a woman, her family, her doctor and her God.

My colleagues, this vote is a test. Are we interested in banning late-term abortions? Or are we just wasting everybody's time and beating our chests just to pass something that we know will be overturned by the Supreme Court?

Let us do the right thing. Let us ban these procedures in late term. I urge my colleagues to vote for the Hoyer-Greenwood substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, all of us love this Nation. But how can all of us love this land unconditionally when there exists a law on the books that allows partial-birth abortion?

In America today, an abortionist begins partial-birth abortion by causing a woman to go into labor. Involuntary contractions begin that push a pre-born American child into the birth canal. This law, as shown on this diagram, then allows an abortionist to reach into the womb and, with the baby in the breech position, begin to pull the baby out by its feet and legs. The law and the amendment we debate today allows an abortionist to pull the baby almost all the way out of its mother, and as shown here on this diagram, insert his scissors into the base of this pre-born American child's brainstem and vacuum out its brains.

This is abuse of pre-born American children. This is violence against pre-born American babies. This is the torture and murder of future American patriots who deserve this Nation. And it is a corrupt law forced upon the land by the Supreme Court. This amendment says that an abortionist may continue to conduct this violence if he is trying to avert serious health consequences. This exemption is so big that it is nothing but a giant loophole. It once again allows the abortionist, the very menace to the child that is waiting to be paid, to define what averting serious health consequences means.

□ 1930

Think about it. The possibility of serious pain, serious stress, the possibility of serious health consequences, is what women endure in labor and in giving birth. Therefore, the very act of childbirth under this amendment would trigger the exemption. Those who have written it so broadly, so loosely defined, allow the possibilities of that which is endured during the very act of childbirth itself to be enough of a standard by which this amendment would allow an abortionist to continue his horror.

As the father of 12 children, I want to teach my children to love our Nation unconditionally, to revere her, to respect her laws and to be drawn into complying with the laws of this Nation, because her laws represent goodness, because they are filled with integrity, and because we are bound by a moral sense of obligation to abide by them.

Let us love our Nation unconditionally by removing these decrepit and immoral corrupt laws from the same books that contain our sacred rights and liberties. Stop the torture and infanticide of our preborn American children and our future patriots which this Nation needs to be born. Let them have life. Oppose this amendment.

Mr. GREENWOOD. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the previous speaker used very good words. Unfortunately, the bill that he advocates will not ban the procedure he abhors. Our amendment will.

The previous speaker talked about the broadness of our health exception. If the proponents of this legislation wanted to make sure that no healthy woman could ever get a late-term abortion, they would be advocating legislation that would require a second doctor's opinion, a clearly defined definition or list of medical conditions. That is what they would be doing if they were serious about that. But because they are opposed to abortion under any circumstances virtually at all, they cannot go there.

Now, they are very good at describing the gruesome details of abortion. Let us talk about the gruesome realities that sometimes make abortion necessary.

In March 1995, Tammy Watts from Arizona and her husband Mitch made the agonizing decision to end a wanted pregnancy at 28 weeks gestation. It would have been their first child. The fetus, however, had extensive, ultimately lethal, anomalies related to a genetic condition known as trisomy-13.

The Watts daughter, which they had already named McKenzie, was missing chambers in her heart, her brain was severely damaged and her skull had not formed in the back. Her liver and kidneys were oversized and already failing irreparably. Her bowel, bladder and intestines were formed on the outside of her body and had grown into a nonfunctioning mass of tissues. Doctors also told the couple that Tammy's health was at risk from a continued pregnancy, especially if the baby died in utero.

They decided to terminate the pregnancy, and Tammy and Mitchell were able to conceive again and announced the birth of their daughter, Savannah Whitnee, last July.

These are the realities that American women confront with their physicians, and that is why, in cases where their life or their health is at risk, this is none of our business and we do not belong in this decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in opposition to the substitute amendment to H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

The partial-birth abortion procedure is a brutal and violent act that kills a living baby just seconds before it takes its first breath outside the woman. We must call partial-birth abortion what it really is, the murder of a baby during delivery.

Former Surgeon General C. Everett Koop has stated, ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both.''

The substitute amendment being offered today includes a so-called health exception to the partial-birth abortion ban. Yet this broad definition, according to the Supreme Court, includes factors such as physical, emotional and psychological issues. All of these factors relate to health. Subsequent testimony has clarified that this health exception includes age, depression and even a fear of open spaces.

Mr. Speaker, this substitute is a facade. It is a ploy designed to gut the intent of the ban on partial-birth abortion.

The future of our Nation depends on decisions such as this. Does America have the moral and ethical fortitude to protect the most basic of human rights, the right to live? We as a civilized culture cannot stand by and allow defenseless, innocent children to be killed. We are not savages. We are not barbarians. We are human beings. Partial-birth abortion is insane, and this killing must end.

I am proud to offer my support for the partial-birth abortion ban. I urge my colleagues to reject this substitute amendment and pass the underlying bill, H.R. 760.

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

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to correct the record to some extent. It was said that the case examples that I gave would have been covered under the underlying bill. I want to make clear that they would not have been covered, because those women were dying of the infections caused by being forced to get back-alley abortions under unsterile circumstances. If they had been allowed to be in a hospital and get the legal treatments that are available under our law, they would not have gotten the infection and they would not have died. But this underlying bill denies them that right because its definition is so broad. It reaches way down to fairly early decisions to terminate. So I do not accept that those women's lives would be saved under the underlying bill.

I also regret that one of my colleagues, a very skilled colleague who himself has a lot of experience, maintained that there were no other techniques other than late-term abortions that could be used. There are other techniques that are just as harsh, they look just as bad on a poster, and the underlying bill does not ban them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise to support the underlying bill and to strongly oppose the substitute amendment.

Mr. Speaker, I just want to point out that this substitute amendment is built on two myths. The first is the myth that this specific procedure we are talking about is somehow medically necessary in certain circumstances. It is not.

The American College of Obstetricians and Gynecologists states, ''There are no circumstances under which the procedure would be the only option to save the life of the mother and preserve the health of the woman.''

In 1995, a panel of 12 doctors with the AMA voted unanimously to ban the procedure, calling it ''basically repulsive.''

As one of my colleagues mentioned, former Surgeon General C. Everett Koop says that this procedure is ''never medically necessary to protect a mother's life or her future fertility. On the contrary, this procedure can pose a significant threat to both.''

So if we want to follow medical advice, let us do that and admit this procedure is never medically necessary.

The second big myth is that somehow this exception in the substitute amendment will in fact allow a real ban, and it will not. The health exception, you can drive a truck through it. That is clear in 41 states, and it will be no ban whatsoever.

Mr. HOYER. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, the last speaker just read part of the American College of Obstetricians and Gynecologists' statement. He said that they could identify no circumstances under which the procedure identified above could be the only option to save the life or preserve the health of the woman. Then he stopped. The rest of it is, ''However, it may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the woman, and only the doctor, in consultation with the patient, based on the woman's particular circumstances, can make that decision.''

We just want the whole statement in the RECORD.

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

Mr. Speaker, the AMA opposes this bill. The Organization of Obstetricians and Gynecologists, you heard their statement. We are speaking past one another and we are not speaking to the American public.

Your bill is unconstitutional. You know it. You tried in 17 or 18 pages to restore it. You cannot do it, because you do not include what the Supreme Court requires, protecting the health of the mother.

Our bill is constitutional, and, except for the premise that you make that

doctors are charlatans and will not be held accountable for breaking this law, which has to be proved only by a preponderance of the evidence, you say this law does nothing. In fact, it is the only statute on this floor which will preclude abortions at late-term being performed by any procedure; by any procedure.

Now, I tried to get the gentleman from Georgia (Mr. GINGREY) to respond. He would not respond. Why would he not respond? Because my friend, the gentleman from Illinois (Mr. HYDE), for whom I have unrestrained respect, believes the termination of a pregnancy, the taking of a life of a fetus, is wrong, however you do it. He is shaking his head affirmatively. That is an intellectually honest position. I respect it.

Partial-birth as described is an awful procedure. Abortion is an awful procedure. I accept that. And I personally oppose late-term abortions. When I am accused of being for abortion on demand at the 8th month, 29th day, I am not. We ought to protect those lives. But we have to balance it. That is what the Court says, that is what the Constitution of the United States says.

Support the Greenwood-Hoyer alternative. It is the only legislation that will be effective in trying to make some sense of this issue that so vexes America.

Mr. GREENWOOD. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, why are we here? Are we here because we are about to vote on a piece of legislation that will become law? No, we are not. It will not. It has been abundantly clear. The Supreme Court has voted on this issue. It has nullified every identical state law, and, as sure as God made little green apples, if this bill goes to the United States Supreme Court, by a vote of 5 to 4 it will be discarded.

So we have engaged in a political issue. I know what the political issue is. The political issue is to try to make those of us who are pro-choice appear to be extreme. Good politics, lousy use of this Chamber. It is a lousy use of this Chamber.

If Members who propose this legislation were serious about limiting late-term abortions and joining us in that effort, what would they do? They would help us create a tight, tight law that makes it clear that healthy women with healthy fetuses cannot get late-term abortions. We would all be in agreement. We would get something done.

□ 1945

We would make sure all of this talk of a loophole big enough we can drive a truck through would be gone. We would settle that.

But they cannot go in because they do not believe in a woman's right to choose at all, so they cannot craft reasonable legislation that would take care of the late-term issue. They cannot do that. So all they can do is go to the extreme, create the most exaggerated circumstances, and point to the most gruesome photographs and drawings.

I submit that this is an exercise in futility and urge Members to support the Greenwood-Hoyer-Johnson substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the chairman bringing this bill to the floor.

Mr. Speaker, as I have watched the debate, and it has been a good debate, what I have heard from the proponents of the substitute are two factors.

One is that this is unconstitutional, theirs is constitutional, and they have made a decision for the courts. I did not come to the House to make a decision for the courts. I came to the House to pass very strong, important legislation and then to fight in the courts for my position. I do not let the courts decide what direction I go. I do not make those decisions in this Chamber. If Members want to make decisions for the courts, then go down to the White House and get a nomination from the President.

The second is that their amendment will end late-term abortions, as if they are more pro-life than the gentleman from Illinois (Mr. HYDE). It is amazing to me. If we took this substitute and put it out here freestanding as a bill, which we may get the opportunity to do, they would vote against it and their outside groups, their pro-abortion groups and pro-choice groups, would be rallying outside these doors against their substitute.

So, Mr. Speaker, we have, though, a chance today to make the world a little less cruel for the defenseless. Opponents of this bill have condemned it to the top of their lungs, but we will not mistake volume for veracity. Despite the howls of extremism, all this bill really says is that even in this violent world, we can still tell the difference between right and wrong. We can still recognize that the inhumanity of this procedure has no place in a moral society. We can still recoil at brutality.

We should set aside the politics for a moment and just close our eyes and try to imagine what it is we are talking about. Think of the grip of the doctor's hand, like a vice, pulling a frightened baby, pulling on a frightened baby's legs out of the womb and into the world. Think of the frantic wriggling of that little body in that gloved hand. Think of that moment of pure terror when those sanitized scissors puncture the baby's neck. Then ask yourself, is this the best that we can do for unborn children, however unwanted; for pregnant women, however desperate; for the American people, however divided?

How can anyone think so? After all, women do not ask for partial-birth abortions. No, its violence is unleashed for the convenience of the doctor, not the health of the patient. Women who undergo the procedure run the risk of infection, future pregnancy difficulties, and infertility. Yet its defenders tell us that this cruel, dangerous, and medically unnecessary procedure is essential to the well-being of American women.

Mr. Speaker, it is just not true, but it is an untruth we will not have to bear or hear again after today. After 8 long years and many partial-birth abortions, Congress will finally send the Partial-Birth Abortion Ban Act of 2003 to a President who is willing to sign it.

When he does, abortion will still be with us. The debate over the rights of the unborn will continue and new battles will be fought. But in the meantime, in the meantime, the American people will take this one stand, this one stand on behalf of the innocent, to tame the savageness of man and to make gentle the life of this world.

Take that stand with them now. Vote against this substitute and vote for the bill.

Mr. MENEDEZ. Mr. Speaker, I rise today in strong support of he Hoyer-Greenwood substitute. It is refreshing to finally give policy a chance over politics. By allowing us the opportunity to vote on the Hoyer-Greenwood alternative as a substitute, the debate today is about making good public policy.

Our goal should be to increase services that prevent unwanted pregnancies. However, when the unintended happens, let us remember that the decision to have an abortion is an extremely difficult and personal one. I believe it is a decision that is best left to a woman in consultation with her doctor, her family, her loved ones, and her faith.

The Hoyer-Greenwood substitute is a superior alternative providing the most broad-based restriction on late-term abortions of any bill being considered in the House.

This proposal ensures that no healthy women with a healthy fetus can terminate her pregnancy in the third trimester, regardless of the type of procedure used. I strongly support thee restrictions and always have. But for the life and extreme health threats to the mother, I know of no compelling reason to terminate a pregnancy at his late stage, and Hoyer-Greenwood alternative would ban all such procedures.

Evidently, my Republican colleagues oppose what President Bush governed under in Texas. The Texas laws is even broader than the Hoyer-Greenwood substitute we are now considering. It says that no abortion may be performed in the third trimester on a viable fetus unless necessary to preserve the woman's life or prevent a ''substantial risk of serious impairment to her physical or mental health, or if the fetus has a severed and irreversible abnormality.'' That is the law in the State of Texas. That is the law under which President Bush operated during his terms as Governor of the State of Texas. It is a law similar to the 41 laws that have been passed in the different states that have such meaningful late-term abortion restrictions.

I hope all of my colleagues recognize the opportunity we have today, an opportunity to vote in support of commonsense legislation. I urge my colleagues to support the Hoyer-Greenwood substitute.

Mr. KIND. Mr. Speaker, I rise today in support of the Hoyer/Greenwood/Johnson substitute, the Late Term Abortion Restriction Act, and in opposition to the underlying bill.

In June 2000, in Stenberg v. Carhart, the U.S. Supreme Court invalidated a Nebraska statute that ostensibly prohibited ''partial-birth'' abortions. The court based its decision on two determinations: (1) the statute lacked any exception for the preservation of a woman's health; (2) the statute placed an ''undue burden'' on the right to choose abortion because its vague definition of ''partial birth'' abortion could cover multiple procedures, at any time during a pregnancy, regardless of viability. Due to these determinations, the court found the Nebraska statute unconstitutional.

Justice Sandra Day O'Connor, however, indicated that if changes were made in the legislation to address these concerns, restrictions on late-term abortions could be found constitutional. Unfortunately, the authors of H.R. 760, the underlying bill, failed to follow the outline by Justice O'Connor.

The legislation I support, the Hoyer/Greenwood/Johnson substitute, is a bipartisan effort that meets the Supreme Court's criteria. This substitute would ban all abortions after fetal viability, allowing an exception to protect the life or health of the mother. This bill did not eliminate a particular procedure; it would prohibit all late-term post-viability abortions by whatever method or procedure.

Most people, even those who oppose abortion, would make allowances for pregnancies as a result of rape or incest. There is no doubt that a young girl who becomes pregnant as the result of rape or incest can medically carry the pregnancy to term. However, many of us would say that that young girl should have the option to terminate that pregnancy as a means to safeguard emotional well-being—that is an argument in favor of recognizing the traumatic impact of a pregnancy due to rape or incest.

Some would argue that the pregnancy could be terminated earlier. We would hope so. However, the psychiatric and sociological record is replete with scientific and anecdotal evidence that even in the most supportive environments, girls who are victims of rape and incest are reluctant to reveal their abuse, leaving them vulnerable to emotional and mental breakdown, self-destructive behavior, and, in the worst case, unrecognized or unacknowledged pregnancies up until the last trimester. Only the Hoyer/Greenwood/Johnson substitute would adequately address this serious issue.

While this has been a difficult issue, I must oppose H.R. 760. This bill does not recognize the constitutionality issues raised by the Supreme Court. It does not contain an exception for a woman's health, nor does it adequately define ''partial birth'' abortion in such a way as to address the issue of ''undue burden.'' I am confident that if this bill is signed into law, the Supreme Court would strike it down.

As a Member of the U.S. Congress, I took an oath to uphold the Constitution of the United States. I will not betray that oath. Now that the Supreme Court has determined the constitutional parameters for a partial-birth abortion ban in the Stenberg case, I must adhere to that decision and cannot vote for a bill that is blatantly unconstitutional. H.R. 760 does not comply with the Court's decision.

Mr. KOLBE. Mr. Speaker, I rise today in support of the Greenwood, Hoyer, and Johnson amendment to the Partial-Birth Abortion Ban Act of 2003, H.R. 760.

For several years, Congress and the American people have endured a wrenching debate concerning abortions. Although I believe in a woman's right to determine her reproductive destiny, I do not support partial birth abortion. In fact, I am opposed to any post-viability abortion by whatever method, unless it is performed to save the life of the woman or to avert serious adverse consequences to her health.

To date, congressional debate has centered on legislation that would federalize the regulation of abortion, a matter historically left to the discretion of the States. And, for the first time in medical history, it would ban a specific procedure, known medically as a dilation and extraction, D&X. I cannot support this legislation because of its uncompromising language banning this specific late term abortion method even in a case where a pregnancy goes tragically wrong and the woman's health is placed in serious peril.

Recognizing the need for some answers in a debate that has generated more heat than light, I join my colleagues, Congressman JIM GREENWOOD, and STENY HOYER, and Congresswoman NANCY JOHNSON in support of an amendment that would prohibit all late-term abortions, regardless of the method used to terminate the abortion. The Greenwood, Hoyer, and Johnson amendment applies to all abortions performed after ''viability'', defined as that time when a fetus is able to survive outside the womb. The amendment provides an exception only in cases where it is necessary to save the life of the woman or to avert serious adverse consequences to her health.

The Greenwood, Hoyer, and Johnson amendment correctly puts the emphasis on when abortions are performed, not how they are performed. This amendment does not try to put Congress in the inappropriate role of determining the correctness of one particular medical procedure. Instead, this amendment makes clear that throughout the course of a pregnancy, prior to viability, medical decisions regarding a woman's personal care and treatment must lie with the patient, her physician, and her family—not lawmakers in Washington.

Mr. Chairman, the Greenwood, Hoyer, and Johnson amendment would prohibit all post-viability abortions even if the woman suddenly decided she no longer wanted the child or was emotionally unable to care for a child. I cannot and I will not justify a late-term abortion in these instances. However, when an abortion is medically necessary, I want every woman to have available to her the procedure that is the safest. I encourage all my colleagues, Republicans and Democrats alike, to support this amendment.

Mr. LEVIN. Mr. Speaker, I rise in support of the Greenwood-Hoyer Substitute, the Late Term Abortion Restriction Act, and in opposition to the underlying bill.

I oppose all late term abortions with exceptions only when the mother's own life is at risk or to prevent serious adverse consequences to her health.

Federal courts have ruled unconstitutional at least 19 different State laws with similar or identical language to the underlying bill because they do not contain adequate health exceptions. In Stenberg v. Carhart, the U.S. Supreme Court noted that ''a State may promote but not endanger a woman's health when it regulates the methods of abortion'' and that ''the absence of a health exception will place women at an unnecessary risk of tragic health consequences.'' Despite this clear Court opinion, the bill's sponsors refuse to allow an exception to protect against adequate health consequences to a woman's health.

We should be working together to approve legislation that bans late-term abortions in a manner which protects the mother's health and which is consistent to the decisions of the Federal courts and the Supreme Court. The Late Term Abortion Restriction Act, which I cosponsor, does just this.

Mr. HOSTETTLER. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute. This amendment inserts a so-called ''health exception'' in the ban.

I hope my colleagues will realize that this substitute would completely destroy the ban on partial-birth abortions. The amendment relies upon an outrageously broad definition of health that would effectively allow the doctor to determine that any circumstance qualifies for a ''health exception.''

That means that a doctor could prescribe a partial-birth abortion because a mother is suffering from temporary depression or any number of other such circumstances.

The mother's depression should be taken seriously and she should receive the best care possible, but snuffing out the life of her child is not a good cure for depression.

In fact, partial-birth abortion has a great likelihood of being injurious to a woman's health—the doctor, while jabbing a pair of scissors into the child, could also stab the mother, as well.

The Subcommittee on the Constitution held hearings on the Partial Birth Abortion Ban on March 25, and during that hearing, Dr. Mark Neerhof testified that hemorrhage, infection, and uterine perforation are all possible results of partial birth abortion. These women are put at greater risk of severe bleeding, uterine rupture, and death, as well.

Women deserve better. Do not sell women short by making them pawns of abortion providers. It is not right to murder children—we should make strides to help these mothers without killing their children.

Every child is precious in God's eyes, and we must learn to look at all children and their parents through God's eyes.

I urge my colleagues to support the ban on partial-birth abortion, and to oppose the substitute.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

Pursuant to House Resolution 257, the previous question is ordered on the bill and on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

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

Mr. HOYER. 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 133, nays 287, not voting 14, as follows:

[Roll No. 240]

YEAS—133

Abercrombie
Allen
Andrews
Baca
Baird
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Delahunt
DeLauro
Dingell
Dooley (CA)
Edwards
Emanuel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hill
Hoeffel
Hooley (OR)
Houghton
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kelly
Kennedy (RI)
Kind
Kirk
Kleczka
Kolbe
Larsen (WA)
Levin
Lewis (GA)
Lynch
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Napolitano
Neal (MA)
Obey
Olver
Ose
Pascrell
Pastor
Price (NC)
Ramstad
Rangel
Reyes
Rodriguez
Roybal-Allard
Ruppersberger
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Schiff
Scott (GA)
Scott (VA)
Shays
Sherman
Simmons
Snyder
Spratt
Strickland
Sweeney
Tauscher
Thomas
Thompson (MS)
Tierney
Towns
Turner (TX)
Van Hollen
Visclosky
Watson
Watt
Waxman
Wu
Wynn

NAYS—287

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Latham
LaTourette
Lee
Lewis (CA)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryun (KS)
Sanders
Saxton
Schakowsky
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stark
Stearns
Stenholm
Stupak
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Waters
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—14

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Leach
Lewis (KY)
Lofgren
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2011

Messrs. OWENS, JANKLOW, HINCHEY, NADLER, HONDA, HOLT, ENGEL and Ms. WATERS changed their vote from ''yea'' to ''nay.''

Messrs. BACA, FATTAH, SWEENEY, GUTIERREZ, Ms. HARMAN and Ms. LINDA T. SÁNCHEZ of California changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

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

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

MOTION TO RECOMMIT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. BALDWIN moves to recommit the bill H.R. 760 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 17, line 2, strike ''abortion'' and all that follows through ''itself'' in line 6, and insert ''abortion that is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother''.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

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

Mr. Speaker, I rise today to offer a motion to recommit that would provide an exemption to protect the health of the woman.

Women do face profound medical crises during pregnancy. Conditions like hypertension, heart defects, diabetes, and breast cancer can cause serious trauma to a pregnancy. These potential traumas demand a health exception.

The consequences of this sweeping ban are frightening. Women may face severe health consequences such as death, infertility, paralysis, coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

□ 2015

Mr. Speaker, the list of consequences becomes even more horrifying when we realize that the families faced with crisis pregnancies are real.

Allow me to tell my colleagues the story of a Wisconsin family, Kathy and her husband, Chris. Kathy was over 6 months into her pregnancy when doctors discovered through an ultrasound that their baby had no brain. There was a tumor in the baby's brain cavity, and the ultrasound revealed other factors that would complicate the delivery and jeopardize Kathy's health. Her doctor recommended that she have an abortion. After the procedure, Kathy was in tears for weeks suffering from depression. She felt alienated and shamed, even though she had done nothing wrong.

The women who face this terrible decision want nothing more than to have a child and are devastated to learn that their baby cannot survive outside the womb. In consultation with their doctors and families, they make this difficult decision to preserve their own health and in many cases to preserve their ability to have children in the future.

How can we look a woman like Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future?

Simple humanity alone should be sufficient to justify a health exception; but if my colleagues need more, the U.S. Supreme Court has made it clear that such an exception is legally required. In Stenberg v. Carhart, the Court held the Nebraska ban was unconstitutional because there was no health exception for the mother.

Language in this motion is taken directly from the Supreme Court ruling. Denying a health exception is wrong and unconstitutional. If this bill passes today without this motion, women who are already dealing with the tragic consequences of crisis pregnancies will have their health put in serious danger.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, even if this bill were constitutional, it would not stop any abortions, just a procedure. The abortion would still take place using an alternative procedure. I am not going to inflame the debate by describing those alternative procedures; but this bill in its present form, without this amendment, is clearly unconstitutional.

This amendment would make it constitutional. The Supreme Court said in Stenberg v. Carhart that the ban on partial birth abortions was unconstitutional because the law lacked any exception for the preservation of the health of the; mother, and reading out of the case, it says subsequent to viability the State, in promoting the interests of the potentiality of human life, may, if it chooses, proscribe an abortion and in italics it says except where it is necessary in appropriate medical judgment for preservation of the life or health of the mother. This is what this amendment says. That was in italics.

Later down it says the governing standard requires an exception, and it says, where it is necessary in appropriate medical judgment for preservation of the life or health of the mother. That is the language of this amendment. It also says, our cases have repeatedly invalidated statutes, and the process of regulating the methods of abortion imposed significant health risks.

Finally, it says, but where the substantial medical authority supports the proposition that banning a particular abortion procedure could endanger women's health case law requires the statute to include a health exception when the procedure is, and listen up, necessary in appropriate medical judgment for the preservation of life or health of the mother.

That is what the Supreme Court said in June 2000. Five judges found that opinion. All five are still on the Court. They used the same language in this amendment in plain print, in italics and in quotes. They were serious about this legislation. We ought to read the case and apply the law and adopt the motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman's time has expired.

Who claims time in opposition?

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

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

This motion to recommit should be rejected for several reasons. The overwhelming weight of evidence compiled in a series of hearings indicates that partial-birth abortions are never necessary to preserve the health of a mother and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy as compared to other abortion methods. There have been no articles published in peer review journals that establish that partial-birth abortions are superior in any way to establish abortion procedures.

Furthermore, experience indicates that partial-birth abortions are not performed to preserve the health of a woman. The late Dr. James McMahon, developed this method and performed thousands of them, some as late as the ninth month. In 1995, Dr. McMahon submitted to the Committee on the Judiciary a graph and explanation that explicitly showed that he aborted healthy babies even in the third trimester which begins after the 26th week of pregnancy. His own graph showed, for example, that at 29 or 30 weeks one-fourth of the aborted babies had no flaw.

Furthermore, leading proponents of partial-birth abortion acknowledge that it could pose additional health risks because, among other things, the procedure requires a high degree of surgical skill to pierce the infant's skull with a sharp instrument in a blind procedure.

Dr. Warren Hern testified that he had very serious reservations about this procedure and that he could not imagine a circumstance in which this procedure would be safest. Although he was opposed to legislation banning partial-birth abortion, he also stated, ''You really can't defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it.'' He also stated, ''I would dispute any statement that this is the safest procedure to use.''

The procedure also poses the following additional health risk to the woman: an increase in the woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position.

Finally, a health exception, no matter how narrowly defined, gives the abortionist unfettered discretion in determining when a partial-birth abortion may be performed, and abortionists have demonstrated they can justify any abortion on this ground. Again, Dr. Warren Hern, ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.'' I repeat, ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.''

It is clear then that a law that includes such an exception would not ban a single-birth abortion; and for that reason, I would urge a ''no'' vote on the motion to recommit.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 165, nays 256, not voting 13, as follows:

[Roll No. 241]

YEAS—165

Abercrombie	Deutsch	Kennedy (RI)
Ackerman	Dingell	Kilpatrick
Allen	Doggett	Kind
Andrews	Dooley (CA)	Kleczka
Baca	Edwards	Kolbe
Baird	Emanuel	Kucinich
Baldwin	Engel	Larsen (WA)
Ballance	Etheridge	Lee
Bass	Evans	Levin
Becerra	Farr	Lewis (GA)
Bell	Fattah	Lowey
Berkley	Filner	Majette
Berman	Ford	Maloney
Bishop (NY)	Frank (MA)	Markey
Blumenauer	Frost	Matsui
Boucher	Gilchrest	McCarthy (MO)
Brady (PA)	Gonzalez	McCarthy (NY)
Brown (OH)	Gordon	McCollum
Brown, Corrine	Green (TX)	McDermott
Capps	Greenwood	McGovern
Capuano	Grijalva	Meehan
Cardin	Gutierrez	Meek (FL)
Cardoza	Harman	Meeks (NY)
Carson (IN)	Hastings (FL)	Menendez
Case	Hill	Michaud
Castle	Hinchey	Millender-McDonald
Clay	Hoeffel	Miller (NC)
Clyburn	Holt	Miller, George
Conyers	Honda	Moore
Cooper	Hooley (OR)	Moran (VA)
Crowley	Hoyer	Nadler
Cummings	Inslee	Napolitano
Davis (CA)	Israel	Neal (MA)
Davis (FL)	Jackson (IL)	Obey
Davis (IL)	Jackson-Lee (TX)	Olver
DeFazio	Jefferson	Ose
DeGette	Johnson (CT)	Owens
Delahunt	Johnson, E. B.	Pallone
DeLauro		

Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Ruppersberger
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—256

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos
Larson (CT)
Lewis (KY)
Lofgren
Rothman
Ryan (WI)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2040

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

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.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 282, nays 139, not voting 13, as follows:

[Roll No. 242]

YEAS—282

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—139

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Doggett
Dooley (CA)
Edwards
Emanuel
Engel
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kilpatrick
Kind
Kirk
Kolbe
Kucinich
Larsen (WA)
Lee
Levin
Lewis (GA)
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Slaughter
Snyder
Solis
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Burton (IN)
Carson (OK)
Dicks
Eshoo
Gephardt
Jones (OH)
Lantos

Larson (CT)	Lofgren	Ryan (WI)
Lewis (KY)	Rothman	Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2047

Mr. BERMAN changed his 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. LARSON of Connecticut. Mr. Speaker, I could not be present today, Wednesday, June 4, 2003, to vote on rollcall vote Nos. 236 through 242 due to a family medical emergency.

Had I been present, I would have voted:

''Yea'' on rollcall No. 236 on H. Res. 257; ''yea'' on rollcall No. 237 on H. Con. Res. 177; ''yea'' on rollcall vote No. 238 on H. Res. 201; ''yea'' on rollcall vote No. 239 on H.R. 1954; ''yea'' on rollcall vote No. 240; ''yea'' on rollcall vote No. 241; and ''no'' on rollcall vote No. 242.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I call up from the Speaker's table the Senate bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 3 is as follows:

S. 3

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Partial-Birth Abortion Ban Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart (530 U.S. 914, 932 (2000)), the United States Supreme Court opined ''that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure'' for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an ''undue burden'' on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the ''health'' of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not ''clearly erroneous''. A finding of fact is clearly erroneous ''when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed''. Anderson v. City of Bessemer City, North Carolina (470 U.S. 564, 573 (1985)). Under this standard, ''if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently'' (Id. at 574).

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the ''clearly erroneous'' standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan (384 U.S. 641 (1966)), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in ''gaining nondiscriminatory treatment in public services,'' the Court stated that ''[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.'' (Id. at 653).

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the ''bail-out'' provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that ''congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose''. City of Rome, Georgia v. U.S. (472 F. Supp. 221 (D. D. Col. 1979)) aff'd City of Rome, Georgia v. U.S. (46 U.S. 156 (1980)).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission (512 U.S. 622 (1994) (Turner I)) and Turner Broadcasting System, Inc. v. Federal Communications Commission (520 U.S. 180 (1997) (Turner II)). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be ''seriously jeopardized''. The Turner I Court recognized that as an institution, ''Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here'' (512 U.S. at 665–66). Although the Court recognized that ''the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,''' its ''obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' (Id. at 666).

(12) Three years later in Turner II, the Court upheld the ''must-carry'' provisions based upon Congress' findings, stating the Court's ''sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' (520 U.S. at 195). Citing its ruling in Turner I, the Court reiterated that ''[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to ''amass and evaluate the vast amounts of data'' bearing upon' legislative questions,'' (Id. at 195), and added that it ''owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'' (Id. at 196).

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a ''health'' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, and 107th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, and 107th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, ''there are very few, if any, indications for . . . other than for delivery of a second twin''; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is ''not an accepted medical practice,'' that it has ''never been subject to even a minimal amount of the normal medical practice development,'' that ''the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,'' and that ''there is no consensus among obstetricians about its use''. The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is ''ethically wrong,'' and ''is never the only appropriate procedure''.

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade (410 U.S. 113 (1973)) and Planned Parenthood v. Casey (505 U.S. 833 (1992)), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child ''in a state of being born and before actual birth,'' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a ''person'' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a ''person''. Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are ''ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb''. According to this medical association, the '''partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body''.

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL-BIRTH ABORTIONS

''Sec.
''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of this chapter.

''(b) As used in this section—

''(1) the term 'partial-birth abortion' means an abortion in which—

''(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

''(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

''(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however,* That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

''(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion.

''(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

''(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

''(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions ..... 1531".

SEC. 4. SENSE OF THE SENATE CONCERNING ROE V. WADE.

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in Roe v. Wade (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in Roe v. Wade established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in Roe v. Wade (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

MOTION OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 257, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves to strike all after the Enacting clause of S. 3, and insert in lieu thereof the provisions of H.R. 760 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

MOTION TO GO TO CONFERENCE

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1 of rule XXII, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the House insist on its amendment to S. 3 and request a conference with the Senate thereon.

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Speaker, I offer a motion to instruct the conferees.

The Clerk read as follows:

Mr. NADLER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 3 be instructed to insist that—

(1) the committee of conference allow opportunity for members of the committee of conference to offer and debate amendments at all meetings of such conference; and

(2) all meetings of the committee of conference—

(A) be open to the public and to the print and electronic media; and

(B) be held in venues selected to maximize the capacity for attendance of the public and the media.

Mr. NADLER (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The gentleman from New York (Mr. NADLER) is recognized for 30 minutes.

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

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

Mr. NADLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, as I understand it, the motion says that the conferences should be open, and I am pleased to support the motion.

Mr. NADLER. Reclaiming my time, the gentleman is correct, the motion is to have the conference be open. I appreciate the gentleman's support.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume, and I just want to say that I support the motion, and hope it passes.

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

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. NADLER).

The motion to instruct was agreed to.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: From the Committee on the Judiciary for consideration of the Senate bill and the House amendment, and modifications committed to conference: Messrs. SENSENBRENNER, HYDE and NADLER.

There was no objection.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on Monday June 2, 2003, I was unavoidably detained in my district in Houston on official business and missed the following rollcall votes: Rollcall vote 227, H. Res. 159, if I had been present, I would have voted aye; rollcall vote 228, H. Res. 195, if I had been present, I would have voted aye; and rollcall vote 229, H.R. 1469, if I had been present, I would have voted aye.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 898

Mr. MCINTYRE. Mr. Speaker, I ask unanimous consent to have the gentleman from Missouri (Mr. GEPHARDT) removed as a cosponsor of H.R. 898.

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

There was no objection.

PARTIAL-BIRTH ABORTION BAN UNCONSTITUTIONAL

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, in an intent to correct the record, in the debate that we just finished, H.R. 760, I was taken to task of being wrong for a proposition that I raised on this floor.

Let me correct the record and say I was not wrong, I was right. This partial-birth abortion bill, H.R. 760, is unconstitutional for the same two reasons that the Supreme Court found other statutes attempting to ban partial-birth abortions unconstitutional.

First, H.R. 760 lacks a health exception which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion.

Second, the nonmedical term partial-birth abortion is overly broad and would include a ban of safe previability abortions. Banning the safest abortion option imposes an undue burden on a woman's ability to choose, and the life of the mother and the health of the mother, and the mother's ability to give birth in the future.

Finally, let me say this: We want to save lives, H.R. 760 does not.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DISPARITY OF COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight again to talk about the issue of the disparity between the price that Americans pay for prescription drugs and what the rest of the world pays for the same drugs.

On several occasions I have used articles from the newspapers, whether it be the New York Times or the Wall Street Journal, other newspapers, and I started many of my conversations with something that Will Rogers said so many years ago, and that is ''All I know is what I read in the newspapers.''

Today I read in one in the publications up here on Capitol Hill a story that really surprised me, the first story that they have actually done on the whole issue of prescription drugs, and they decided to do essentially a piece that destroys the credibility of one of the groups that I have gotten much of the research information that I have gotten in the past from, and that is the Life Extension Foundation, and I want to talk about some of the numbers that they have sent me.

I have never personally met anybody from Life Extension, but everything they have sent me checks out. So I have used their statistics in the past, and I will use them in the future. I have also been quoting from a book by

Katharine Greider. The title of the book, and I recommend it to all of my colleagues, is ''The Big Fix: How the Pharmaceutical Industry Rips Off America.'' I do not know what her philosophy is. I do not know what her politics are. I do not know what religion she practices, but I have to say that the research that she has done is extremely good and it raises some very difficult questions.

□ 2100

The other thing that I have been doing is talking to Members about these huge disparities between what we pay in America and what the rest of the world pays for the same drugs. Let me give my colleagues some examples. These are my own research, drugs that we actually bought at the Munich airport in Munich, Germany, and then we compared what the price is in the United States. Let us take the drug Glucophage. Glucophage is a wonderful drug, particularly for those people suffering from diabetes. Glucophage in the United States, 30 tablets, 850 milligrams, sells for about $30. That same drug in Germany sells for $5.

We can go on down the line. Cipro. This is the drug Cipro, a very commonly prescribed, very effective antibiotic made by a company called Bayer. In the United States we usually call it Bayer, Bayer aspirin. We are probably more familiar with that. But this drug in the United States sells for an average of about $55. It sells in Germany for $35.

We go on down the list. I will not read the whole list tonight, but the one that really chaps my hide is this drug right here. This is Tamoxifen. We bought this drug at the airport pharmacy in Munich, Germany, for $59.05 American. In this quantity, 100 tablets, 20 milligrams, in the United States this same drug sells for $360. $60 in Germany, $360 here.

The real point is this. I have shared this story, too. If you go to Tokyo, Japan and you order a steak dinner, about the cheapest you will find it in Tokyo is about $100. You can buy an equal quality, in fact perhaps a better quality steak anywhere here in the United States for probably $20. Why is there so much difference between what you pay for a steak in Tokyo versus here in the United States? The answer is simple. The people of Japan are a captive market. They do not allow other products to come in. That is what we have done with drugs in this country. We literally have made Americans a captive market.

We are talking about a prescription drug benefit and everybody is talking about coverage. Ladies and gentlemen, the issue is not so much coverage, because every senior in America has at least the opportunity to buy prescription drug coverage through the AARP and lots of other organizations. The problem is not coverage. The problem is affordability. We will never solve the entire problem for all of those seniors. One of the points that is made by Ms. Greider in her book, she mentions a study that was done. This is one of the most damning studies and every one of us should be ashamed. The study says that 29 percent of seniors say that they have had prescriptions that went unfilled simply because they could not afford them.

A couple of weeks ago I was addressing community pharmacists, and I asked them the question: Have you ever had a senior come in and give you a prescription and you told that senior how much this was going to be and they sort of dropped their head and said, well, maybe I'll be back tomorrow. And they do not come back because they cannot afford it. That is something we can change, that is within our power to change. Shame on us if we do not. I hope you will cosponsor my bill to give Americans access to world class drugs at world market prices.

VETERANS BUDGET CUTS

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to remind my colleagues who yesterday were announcing so passionately their love of the flag and all it represents, how 75 short days ago in this same room we stood in the People's House and stripped the veterans budget by almost $30 billion.

I have heard my colleagues on the other side accuse those who oppose the flag amendment as being unpatriotic. No, Mr. Speaker, what is disgracefully unpatriotic and a flagrant dishonor to the hundreds of thousands of Americans who died defending this country, and to those who even now are still in harm's way overseas, are the reverse Robin Hoods that walk these halls of Congress, the ones who find it so easy to sneak money to their country club buddies for their tax breaks while stripping the benefits and services from those who fought to defend the very freedoms that our flag represents. To all of those who are so quick to question their opponents' patriotism, where was your patriotism when you cut almost 20,000 VA nurses? Where was your patriotism when you voted for the loss of 6.6 million outpatient visits? Were you waving your flag as you voted to drop over 160,000 veterans from the VA health care system? I missed the rendition of the Star Spangled Banner when you voted to reach into the pockets of our Nation's service-connected veterans and rob them and their survivors, their widows and children, of a portion of their promised compensation.

And the list goes on. Just today these same hypocrites, calling themselves patriots, fought to take away women's constitutionally protected rights. This administration laughs in the face of our Bill of Rights as it holds thousands of people in jail without any due process under the guise of national security. At this very moment there are Haitians being held illegally in prison even after a judge ruled in their favor. They offer no threat to this country, but Attorney General Ashcroft is arbitrarily taking their rights. Not only is this administration arresting adults but they are arresting children. These are the actions of a dictator. And worst of all, the administration has lied time and time again to the American people when trying to invent reasons to preemptively invade Iraq. I cannot find a shred of patriotism in any of this.

Mr. Speaker, I call on my so-called patriots here who proclaim so loudly their love of the flag to put their money where their mouth is. Everybody can talk the talk. It takes a real patriot to walk the walk. I stand in protest of this House being derelict in its duties and leaving our veterans behind. Wake up, America.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Texas (Mr. CULBERSON) is recognized for 5 minutes.

(Mr. CULBERSON. addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REGARDING THE CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, once again this week the Republican majority showed its true colors, a party looking out for the elite at the detriment of middle- and low-income working families. During the final negotiations on their tax package, Republicans deliberately chose to leave more than 12 million children behind. The omission of a provision that would have extended a $400 child tax credit to working families making $10,000 to $26,000 a year was neither an accident nor an oversight. The provision, which had not been included in President Bush's initial $726 billion proposal or the House Republicans' $550 billion, was added in the Senate by a Democrat, Senator BLANCHE LINCOLN. Why did this considerably small provision, $3.5 billion out of a giant $350 billion tax bill, make the Republicans' chopping block during their final negotiations with each House? As my colleagues already know, not one Democrat was allowed to negotiate the differences between the House and the Senate bill.

White House press secretary Ari Fleischer probably explained it best when he said, ''Does tax relief go to people who pay income taxes or does it go above and beyond the forgiving of

all income taxes and you actually get a check from the government for more than you ever owed in income taxes?'' The House majority leader supported Fleischer's claims yesterday when he said, ''To me, it's a little difficult to give tax relief to people that don't pay income taxes.''

Mr. Speaker, what the President's press secretary seems to forget and what the majority leader seems to ignore is that these workers do pay Federal taxes. 7.65 percent of their earnings go to pay for Social Security and Medicare. They are in fact paying taxes. Bob Herbert of the New York Times called the Republican action ''the reverse Robin Hood'' and he wrote, ''The fat cats will get their tax cuts. But in the new American plutocracy, there won't even be crumbs left over for the working folks at the bottom of the pyramid to scramble for.''

After realizing that the Republicans had left this provision out of the final tax bill, several of my Democratic colleagues introduced a bill earlier this week that would repair the damage from this irresponsible tax package. Congressman RANGEL'S legislation would provide greater tax relief to the families of 19 million children and the legislation is fully paid for so this relief would not add to the record deficits created by the President and the Republicans in Congress.

Yesterday, Democrats in the House said they would not allow business to continue as usual around here until Republicans agreed to address the Rangel legislation. Not only did Majority Leader TOM DELAY say the House would not consider the Rangel legislation, but in attempting to justify this action, the gentleman from Texas (Mr. DELAY) said, ''There are a lot of other things that are more important than that.''

Mr. Speaker, how can the majority leader say that helping these children is not important? I think it is very sad, Mr. Speaker, because the Republican leader's statement is not shocking to anyone who watches what goes on around here. In fact, unlike some of his Republican colleagues, at least Congressman DELAY tells it like it is. And what it is, is that the Republican leadership continues to do the important work for the wealthiest elite in this country at the detriment of low- and middle-income families. Just 2 weeks after the Republicans passed their tax bill, the Tax Policy Institute released a report yesterday showing that the middle class tax share is set to rise, a surprise to no one. The report, which analyzed the three tax initiatives President Bush has signed into law, concluded Americans earning between $28,000 and up to $337,000 will soon take on a greater share of the taxes than they had before President Bush took office. The only people that benefit are the millionaires.

Mr. Speaker, I just hope that one day these Republican attacks on low- and middle-class people will come to an end, but so far they are not coming to an end and I expect them to continue with this Republican leadership.

REPORT CONCERNING IRAQ'S WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, as the President arrived in Europe during this recent and historic journey, culminating, we hope, in progress today in the nation of Jordan, several days ago he was greeted with what can only be described as a hysterical European press attack on what were called the lies and distortions of this administration relative to its pronouncements about Iraq's weapons of mass destruction in the months leading up to Operation Iraqi Freedom.

After that hysteria in the European press, even some editorial pages in the United States have gone forward with similar recriminations and I thought that it would be useful tonight, Mr. Speaker, to rise and talk about the facts of weapons of mass destruction. I do so having literally just come this morning from a briefing by the Under Secretary for Arms Control for the United States Department of State, Mr. John Bolton, perhaps one of the most distinguished and informed leaders in our Nation, on the subject of arms control and weapons proliferation.

Mr. Bolton spoke before us today of the efforts within Iraq, the Iraq survey group, that he believed would bear fruit soon, in his words, in finding both evidence of a WMD program and also ultimately weapons of mass destruction themselves. He said that he believed that we would be soon finding weapons and the means of production in due course. But where comes his confidence, Mr. Speaker? Perhaps it comes with a brief recitation of the history of the region. People are very quick to forget, especially in the European press that seems to suggest that this idea of Iraq having weapons of mass destruction was somehow invented out of whole cloth.

Many seem to forget that it was Iraq themselves, 18 April 1991, that provided an initial declaration required under U.N. resolution 687 declaring themselves, Iraq declared themselves in the possession of chemical weapons and materials and 53 al Hussein and Scud type long-range ballistic missiles. At that point in April of 1991, they denied the presence of any biological weapons. By May, Iraq submitted a revised declaration covering additional chemical weapons and a refinement of the missile declaration. And then after pressure from UNSCOM, Iraq admitted in August of 1991 that they had a biological research program for defensive military purposes.

According to UNSCOM estimates, Iraq acknowledged that they were in possession of 10,000 nerve gas warheads, 1,500 chemical weapons and 412 tons of chemical weapon agents. 1991. As Under Secretary Bolton said today, it has been the unchanged position throughout the Clinton administration and through the Bush administration that those weapons are unaccounted for to this day. Both administrations held, in Mr. Bolton's words as a representative of the State Department, precisely the same view of these weapons, that were not invented by some political spinmeister in the run-up to Operation Iraqi Freedom, they were admitted to by the regime in Baghdad, who went on year after year delaying inspections, denying their presence and refusing to prove their destruction, leading up to the 1998 expulsion of U.N. weapons inspectors, resulting in President Clinton's attack on Iraq with cruise missiles. And President Clinton, of course, gave the reason at that time that he needed to ''attack Iraq's nuclear, chemical and biological programs and their capacity to threaten their neighbors.''

And so I thought it important tonight, after hearing on the International Relations Committee, Mr. Speaker, from John Bolton, the Under Secretary of Arms Control, that there is confidence that the Iraq survey group at the State Department will bear fruit. We will continue to find evidence, like the mobile labs, like the unarmed aerial vehicles, we will continue to find evidence of a WMD program in Iraq.

□ 2115

That confidence arises not from the heart of the White House or the West Wing, but, rather, from the pronouncements of the regime in Iraq about their own possession a decade ago of hundreds of tons of chemical and biological agents. The facts speak for themselves.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 222, ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT AND S. 273, GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–140) on the resolution (H. Res. 258) providing for consideration of the Senate bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and for consideration of the Senate bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–141) on the concurrent resolution (H. Con. Res. 190) to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H. CON. RES. 190, ESTABLISHING JOINT COMMITTEE TO REVIEW HOUSE AND SENATE MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS FOR THE AMERICAN PEOPLE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider House Concurrent Resolution 190;

The concurrent resolution shall be considered as read for amendment;

The concurrent resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and

The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from California?

Mr. MCDERMOTT. Mr. Speaker, reserving the right to object, maybe a little explanation about what we are doing would help.

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

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

We have, I am very happy to say, in the Committee on Rules worked with the minority to put into place an agreement where, under unanimous consent, we will establish a joint committee that will be addressing the issue of the continuity of Congress. We are going to be tomorrow working on this with the gentleman from Texas (Mr. FROST), and this request will simply allow us to bring this measure up.

Mr. MCDERMOTT. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

(Mr. TANCREDO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

(Mr. WAXMAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TAX RELIEF FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, yesterday those opposed to tax relief came to the floor to wage an orchestrated campaign of disinformation against the Jobs and Growth Act. Having lost the battle to convince the voters that tax relief is fundamentally bad, and unable to win the legislative battle over passage of the tax cuts, Democrats are now engaged in damage control. That means that they will lie, twist and distort the truth about the benefits of the plan, benefits that extend to nearly every person who actually pays Federal income taxes.

They were on the wrong side of the issue then, and they are on the wrong side of the issue now. At least they are consistent.

Fortunately, Republicans have the truth on our side and we are also consistent. We are consistently supporting legislation that will give working families tax relief.

The facts are that the tax cuts Republicans passed will do these things:

First, it will take an additional 3 million low income families off the Federal tax rolls completely. Let me repeat this, because I know as soon as I am finished, an opponent of tax relief will say this bill does nothing for the working poor. This bill takes an additional 3 million low-income families off the Federal tax rolls completely.

Second, we have also expanded the 10 percent tax bracket and increased the standard deduction for married couples. Both of these provisions are targeted to low and middle-income families.

Third, the decision at the center of this maelstrom of misinformation, the child tax credit. Republicans raised the child tax credit from $600 to $1,000 effective immediately. All those families with children who pay Federal taxes will be able to take advantage of this credit.

Those who oppose the tax relief plan are claiming this provision ignores some families. Absolutely untrue. Families that pay zero Federal taxes will not get this tax credit because they are already exempt from paying any Federal taxes. This credit is for the millions of families that do pay Federal taxes, giving them tax relief.

The frantic attempts to discredit the jobs and growth plan are proof of just how great these tax cuts are for hardworking Americans. Those who oppose tax relief know that they have made a mistake and, instead of owning up to that mistake, they are trying to cover it up.

Mr. Speaker, taxpayers should immediately adjust the amount withheld from their paychecks for Federal income taxes so that they feel the tax relief as soon as possible. When Americans start to keep more of their paychecks, when they get that child tax credit, they are going to remember who stood here and told them they did not deserve tax relief, and it was not the Republicans.

WHERE IS THE JUSTIFICATION FOR WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, it is very difficult to stand on the floor of the House to question whether those in power deliberately misled and deceived the American people and the community of nations. However, the events in Iraq leave me no other choice.

Our President, Secretary of State, Secretary of Defense and Undersecretary of Defense told the men, women and children of this Nation and of the world that we must go to war in Iraq because the country had weapons of mass destruction. Time and time again, they told us that Iraq posed a clear and present danger to the health, well-being and life of our people.

Why? Because Iraq had weapons of mass destruction and was prepared to use them or give them to terrorists who would use them.

So where are the weapons that President Bush promised?

Saddam is gone. For several weeks, American troops have been free to search Iraq. They have been free to search Iraq, virtually at will. Today we find no weapons of mass destruction. No chemical weapons, no biological weapons, no nuclear weapons. Nothing.

Where are the weapons? Where is the threat?

Mr. President, where is your justification for war? The credibility of this administration is at stake.

Americans died in Iraq because President Bush told us that Iraq had weapons of mass destruction. Children lost their mothers and fathers. Parents lost their sons and daughters. Women lost their husbands, and husbands lost their wives.

For what?

Excuses and explanations cannot answer this question. We need, we deserve, we demand justification.

What justified the loss of American lives? What justified taking $100 billion out of the pockets of our children, our grandchildren and unborn generations?

Three major American news organizations have cited leaks from Federal intelligence officials that the Bush administration manipulated intelligence about weapons of mass destruction, that the President and his advisers told the intelligence community to provide evidence to support the war in Iraq.

In Britain, senior war correspondent Max Hastings, who supported the war against Iraq, wrote that ''the Prime Minister committed British troops and sacrificed British lives on the basis of a deceit, and that stinks.''

These accusations cannot go unanswered. We are not just talking about the veracity of the Bush administration. We are talking about the credibility of the United States of America. Our Nation's reputation is at stake.

The next time we go to our allies, the next time we go to the United Nations, they will doubt what we say. Our enemies will be safer, and our citizens will be less secure.

The President and members of his administration have an obligation to come clean, to put their cards on the table and level with the American people. What did they really know and when did they know it?

They are the ones who toured the country, beating the drums of war. They are the ones who told the American people that we needed to go to war. They are the ones who traveled the globe campaigning for a war to save us all from weapons of mass destruction.

In the name of our fallen soldiers, in the name of the credibility of the United States of America, in the name of what is right and just and true.

We need an answer, and we need it now.

JOBS AND GROWTH, TAX CREDITS AND SMALL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, last Wednesday President Bush signed the Jobs and Growth Act of 2003, a bill that I was proud to cosponsor. As a former small businessman, I believe I know something about what it takes to help build businesses and create jobs. But although our bill had to be compromised, it still has the ability to create more and better jobs for the American people.

Yet there are some in this body who say that this legislation is not fair. They say there is not sufficient tax relief for low income Americans.

Mr. Speaker, number one, they are wrong; and, number two, this is just another example of Democrats trying to foment class warfare in America.

Let us get beyond the usual class warfare rhetoric and examine the facts.

First of all, for all practical purposes, low-income people do not pay income taxes. In fact, in this bill we take 3.7 million Americans off the tax rolls. That is right, almost 4 million people who paid income taxes last year will pay no income taxes this year. None. How much more tax relief can you receive than having your tax bill torn up, thrown away, abandoned?

These Americans join millions of other low-income Americans who have already been taken off the tax rolls in recent history.

Additionally, Mr. Speaker, by lowering marginal rates, other low-income Americans benefit as well. Millions who were in the 15 percent tax bracket last year are now in the 10 percent tax bracket. More tax relief for low-income families.

The net result now is this: The bottom 50 percent of wage earners in America pay only 3.9 percent of the income taxes. In other words, half of all Americans, low-income Americans, pay almost none of the national income tax burden. In contrast, the top 10 percent of wage earners in America pay almost two-thirds of the income taxes.

Mr. Speaker, the critics of the jobs and growth bill fail to appreciate two other important facts:

Number one, tax relief is for taxpayers. If you do not pay taxes, you should not expect tax relief.

Number two, if you want jobs, give job creators tax relief. Tax relief is about capital. You cannot have capitalism without capital. You cannot claim to love jobs and then vilify job creators.

Mr. Speaker, it is clear that some in this body want to turn our Tax Code into a welfare system. Well, guess what? We already have a welfare system. Fortunately, under a Republican Congress we have continued to move millions of Americans from welfare to work. And, to dispel the Democrat's disinformation campaign, we have increased Federal child care funding by 166 percent. We have increased Federal funding for housing by 75 percent. And, just this past year, we committed $17 billion to the TANF welfare program.

Tax relief is different from welfare. Tax relief is about allowing taxpayers to keep more of what they earn, earn through their hard work, helping to keep them keeping more of their own wages for their own families.

□ 2130

Mr. Speaker, let us not forget, it is not the government's money, it is the American family's money.

Furthermore, if critics of the Jobs and Growth Act truly care about low-income people, they should join us and help us move them off of welfare checks and onto paychecks, move them up from smaller paychecks to bigger paychecks. In other words, these critics should help us join together and create more jobs.

But Mr. Speaker, jobs are not created here in Washington, D.C. They are not created by the Federal Government. Jobs are created by hardworking risk-taking visionary men and women who, when granted access to capital, will roll up their sleeves and work hard to create that next generation of software or that new automobile repair shop or that innovative sign painting company, or any other enterprise. That is where jobs come from.

But Mr. Speaker, the number one impediment to launching new job-creating enterprises in America is access to capital. That is why we cut capital gains and dividend taxes in this bill. Additionally, we have lowered marginal tax rates. That is important because 80 percent of the tax relief at the top marginal rate goes to small businesses and entrepreneurs.

If we truly care about low-income families in America, let us quit trying to turn the Tax Code into a welfare system. If we want jobs, tax relief should go to job creators. If we want job fairness, then tax relief should go to taxpayers.

CHILD TAX CREDIT

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, our working families need a break. They need a break more than anyone in this country, especially since they bear the brunt of this weak economy. But, for some reason, the Bush administration continues to cast them aside in favor of the privileged few.

Working men and women are the backbone of this Nation. They are the ones who struggle day in and day out to provide the bare necessities for stable, happy homes. They know how hard it is to balance work and family, and they need our support.

The Bush administration, however, and the Republican leadership, in their faux ''compassionate conservatism,'' continue to slap working families in the face. They said that the recent tax cut bill would provide relief for all Americans. But here is the truth: increases to the child tax credits were given to the families who need it the least, while low-income families were left with nothing. Worse hit were working families earning between $10,500 and $26,600 a year. Working families in this tax bracket were completely ignored. The Republican leadership denied them their fair share.

Mr. Speaker, I want Members to hear about a mother from my district, the Sixth District of California north of San Francisco across the Golden Gate Bridge. Cori and her family were cast aside by the Republicans.

Let me tell the Members about Cori. Cori came to a local Head Start program at a low point in her life. She was

a single parent without a support system and with very little money and very little self-esteem. She had just completed a recovery program and was seeking to put her life back together. It was the first time in years that she felt needed, comfortable, and good about herself and her life.

Cori went on to volunteer for Head Start. She then completed an AA degree in early childhood development because she wanted to give back to the program that got her on her feet. Now Cori has been a Head Start employee for the past 3 years, with the goal of getting a Bachelor of Arts degree.

Mr. Speaker, why should Cori be denied the child tax credit, while those making more than $1 million a year received overall tax cuts totalling $93,500 each? What definition of compassionate are we using here?

This attack on our working families must end. But sadly, the attack on working families does not stop with denying the child tax credit to Cori. Sometime soon we will debate a Republican bill to deny workers the benefits of overtime pay, the heart of the very Fair Labor Standards Act.

If the poorly named ''Family Time Flexibility Act'' passes, the Republican leadership will take a step to undermine protection of the 40-hour work week, so employers can avoid paying their workers like Cori overtime. This is not only poor economics for struggling families who count on overtime, it is just plain bad public policy.

It is time that we restore the balance for families so they can earn a living and meet family demands at the same time. We must pass H.R. 2286, which will expand the child tax credit and marriage penalty relief for lower-income families like Cori and her two children. Passing the legislation can be the first step in reversing the wrong done to these hard workers.

In the coming year, I plan to introduce legislation called the Balancing Act, which will improve the lives of working families and their children. That would mean providing paid family leave after the birth of a child, increasing the funding for child care, granting school breakfasts for all students, and helping with the care of aging parents. I urge my colleagues to join me in that effort.

Mr. Speaker, it is time to restore compassion for our Nation's working families, rather than our Nation's millionaires. Our families need to know that we have not forgotten them.

THE HAND OF HOPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, it is often repeated that a picture is worth a thousand words. A very powerful picture exemplifying that statement began circulating across America this last November. I would cite the commentary that accompanied it.

It should be the picture of the year, or perhaps the picture of the decade, but it will not be. In fact, unless Members obtain a copy of the U.S. paper in which it was published, they probably never saw it.

The picture was that of a 21-week-old unborn baby boy named Samuel Alexander Armas. He was being operated on by a surgeon by the name of Dr. Joseph Bruner. The baby was diagnosed with spina bifida, and would not have survived if removed from his mother's womb. But little Samuel's mother, Julie Armas, was an obstetrics nurse in Atlanta and she knew of Dr. Bruner's remarkable surgical procedure. Practicing at Vanderbilt University Medical Center in Nashville, he performs these special operations while the baby is still in the womb.

During the procedure, the doctor removes the uterus via the C-section, and makes a small incision to operate on the baby. As Dr. Bruner completed the surgery on Samuel, this amazing little baby reached out his tiny but fully developed hand through the incision and firmly grasped the surgeon's finger. Dr. Bruner was reported as saying that when his finger was grasped, it was the most emotional moment of his life, and that for an instant during the procedure he was completely frozen and completely immobile.

The photograph captures this amazing event with perfect clarity. The editors title the picture ''hand of hope.'' They said that this tiny little hand seemed to emerge to grasp the finger of Dr. Joseph Bruner, as if thanking him for the gift of life. Little Samuel's mother said they wept for days when they saw the picture. She said the photo reminds us that pregnancy is not about disability or an illness, it is about a little person. The operation was 100 percent successful, and little Samuel was born in perfect health.

Mr. Speaker, abortion on demand has taken the lives of 43 million little Americans. That is 10,000 times as many innocent lives as were taken in the tragedy of 9–11. Before the sun sets in America today, 4,000 more will have died, nameless and alone.

Mr. Speaker, it is time for those of us on both sides of this aisle to begin to ask ourselves the real question, and the real question simply is this: does abortion take the life of a child? If it does not, then it is a nonissue. But if abortion really does kill a baby, then those of us in the seat of freedom standing here, given the charge to protect the innocent, are living in the midst of the greatest human holocaust in the history of humanity.

I would suggest, Mr. Speaker, if we lose the courage to protect the innocent in this place we will never find the will or the courage to protect any kind of liberty for anyone.

Mr. Speaker, today we were asked to protect a very small number of those children who were already partially born and only moments away from taking their very first breath. It beggars human imagination that voting to support such basic compassionate humanity is even debatable, and that it got 100 votes to the contrary is a disgrace beyond expression.

Mr. Speaker, the tiny hand of hope reaches out to all of us today and asks only for mercy. God help us all to hear that little voice in our own hearts.

CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise tonight to address the way that the Republicans have devastated the child tax credit for low-income families.

When the child tax credit was created in 1975, it was for the purpose of helping families, not hurting them; and it was not meant to create divisions within parents and families, it was intended to include and benefit all families.

Initially, it seemed that the Republicans and President Bush's $400 per child increase in the child tax credit was meant for all families. At least, that is what we were told. According to the Bush plan, families would receive the checks for this credit in either July or August as a way to jumpstart the economy that, of course, this administration has crippled, losing more than $2.7 million jobs since the beginning of the Bush presidency.

Somehow, though, the attempt to help families did not extend to low-income families. The same people who were already left out of the President's tax cut on dividends, which President Bush, of course, offered the wealthiest of Americans, are the same individuals, the same families that the budget cuts are hitting the hardest.

When Republican negotiators went behind closed doors without any Democratic conferees, suddenly the families of approximately 12 million children were excluded from the child tax credit. Nationwide, this means that one out of every six American children were excluded.

What the Republicans did here is really revealing on two different levels. First, it says that their credibility really is an issue. Second, even worse, it says that they think that the priorities of the country should focus on fattening the wallets of the wealthy, not helping those who need help the most.

The Republicans' actions clearly represent a credibility gap, also. When the tax plan first came through the House and Senate it included the child tax credit, but apparently that credit did not fit with the numbers that they needed. It did not fit with their effort to provide tax cuts for the wealthiest Americans. They needed $3.5 billion more for the cuts for the wealthiest Americans, so they eliminated credit for all families making between $10,500 and $26,625. What a terrible thing to do.

The Republicans, with the blessing of the White House, clearly recognized

the possibility of a backlash, I assume. Otherwise, why did they hide their actions from public view? President Bush said that all Americans would receive tax relief, but that was not the case. This sort of double-talk is not the way to run a country, not the way to run this country.

This double-talk also reflects the misplaced priorities that the Republicans and their leadership have for this country. What they are telling us is that it is important to have a dividend tax break for people who live well, extremely well. What they are also telling us is that it is not important to help those people who are struggling to find adequate housing, enough food, or a decent job.

Of course, children, unfortunately, are hit the hardest. These children come from families where the parents work hard and play by the rules. They deserve the same tax credit that other parents will receive, and they, of course, need much more. Their families do not have the advantages that others have.

In a jobs depression like President Bush has put us in, the loss of the $400 tax credit is really rubbing salt into their wounds. 8.1 million taxpayers will receive no relief under the Republican tax cuts, and 1.6 million of these taxpayers are Hispanic. 8.1 million represents 44 times the number of taxpayers who have incomes exceeding $1 million, yet the President and the Republicans have gone out of their way to help the wealthy.

□ 2145

In fact, those people with incomes over $1 million will receive an average tax cut of $93,500 in 2003. In terms of the child tax credit, one-half of all African-American families will not get the full tax credit and one-quarter will receive no tax credit.

For Hispanic families, 40 percent will not get the full tax credit, while one-fifth of Hispanic families will receive no child tax credit at all.

What message does this send to minorities? Of course, the Republicans have a checkered history of offending minorities, so perhaps this behavior is to be expected. But interestingly enough, the Republicans' actions on the child tax credit also offend military families. According to the Washington Post, as many as 200,000 military families were excluded from the increased child tax credit by the actions of the last few weeks.

This is just downright wrong. We should move immediately to pass legislation to restore the child tax credit and we should do it now.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Georgia (Mr. COLLINS) is recognized for 5 minutes.

(Mr. COLLINS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MISREPRESENTED JOBS AND GROWTH PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss some of the recent misrepresentations of the Jobs and Growth Package, a package that this Congress passed before the Memorial Day recess.

Last night I had the opportunity to listen to many of our friends on the other side characterize the tax cuts as misdirected and targeted to the wrong people.

According to the Joint Economic Committee, this tax bill provides the largest percentage reductions in the income taxes of low and middle income Americans, thereby shifting the tax burden upward. The Jobs and Growth Tax Act exempts another 3 million workers entirely from Federal tax liability. And low income families in particular benefit from this economic and growth tax package relief through a number of provisions.

First, there is the acceleration of the expansion of the 10 percent rate bracket which means that workers can earn more before they get moved into the 15 and 25 percent tax brackets, elimination of the marriage penalty, and the acceleration of the President's 2001 tax cut provisions to increase the child tax credit to $1,000.

Accelerating the expansion of the child tax credit will provide 26 million families with an average tax cut of over $600. This could mean a great deal to a family of 4 working to make ends meet each year. Even families who do not owe taxes may benefit from the increase in the child credit to $1,000 because of the current refundable feature of the credits.

So some ask, Who benefits from this credit? Well, what about 44 million children who will benefit?

So, Mr. Speaker, do not be fooled when certain groups do not explain the whole story. Some low income Americans are not included in this credit because their family income is low, but they qualify for other, more beneficial anti-poverty programs. And let us not forget that that group of low income taxpayers received significant benefit from the tax cuts that passed in this Congress in 2001, and they continue to benefit from that legislation today.

The fact is, Mr. Speaker, we cannot continue to punish those who work hard, take risks and are subsequently successful. We need their success for the economy to recover. The country needs the jobs their success will generate.

I remember a few weeks ago when the folks on the other side of the aisle opposed a tax cut of any kind during the debate on the economic stimulus bill. Well, Mr. Speaker, the time has come for them to figure out where they stand.

TAX CUT HURTS LOW INCOME CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, when the President and the Republican party made a decision that they would not extend the financial benefits of the increase in the child tax credit to all families, they essentially made a decision that they would leave out millions of young children who live in families who earn between $10,000 and $26,000 a year.

What they said was somehow those families and those children were not worth as much as the rest of children and families in this country. Thirty years ago we made a decision to have a child tax credit to help families with the cost of raising their children, to ease the burdens of raising their children, educating them, providing health care, and it was extended to all Americans with children.

Over time we have increased that child tax credit, and this year a decision was made that we would increase that child tax credit by $400 for each child, and those checks would go out this summer. But, tragically, in a back room, in the late night, in negotiating the bill under the leadership of Vice President CHENEY, the Republicans made a decision that low income working families would not get that child tax credit for their children. They will not get that $400 per child increase this summer.

Erin Doyel of Vallejo, California in the district in which I represent and her daughter, Adrienne, will not get that tax cut. Erin is going to work every day and earning $12,675 as a financial administrative assistant. Erin is doing everything that this Federal Government told her to do: To get off of welfare, to take responsibility for her child and to get a job. And she has been doing it and she is doing it well.

But as we can see here, Erin and her daughter Adrienne, Erin is asking the question, What about my kid? Why is not my kid worth the same tax credit as the other children? Because I only make $12,000 a year?

She needs this help for her family. She needs this benefit for her family so that she can provide the education, she can provide the wherewithal to hold her family together. She knows how much she needs it. She says they made a big mistake when they left her daughter out of the tax cut. She needs this money to help her pay the rent, to pay for her car, to pay for her job expenses.

That is what she would do with that money. She would immediately put it

back into the economy. That is why that tax credit was given to help those families with those expenses in a difficult environment.

Some people say that this was a mistake by the Republicans, but the fact is we know now as the facts have come out it was no mistake. The Senate, in fact, put this tax credit in for Erin and her daughter, Adrienne. But the Republicans in the House decided they were not going to accept it. They wanted to use the money that that tax credit would cost to give a greater tax cut to those people making over a million dollars. If they had given a $400 tax credit to Erin and her daughter, Adrienne, and to other similarly situated families and children, those millionaires would have only gotten a tax cut this year of $88,000 as opposed to $93,000.

So the Republicans in the House made a choice that they were going to deny Erin and Adrienne the tax credit. They were going to give it to the millionaires.

Now, we understand that the Senate is going to change this. The Senate has come to its senses. The Senate now understands what they have done to Erin and her daughter, Adrienne, and the impact that they are having on her ability to hold their family together. But we are also told that the majority leader, the Republican majority leader, the gentleman from Texas (Mr. DELAY) has said he is not going to do that. He is not going to pass that tax cut to Erin and her daughter, Adrienne. He is not going to do it. Republicans in the Senate who sponsored it originally, who voted for it, who participated have said we wanted to do this. It is a matter of equity. It is a matter of fairness. It is a matter of justice to these families who are working hard, as the gentlewoman from California (Ms. LEE) stated, playing by the rules, doing what we asked them, that they should be able to share in this tax cut like other families with children. But the Republicans in the House say no.

They say no to 12 million children and families earning between $10,000 and $26,000 a year. However you measure it, it is not very much money to survive in American society today. These are people who work hard. They do not get paid terribly well, but they get up every day and they go to work and they do many of the jobs that many other Americans would prefer not to do. And that is why we created the tax credit. To help them. And somehow, somehow along the way to finalizing that tax bill, somehow the Republicans in the House became mean spirited. Somehow they lost their sense of humanity and somehow they lost their direction in terms of economic justice and decency for all families and all children in America.

It is a sad and tragic day when a party loses its direction and becomes that cynical about decent people like Erin and her daughter, Adrienne.

TAX CUT HELPS WORKING AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, it is an interesting use of words that are employed to describe this event, this process, this phenomenon we call a tax cut, and those who are helped and those who are hurt. And we sit here tonight and we listen to people describe the perils of those who do not receive a ''tax cut.''

Tax cut. Now, let us analyze those two words. A tax. Something people pay. A cut. A reduction in that amount. In the case that was just brought to us and the case that, in fact, has been characterized over and over and over again as the people who do not, who will not be getting this tax cut, who are purposefully left out of this tax cut because we are so hardhearted on our side, we are so mean and hateful to people who make a little bit of money, very poor people, so that we decided, I know what. Let us make their life even more miserable. We will not give them their tax cut.

Mr. Speaker, it has nothing to do with this process of a tax cut. Because, of course, the people that we are talking about here, the people that are suggested are not participating in this, do not pay taxes; therefore, we cannot cut the taxes they pay. And they do not get a refund of those taxes because, in fact, they do not come to the government in the first place.

So now if you want to simply move money from one source to another, if you want to redistribute the wealth, which is, of course, part of our great tax scheme and something the Democrats have been so cozy with for so long, something they feel strongly about, something they can endorse wholeheartedly, moving money from people who pay taxes to those who do not, that is a different plan. That is okay. We do it all the time. It is called welfare. And that is, of course, an acceptable thing in this Nation. It is just not part of a tax cut plan.

The reality is that this is a problem we face with more than just this issue. The whole concept of what we are doing for working Americans, what we are doing with a tax cut proposal that is designed to increase the number of jobs out there. I certainly support this concept. I certainly supported the job stimulus package that was passed here in the House, and I hope that it works. It is designed to do just that. If we leave more money in the hands of the people out there to invest, to, in fact, create jobs, that is good, I am happy. Then people like the ones that we were talking about here earlier and that had been brought to our attention who are in the lower income levels of society, those people will benefit also and that is the whole purpose of a stimulus package. It is to increase the economic benefit to all Americans, to all working Americans. That is the whole idea.

Now, let us look at another aspect of this that I never ever see in terms of this being discussed, in terms of what really could help American jobholders or those people who are job seekers, the millions of Americans who are today unemployed or underemployed, the people who are making minimum wage, the people who are desperately looking to better their lives and are wondering about, in fact, what the government can do to help.

Well, I agree that one of the things we can do to help is, in fact, propose and, in fact, pass a tax cut like we have done. But there is something else that we can do and then I would encourage all of my friends on the other side of the aisle to help us do. And that is to do something about the massive number of people who are in this country illegally and working illegally, people who are here, low-wage, low-skilled workers who have come into the United States.

There are something like 13 million, maybe more than that, who are here today employed and they are actually illegally employed. They are employed by people who know that they are here illegally but it does not matter. They take their jobs, the jobs that could be going to other Americans, and, in fact, we allow that to occur. We encourage that.

□ 2200

We have all kinds of loopholes in our immigration, not just in the borders that exist, not just in the fact that we have porous borders through which these people come, take the jobs that American citizens would take if they had the opportunity, and in fact, even those jobs, American citizens who are working, many of them are working for very low wages. As has been talked about tonight over and over again, that is true, but the reality is that those wages are kept low by the massive number of people who are coming into this country illegally, with low skills and, therefore, get paid low wages, and just the numbers here depress the wage base.

I would like to have people support our efforts to try and secure the borders and stop all the loopholes in our immigration law. That would help working Americans.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

FAMILIES DO MATTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, meet the Narvaez family. Maria Guadalupe Narvaez and her two daughters, Alma and Elia. Maria also has a son.

Ms. Narvaez works very hard to take care of her children. As a day care teacher at the Howard Area Community Center in Chicago, which is my District, she takes good care of other people's children, too. She cares for other people's children as if they were her own. In this picture, she is standing in front of a sign at Family Matters, a community organization in my District that helps hardworking families with a variety of services.

Sadly, the Narvaez family does not matter much to the Republican leadership. For those of us on this side of the aisle, though, her family does matter. So, too, do the families of the 12 million other children who were tossed aside by the Republican tax bill negotiators.

About 1 million of those 12 million children who were left out live with parents who are serving on active military duty, our veterans, or who have spouses serving in the Armed Forces, the very people that this House today earlier paid verbal tribute to, even as they were dumped from the tax cut bill. By the way, the tax credit we are talking about, this refundable tax credit was started in the Nixon and Ford administrations.

Those children would have benefited in 2003 from the child tax credit provisions that the Republicans stripped from their bill in order to provide even more giveaways to millionaires.

Denying Ms. Narvaez and her three children and our heroic families from their child tax credit is unfair. It is mean-spirited and it is bad for the economy. After all, Mrs. Narvaez is not likely to invest her money in Bermuda tax havens. If the Republicans had given her the child tax credit she deserves, she would be buying shoes and clothes and other necessities for her children from local businesses. The money would have gone straight into circulation, helping the economy and creating jobs.

The Narvaez family matters to me. If it were up to me, they would get the child tax credit that they need and deserve. Unfortunately, the decision was not up to me. Maria and Alma and Elia were not ignored by accident. They were deliberately and callously determined to be unimportant.

They were included. They had been in the tax bill that was in the United States Senate until it became clear that the tax cuts had gone too high. So instead of saying, okay, well, what can we do to bring that dollar figure down, maybe we ought to slightly reduce the tax break that we give to millionaires; oh, no, this is the family that they decided to go after and millions of others like them.

The Republican leader, the gentleman from Texas (Mr. DELAY), yesterday made it perfectly clear what his priorities and values were. He said very succinctly, ''There are a lot of other things that are more important.'' According to him, low income children do not deserve to be a priority because their families pay little or no income taxes, even if they work every day, even if they are good and productive members of their community, and even though they do pay taxes. They pay payroll taxes, sales taxes, property taxes.

Families matter to Democrats, including families living in the majority leader's District, that he and his party and his President have so shamefully, or should I say shamelessly, chosen to leave behind.

So what is more important to the majority Republican leader? How about providing tax breaks to special interests and to members of the Bush cabinet. Treasury Secretary John Snow was the CEO of CSX Corporation, a corporation that paid no Federal income taxes, zero, in 2001, 2000 and 1998. John Snow would get at least $330,000 a year in dividend and capital gains tax cuts, more than Maria Guadalupe Narvaez would earn in 16 years at her current salary. That is how much his tax break is worth.

Most Americans think it is wrong to allow big companies to avoid taxes by stashing profits in offshore tax havens, but to the Republican leader, the gentleman from Texas (Mr. DELAY), it is more important to protect corporate tax evaders than to provide a little relief, a little help to Alma, Elia and Maria.

The Republicans took care of those who they cared about most and tossed aside those they do not care about at all. It is time for us to change the priorities of this country and give this deserving family the help that they need and want.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

(Mr. WELDON of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I applaud American enterprise. I applaud those successful individuals who even in the backdrop of a horrible economy are making millions and millions of dollars and seeing the money roll in as they count the dollars one by one by one by one. I applaud it. America is a capitalistic society. We encourage people to pull themselves up by their boot straps, be creative, found businesses and roll on to success.

We have looked at a world of corporate success over the last year, the WorldComs of the world, the Enrons of the world, and the list goes on and on and on. In spite of the great successes and failures that these great corporations have had, the tax bill that we have just passed has decided to reward them and their many other friends. Why? Because my good friends on the other side of the aisle say that they pay taxes and we do not want to reward those deadbeat, hardworking Americans who make between $10,500 to $26,625, working every day, leaving at 4 and 5 and 6 a.m. in the morning, arriving home on the local mode of transportation at 6, 7, 8 or 9 p.m., working every day, preparing dinner for their family minimally and rising again the next day, because they do not pay taxes, Mr. Speaker.

Let me correct the record. They do pay taxes. They pay payroll taxes, property taxes, sales taxes. They pay taxes.

I am a little offended, Mr. Speaker, when someone can suggest that we are trying to change the IRS system into a welfare system. The one thing that we have said in this country is that all of us deserve the dignity and respect that comes from being simply a human being. All of us may come upon hard times. In fact, we have been so generous over the years that we have been willing to bail out large corporations, wealthy in their own right, but we have said we need to bail out these corporations. Many of us have said that maybe that should be called corporate welfare, but we believe that because the engine of this Nation is business that we need to provide assistance so that these corporations can survive, but yet Republicans want to denigrate hardworking Americans making $10,500 a year and deny them a child tax credit.

Even more so, they do not want to come to this floor of the House for a lousy $3.5 billion and correct the travesty that they created just 2 weeks ago. And do my colleagues know that, Mr. Speaker, even the child tax credit that is in the bill, do my colleagues know the real secret? It expires in 2004. Why? Because they did not want us to know that they were actually imploding the budget, building the deficit and they did not want us to know that really this is a meager pittance that they are giving on the child tax credit because it really expires in 2004 because they wanted to give us the mirage of a $350 billion tax cut that ultimately may be $1.6 trillion, and the way to do that is to have these little expiration dates.

Not only are we playing games with hardworking Americans, denigrating them and suggesting that they are only welfare recipients and the only way that they should be able to get a child tax credit is we make the IRS system or the tax system a welfare system, but let me tell my colleagues again the secret, that this actually does not give Americans much of a break because in the Republican plan it expires in 2004.

Mr. Speaker, I am here to stand here tonight to applaud the hardworking

Americans who get up every morning and do the things that make this country run. I am proud of standing with them. I am proud of the Americans that work overtime and deserve overtime compensation, and I will stand against any legislation that desires to eliminate overtime compensation for comp time that may be given or may not, just as I am willing to stand for all the teachers' aides, nurses' aides, all of the hardworking bus drivers, all the hardworking sanitation workers and anybody else that works hard every day helping this country run.

I want people to have a child tax credit, 6.5 million families, 12 million children. Any day of this year, any day of my career, I will stand with the hardworking Americans over those folks who are fat and happy talking about they pay taxes. Americans who work hard pay taxes, too.

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 addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

(Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VETERANS BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I think the folks watching C–SPAN may sometimes get confused because they hear us stand here and give confusing or contradictory arguments. They do not know perhaps who to believe, but I want to speak about two things that we have done in the House recently, and I would challenge my colleagues on the other side of the aisle or the leadership within this administration to contradict what I am saying.

This House passed a budget not many weeks ago that cut veterans benefits over the next 10 years by $6.2 billion. That is a fact. It is an absolute fact, and tonight, in the United States of America, while we have young men and women defending our Nation in Iraq, we are rationing health care to our Nation's veterans, rationing health care.

This administration has decided to say to a whole host of veterans, which they call priority eight veterans, you are high income and, consequently, you are out of here, you cannot participate in the VA health care system.

What do they mean by high income? In my District, they can be making as little as $22,000 a year and be considered high income. Think of that. Not only are they wanting to simply deny care for many veterans, but for others they want to impose additional financial burdens. They want to increase the cost of a prescription drug from $7 to $15 a prescription. They want to add a new annual enrollment fee of $250. They want to increase the cost of a clinic visit from $15 to $20.

Mr. Speaker, when is it going to stop? When are we going to stop requiring more out of our veterans so that we can give larger tax cuts to the richest people in this country, many of whom have never served in the military?

□ 2215

But we did something else in this House a few days ago. We passed a tax cut bill. And in that tax cut bill we took care of the millionaires. In fact, in that bill, if you have an annual income of $1 million, you get a tax cut of about $93,000. But we did something else that is shameful. We actually excluded children of poor working families from receiving the child tax credit benefit. It was not a mistake. It was done purposefully. We excluded about 12 million of America's children from that benefit. Think of that.

CNN reported that ''Mr. DELAY, the conservative Texan, brushed aside criticism that the last bill didn't make an expanded child tax credit available to millions of poor families. But he said the House Republicans might support doing so if it prodded seniors to vote for a broader tax relief package.''

In other words, the majority leader is going to hold poor children hostage in an attempt to get a larger tax break for his wealthy friends. I think that is shameful. I know of no other word that accurately describes that policy.

But do not take my word for it, Mr. Speaker. I hope those watching on C–SPAN do not just assume that because I am a Democrat that I am standing up here and taking an unfair shot at the Republicans. Senator JOHN MCCAIN is quoted in this same CNN story as saying, in regard to this leaving out 12 million children in the Republican tax plan, ''My God, what kind of message are we sending when we leave out low-income families?''

And exactly in that category are the enlisted men and women who are fighting in Iraq. At this moment, in Iraq, are moms and dads who have children waiting here in this country. And the Republican tax plan excludes those children from this tax credit benefit.

Senator MCCAIN concludes his remarks by saying, ''it's beyond belief.'' That is not a Democrat talking, that is Republican Senator JOHN MCCAIN.

Mr. Speaker, this issue gets to the heart of who we are as a people. We are willing to give huge tax cuts to the richest among us and exclude 12 million of America's children who live in poor families.

REPUBLICAN TAX RELIEF BILL

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, we all could bring a picture, as some of my colleagues have done, of a family who has contacted them and told them a story. Mine today was from a woman, a grandmother, who told me ''I can't understand the unfairness of this bill. Why should my son and his wife and two children not be eligible for any kind of tax relief?''

Her son works at a job where he gets $11 an hour. If you multiply that out times 40 hours a week, times 52 weeks a year, no vacation, you are going to wind up around $22,000. And one of the interesting things is the answer that comes from deep in the heart of Texas, and that is ''there are a lot of other things that are more important than that,'' giving tax breaks to this family. ''To me, it is a little difficult to give tax relief to people that do not pay income tax.''

Now, those are the words of our distinguished majority leader on the other side, which really reveals where he is coming from. He says, if you do not pay income taxes. Now, every single one, including my family and the family that the gentleman from California (Mr. GEORGE MILLER) had up here and the family the gentlewoman from Illinois (Ms. SCHAKOWSKY) had up here all pay payroll taxes. They pay for Social Security and they pay for Medicare. They pay 7 percent of their paycheck for that, which means that my family that makes $22,000 pays $1,400 in taxes into the Medicare account and into the Social Security account.

The Republicans say we are going to take that money out of the Social Security account and that money out of the Medicare account and give it to the rich people, and we are not going to give one thin dime to somebody who is working 8 hours a day, 40 hours a week, 52 weeks a year. Not one thin dime. But we are going to give his payroll taxes to the rich. That is the only way we could be $400 billion in debt this year is to keep borrowing from every account possible, including Medicare and Social Security.

Now, I want to take it a little bit further here. We have got more important things to do, the majority leader said. Well, what were the more important things we have to do? Today, we did not have a vote until 4:30. Oh, it is only, I suppose, a happenstance that that is when people got off the green from the Kemper Open golf course. That was what was more important than working on that issue.

Or, if you want to look at what we have done on the calendar this week, what have we done? Well, we congratulated Sammy Sosa for hitting 500 home runs. We renamed a post office in North Carolina. We dealt with some Indian water rights in the southwest. We did a land exchange in the Grand Teton National Park. We named a courthouse

in Indiana for Birch Bayh, a former Senator. Then we got to the heavy stuff. The heavy stuff. That is when we went after the first amendment again for the tenth time in the last 6 years. We voted on flag burning. Oh, but we have to do that again. We have done it every year since 1994, but we had to do it again because we did not have any time.

Actually, what we had to do was fill up the time so we would not have any time to deal with a tax credit for the working class in this country, the people who work and do not have any of the perks. They do not have anything. They have to get up every morning and go to these jobs where they make $7, $8, $9, or $10 an hour.

Oh, the other thing we did today. We did not have any time today because we had to spend, after we got back from the golf course, we had to have a big debate on partial-birth abortion. We have done that I do not know how many times, and it probably is going to get through and get to the Supreme Court and be declared unconstitutional, but we had to do that today.

We could not give $400 to a working class family. We are giving $350 billion but we could not find $3.5 billion to give that $400. Yes, we are very busy, Mr. Majority Leader. I hope you shot a good game today.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

(Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

(Ms. WATSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

(Mrs. MALONEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TAX RELIEF BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. KINGSTON) is recognized for half the time remaining before midnight as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I have to say the Democrats evidently are fired up tonight. They are feeling good. They think they have some rhetorical traction here. And it is all rhetoric when you listen to the Democrats, including the last Member, who said our majority leader was playing golf today, which was absolutely not the case. And I resent the fact that somebody would be saying a Member of Congress was out goofing off today, particularly when it is a member who works about an 80 or 90 hour workweek on average.

It is just silly, though, Mr. Speaker. The Democrat party had an opportunity to take three million low-income workers off the tax rolls 2 weeks ago, and nearly every one of them voted against that. I want to repeat that. The Democrats had an opportunity to take three million low-income workers off the tax rolls and they voted against doing it. Now, in typical fashion, the battle has been fought, the soldiers have kind of gone home, and they are wishing to reinvent the history and say, well, you all should have done this, you should have done that. But where were they at the time? This proposal was out there and they did not do it.

But just keep in mind, only in Washington do you give a rebate to somebody who has not paid into a system. The reality is, in the real world, you get a rebate when you have paid something in. The Democrats are simply back on their mantra of the Democrat party: Expanding welfare. They should not be talking about tax refunds, they should be talking about welfare expansion.

And maybe the welfare bill needs to be looked at again. It has been reauthorized. We know that under the Democrat leadership there were 14 million people on welfare. Today there are five million. That is a drop of nine million people off welfare under Republican leadership. Welfare reform, which all the Democrats voted against, has been a great success, but we do not get that kind of real discussion with them. Now they want to expand welfare. Maybe if their idea is a good one they should come out with a new welfare expansion bill so we can talk about it.

Here we have under our bill a family of four making $11,000, pays no income taxes, about $842 in payroll taxes, and receives about $4,140 under the earned income tax credit. We are trying to do everything we can to reach out and help the working poor. We would like to have the Democrats help with this. Unfortunately, they do not seem to be there. As a matter of fact, this so-called tax refundability was part of the Bush 2001 tax bill, which they all voted against. So they are now mad because they voted no 2 weeks ago and they voted no 2 years ago, and they are blaming it on us.

Come on, guys, give us a helping hand. We want your ideas, but do not vote no, then pout and go home, which seems to be kind of the trend these days. They did not like the war, they do not like Bush, and so any success Bush seems to have in terms of legislative battles in Washington they will vote no on.

Mr. Speaker, I will submit this for the RECORD, but I am going to read a part of it. It is an editorial from the Wall Street Journal today. Unfortunately, I do not have the specific author of it. It says, ''The new tax bill exempts another three million plus low-income workers from any Federal tax liability.'' And you would think that they would be pleased, but instead they all have outrage, saying it should go further. ''The tax bill the President signed last week increases the per child Federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2000 bill.'' Again, a bill all the Democrats enthusiastically voted against. What the Democrats are saying is they want more refundable tax credits. Again, it is just welfare.

So I am going to submit this for the RECORD, Mr. Speaker.

[The Wall Street Journal, June 4, 2002]

EVEN LUCKIER DUCKIES

The new tax bill exempts another three million-plus low-income workers from any federal tax liability whatsoever, so you'd think the nation's class warriors would be pleased. But instead we are all now being treated to their outrage because the law doesn't go further and ''cut'' incomes taxes for those who don't pay them.

This is the essence of the uproar over the shape of the child-care tax credit. The tax bill the President signed last week increases the per child federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2001 tax bill. But Republican conferees decided that the increase will not be paid out to those too poor to have any tax liability to begin with.

Most Americans probably don't realize that it is possible to cut taxes beyond zero. But then they don't live in Washington, where politicians regularly demand that tax credits be made ''refundable.'' which means that the government writes a check to people whose income after deductions is too low to owe any taxes. In more honest precincts, this might even be called ''welfare.''

But among tax cut opponents it is a political spinning opportunity. ''Simply unconscionable,'' says Presidential hopeful John Kerry. The Democratic National Committee declares that the ''Bush tax scheme leaves millions of children out in the cold . . . one out every six children under the age of 17, families and children pushed aside to make room for the massive tax cuts to the wealthy.''

Senator Olympia Snowe, the media's favorite Republican now that John McCain isn't actively running for President, says she is dismayed.'' ''I don't know why they would cut that out of the bill,'' adds Senator Blanche Lincoln (D., Ark.). Those last two remarks take chutzpah, because if either woman had been willing to vote for the tax bill, a refundability provision would have been in it.

Senator Lincoln introduced the idea in the Senate Finance Committee, but then announced she wasn't going to vote for the bill anyway. Ms. Snowe was also one of those, along with Senator George Voinovich (R., Ohio), who insisted that the bill's total ''cost''—in tax cuts and new spending—not exceed $350 billion. Something had to give in House-Senate conference to meet that dollar

limit, and out went refundability. The bill passed by a single Senate vote, with Vice President Dick Cheney breaking the tie.

As it happens, the tax bill does a great deal for low-income families even without the refundable child credit addition. It expands the 10 percent income tax bracket, meaning that workers can earn more before leaping into the 15% and 25% brackets. This is a far better way to provide a tax cut than is a refundable credit, because it lowers the high marginal-tax rate wall that these workers face as their credits phase out at higher income levels.

There's also $10 billion in the bill earmarked for Medicaid, the state-federal health insurance program for the poor. And any family that actually has any remaining tax liability benefits from the extra $400 in child tax credit.

More broadly, the critics want everyone to forget how steeply progressive the tax code already is. IRS data released late last year show that the top 1% of earners paid 37.4% of all federal income taxes in 2000. The top 5% paid 56.5% of federal taxes, and the top half of all earners paid 96.1%. In other words, even before President Bush started slashing taxes on the poor by increasing the child tax credit in 2001, the bottom 50 percent of filers had next to no federal income tax liability.

But don't low-income workers have to cough up the payroll tax? They certainly do, but don't forget that the federal Earned Income Tax Credit was designed to offset payroll taxes and is also ''refundable.'' In 2000, the EITC totaled $31.8 billion for 19.2 million Americans, for an average credit of $1,658. Some 86% of that went to workers who had little or no income tax liability.

Republicans who just voted for the tax cut could be less defensive and try to explain all of this. But instead too many of them are heading for the tall grass, with Senate Finance Chairman Chuck Grassley already promising to cave as early as this week on the child tax credit. This is the kind of political box Republicans walk into when they endorse tax credits that favor one group over another. Democrats are better at playing favorites.

We raised some hackles last year when we noted this growing trend that more and more Americans paid little or no tax. ''Lucky duckies,'' we called this non-taxpaying class at the time. Notwithstanding liberal spinners, after this tax bill they're even luckier.

Let me just speak again for the House, Mr. Speaker. We want the Democrats' ideas. We want the Democrats at the table. We do not like this pouting: I did not get it my way, therefore, I am going to vote no. Offer an amendment, and if your amendment passes, vote for the bill. If they just want to spout the rhetoric and not the policy, that is one thing, and of course it is mighty suspicious that that might be what they are doing, but there are a lot of things we would like the Democrats' help on. We in the Republican Party would like to make the child tax credit permanent. Right now, the thousand dollar child tax credit expires in 2 years. We would like to have the Democrats help us out on that. Do you think they will?

If the Democrats want to help families with children, they should join us in eliminating the marriage tax penalty because that is phasing out. Will they help us? Will they help make the marriage tax penalty relief permanent? If they really want to help us, they could make the 10 percent tax bracket permanent. Will they do that, Mr. Speaker? Probably not. These are things that will help the American working poor and they will help American families.

Another thing they could help us with, Mr. Speaker, not that they go out of their way to ask me for my opinions, but they could help us with tax simplification. The gentleman from Georgia (Mr. LINDER) and the gentleman from Minnesota (Mr. PETERSON), a Democrat, has offered a tax simplification bill which I think would be extremely helpful. But we cannot get much support from most of the Democrats, and certainly none of the Democrat leadership.

Incidentally, Mr. Speaker, I am going to help the Democrats refresh their memory. I am pulling up the voting record. And if I get that from the cloak room before I finish tonight, I will submit it for the RECORD. For those Democrats who are demanding that this tax credit be changed, I want to make sure they realize they voted against the original bill. This is just for those people who may be tuning in and listening, at the risk of missing a Seinfeld rerun tonight.

□ 2230

Well, here we go. These are the folks who voted against H.R. 1836 on May 16, 2001. This was the refundable tax credit, as the Democrats call it. I cannot ask the Speaker which Democrats were speaking tonight. I do not know if that is allowed under the parliamentary rules, so I am going to go from memory. I believe the gentlewoman from Texas (Ms. JACKSON-LEE) was raising Cain, and she voted no in the first place. The gentleman from Washington (Mr. MCDERMOTT), I cannot see offhand how he voted. Oh, the gentleman from Washington (Mr. MCDERMOTT) voted no for the original bill.

Let us check the gentlewoman from California (Ms. PELOSI). She is one of their leaders, as I recall. I cannot quite see her name. She voted no, Mr. Speaker. In fact, 197 Democrats voted no to begin with. All this righteous indignation we are hearing about they do not like our refundable tax credit, they all voted against in 2001. I will submit this so my dear friends on the other side of the aisle can check and see how they voted. Maybe that will soften their rhetoric. Maybe they can start their speeches saying I voted against this, but you all should have done a better job even though I was against you the whole way.

FINAL VOTE RESULTS FOR ROLLCALL 118

H.R. 1836: Yea-and-Nay, 16-May-2001, 4:10 p.m.

Question: On Passage.

Bill Title: Economic Growth and Tax Relief Reconciliation Act.

	Yeas	Nays	Pres	NV
Republican	216			4
Democratic	13	196		1
Independent	1	1		
Totals	230	197		5

YEAS

Abercrombie	Graham	Pence
Aderholt	Granger	Peterson (PA)
Akin	Graves	Petri
Armey	Green (WI)	Pickering
Bachus	Greenwood	Pitts
Baker	Grucci	Platts
Ballenger	Gutknecht	Pombo
Barr	Hall (TX)	Portman
Bartlett	Hansen	Pryce (OH)
Barton	Hart	Putnam
Bass	Hastert	Quinn
Bereuter	Hastings (WA)	Radanovich
Biggert	Hayes	Ramstad
Bilirakis	Hayworth	Regula
Bishop	Hefley	Rehberg
Blunt	Herger	Reynolds
Boehlert	Hilleary	Riley
Boehner	Hobson	Rogers (KY)
Bonilla	Hoekstra	Rogers (MI)
Bono	Hostettler	Rohrabacher
Brady (TX)	Houghton	Ros-Lehtinen
Brown (SC)	Hulshof	Roukema
Bryant	Hunter	Royce
Burr	Hutchinson	Ryan (WI)
Burton	Hyde	Ryun (KS)
Buyer	Isakson	Saxton
Callahan	Issa	Scarborough
Calvert	Istook	Schaffer
Camp	Jenkins	Schrock
Cantor	John	Sensenbrenner
Capito	Johnson (CT)	Sessions
Castle	Johnson (IL)	Shadegg
Chabot	Johnson, Sam	Shaw
Chambliss	Jones (NC)	Shays
Clement	Keller	Sherwood
Coble	Kelly	Shimkus
Collins	Kennedy (MN)	Shows
Combest	Kerns	Simmons
Condit	King (NY)	Simpson
Cox	Kingston	Skeen
Cramer	Kirk	Smith (MI)
Crane	Knollenberg	Smith (NJ)
Crenshaw	Kolbe	Smith (TX)
Culberson	LaHood	Souder
Cunningham	Largent	Spence
Davis, Jo Ann	Latham	Stearns
Davis, Tom	LaTourette	Stump
Deal	Leach	Sununu
DeLay	Lewis (CA)	Sweeney
DeMint	Lewis (KY)	Tancredo
Diaz-Balart	Linder	Tauzin
Doolittle	LoBiondo	Taylor (NC)
Dreier	Lucas (KY)	Terry
Duncan	Lucas (OK)	Thomas
Dunn	Maloney (CT)	Thornberry
Ehlers	Manzullo	Thune
Ehrlich	McCrery	Tiahrt
Emerson	McHugh	Tiberi
English	McInnis	Toomey
Everett	McIntyre	Traficant
Ferguson	McKeon	Upton
Flake	Mica	Vitter
Fletcher	Miller (FL)	Walden
Foley	Miller, Gary	Walsh
Fossela	Moran (KS)	Wamp
Frelinghuysen	Morella	Watkins
Gallegly	Myrick	Watts (OK)
Ganske	Nethercutt	Weldon (FL)
Gekas	Ney	Weldon (PA)
Gibbons	Northup	Weller
Gilchrest	Norwood	Whitfield
Gillmor	Nussle	Wicker
Gilman	Osborne	Wilson
Goode	Ose	Wolf
Goodlate	Otter	Young (AK)
Gordon	Oxley	Young (FL)
Goss	Paul.	

NAYS

Ackerman	Harman	Neal
Allen	Hastings (FL)	Oberstar
Andrews	Hill	Obey
Baca	Hilliard	Olver
Baird	Hinchey	Ortiz
Baldacci	Hinojosa	Owens
Baldwin	Hoeffel	Pallone
Barcia	Holden	Pascrell
Barrett	Holt	Pastor
Becerra	Honda	Payne
Bentsen	Hooley	Pelosi
Berkley	Hoyer	Peterson (MN)
Berman	Inslee	Phelps

Berry	Israel	Pomeroy
Blagjevich	Jackson (IL)	Price (NC)
Blumenauer	Jackson-Lee (TX)	Rahall
Bonior	Jefferson	Rangel
Borski	Johnson, E. B.	Reyes
Boswell	Jones (OH)	Rivers
Boucher	Kanjorski	Rodriquez
Boyd	Kaptur	Roemer
Brady (PA)	Kennedy (RI)	Ross
Brown (FL)	Kildee	Rothman
Brown (OH)	Kilpatrick	Roybal-Allard
Capps	Kind (WI)	Rush
Capuano	Kleczka	Sabo
Cardin	Kucinich	Sanchez
Carson (IN)	LaFalce	Sanders
Carson (OK)	Lampson	Sandlin
Clay	Langevin	Sawyer
Clayton	Lantos	Schiff
Clyburn	Larsen (WA)	Scott
Conyers	Larson (CT)	Serrano
Costello	Lee	Sherman
Coyne	Levin	Skelton
Crowley	Lewis (GA)	Slaughter
Cummings	Lipinski	Smith (WA)
Davis (CA)	Lofgren	Snyder
Davis (FL)	Lowey	Solis
Davis (IL)	Luther	Spratt
DeFazio	Maloney (NY)	Stark
DeGette	Markey	Stenholm
Delahunt	Mascara	Strickland
DeLauro	Matheson	Stupak
Deutsch	Matsui	Tanner
Dicks	McCarthy (MO)	Tauscher
Dingell	McCarthy (NY)	Taylor (MS)
Doggett	McCollum	Thompson (CA)
Dooley	McDermott	Thompson (MS)
Doyle	McGovern	Thurman
Edwards	McKinney	Tierney
Engel	McNulty	Towns
Eshoo	Meehan	Turner
Etheridge	Meek (FL)	Udall (CO)
Evans	Meeks (NY)	Udall (NM)
Farr	Menendez	Velazquez
Fattah	Millender-McDonald	Visclosky
Filner	Miller, George	Waters
Ford	Mink	Watt (NC)
Frank	Moakley	Waxman
Frost	Mollohan	Weiner
Gephardt	Moore	Wexler
Gonzalez	Moran (VA)	Woosley
Green (TX)	Murtha	Wu
Gutierrez	Nadler	Wynn
Hall (OH)	Napolitano	

NOT VOTING

Cannon	Cubin	Schakowsky
Cooksey	Horn	

Getting back to tax simplification and national sales tax, our current IRS code is 8 million words. It is something that requires something like $200 billion in compliance costs. That is every time you and I fill out our taxes, pay an accountant, pay a lawyer, H.R. Block, whoever, help us figure out how much we owe to Uncle Sam, we pay about $200 billion. We spend something like 4.5 billion man-hours to fill out our taxes. There are something like 500 different forms for the Tax Code. The problem is that it gets more and more complicated every year.

What the gentleman from Georgia (Mr. LINDER) proposes is let us go to 23 percent sales tax. We will not tax anything but consumption. Savings will not be taxed. Savings on used goods will not be there. The average tax liability for the average person will fall by about 7 percent, or even more, simply because you are paying right now about 30 percent. So this will help Americans not only have a simpler tax life, but it will also only tax consumption, and it will give less of a tax liability than we have right now.

This bill is in the Committee on Ways and Means. I hope that we will start having hearings on it. It is worth a debate. We could put a small credit in there to exempt food, medical items, so the working poor are not picking up a heavier burden here. These are some of the things that we want to move to in this House, and I am hoping we can get good bipartisan support on it.

Mr. Speaker, I wanted to speak tonight about Iraq because a large portion of this session has been spent on Iraq. The liberation of this country has been extremely well received. In fact, I have an article written by Jonathan Foreman who is a reporter there, and he talks about some of the things that he sees that do not quite make it to the prime time left wing media.

He says that it seems like the old women and young flirt outrageously with GIs, lifting their veils to smile, waving from high windows, and shyly calling hello from half-open doors, or the way little girls seem to speak English better than the little boys who are elbowing them out of the way, or the way the troops get a sense of gender violence endemic in their culture. He writes that yesterday in a poor neighborhood, two 14-year-old sisters introduced themselves to me, and they were chased away by a rock-wielding male relative.

BAD REPORTING IN BAGHDAD

YOU HAVE NO IDEA HOW WELL THINGS ARE GOING

(By Jonathan Foreman)

BAGHDAD.—It's endlessly fascinating to watch the interactions between U.S. patrols and the residents of Baghdad. It's not just the love bombing the troops continue to receive from all classes of Baghdad—though the intensity of the population's pro-American enthusiasm is astonishing, even to an early believer in the liberation of Iraq, and continues unabated despite delays in restoring power and water to the city. It's things like the reaction of the locals to black troops. They seem to be amazed by their presence in the American army. One group of kids in a poor neighborhood shouted ''Mike Tyson, Mike Tyson'' at Staff Sergeant Darren Swain; the daughter of a diplomat on the other hand informed him, ''One of my maids has the same skin as you.''

It's things like the way the women old and young flirt outrageously with GIs, lifting their veils to smile, waving from high windows, and shyly calling hello from half-opened doors. Or the way the little girls seem to speak much better English than the little boys who are always elbowing them out of the way. Or the way the troops get a sense of the gender violence endemic in the culture: Yesterday in the poor al Sahliya neighborhood two sweet 12 to 14-year-old sisters on a rooftop who introduced themselves to me and Staff Sergeant Gannon Edgy as Souha and Samaha were chased away by a rock-wielding male relative. His violent anger hinted at problems to come here.

But you won't see much of this on TV or read about it in the papers. To an amazing degree, the Baghdad-based press corps avoids writing about or filming the friendly dealings between U.S. forces here and the local population—most likely because to do so would require them to report the extravagant expressions of gratitude that accompany every such encounter. Instead you read story after story about the supposed fury of Baghdadis at the Americans for allowing the breakdown of law and order in their city.

Well, I've met hundreds of Iraqis as I accompanied army patrols all over the city during the past two weeks and I've never encountered any such fury (even in areas that were formerly controlled by the Marines, who as the premier warrior force were never expected to carry out peacekeeping or policing functions). There is understandable frustration about the continuing failure of the Americans to get the water supply and the electricity turned back on, though the ubiquity of generators indicates that the latter was always a problem. And there are appeals for more protection (difficult to provide with only 12,000 troops in a city of 6 million that has not been placed under strict martial law). But there is no fury.

Given that a large proportion of the city's poorest residents have taken part in looting the Baathist elite's ministries, homes,and institutions, that should tell you something about the sources preferred by the denizens of the Palestine Hotel (the preferred home of the press corps). Indeed it's striking that while many of the troops I've accompanied find themselves feeling some sympathy for the inhabitants of ''Typhoid Alley'' and other destitute neighborhoods and their attempts to obtain fans, furniture, TVs, etc., the press corps often seems solidly on the side of those who grew fat under the Saddam regime. (That said, imagine the press hysteria that would have greeted a decision by U.S. troops to use deadly force against the looters and defend the property of the city's elite.) Even in the wealthiest neighborhoods—places like the Mansoor district, where you still see intact pictures of Saddam Hussein—poeple seem to be a lot more pro-American than you could ever imagine from reading the wires.

Perhaps this is just another case of reporters with an Anti-American or antiwar agenda. Perhaps living in Saddam's totalitarian Baghdad has left some of the press here with a case of Stockholm syndrome. It may also be a byproduct of depending on interpreters and fixers who were connected to or worked with the approval of the Saddam regime. And you cannot underestimate the herd instinct that can take over when you have a lot of media folk in a confined area for any length of time. But whatever the cause, the result has been very selective reporting.

The Associated Press's Hamza Hendawi, for instance, massively exaggerated and misrepresented the nature of the looting in Baghdad in the first days after the U.S. armored forces took key points in the city. Like so many Baghdad-based reporters, she described an ''unchecked frenzy'' that did not exist at that time (the looting was targeted and nonviolent, in the sense that the looters attacked neither persons nor inhabited dwellings). Read her pieces and you'll meet a veritable parade of Iraqis who are angry with the United States.

Then there were those exaggerated reports of April1 8 claiming (as Reuters' Hassan Hafidh put it) that ''Tens of thousands of protesters demanded on Friday that the United States get out of Iraq. . . . In the biggest protest since U.S. forces toppled Saddam Hussein's iron-fisted, 24-year-long rule nine days ago, Muslims poured out of mosques and into the streets of Baghdad, calling for an Islamic state to be established.'' Demonstrators did come out of one mosque, but reporters seem to have confused them with the large numbers of Shia Muslims gathering for the pilgrimage to Karbala—a pilgrimage long forbidden by the Saddam regime.

There are frequent small demonstrations in the blocks outside the Palestine an Sheraton hotels—partly because that is where the press corps is congregated, but also because it's an area that many Baath party officials fled to after the war began. Anyone who assumes that the atmosphere of that

downtown area is in any way representative of the city would be gravely mistaken. However, many reporters have chosen to do just that rather than venture further out to places where they would have seen that far more typical and frequent ''demonstrations'' involve hundreds or even thousands of Iraqis gathering to cheer U.S. troops. Admittedly, some of those crowds include people begging for money, desperate for aid, or just curious about these strange-looking foreigners. ''Most children here have never seen a foreigner'' one Iraqi civilian explained to me, ''that is why they are so excited.'' Another told me with a smile, ''Everyone here wanted to go to America; now America has come here!''

More irritating is the myth constantly repeated by antiwar columnists that the military let the city be destroyed—in particular the hospitals and the national museum—while guarding the Ministry of Oil. The museum looting is turning out to have been grotesquely exaggerated. And there is no evidence for the ministry of oil story. Depending on the article, the Marines had either a tank or a machine gun nest outside the ministry. Look for a photo of that tank or that machine gun nest and you'll look in vain. And even if the Marines had briefly guarded the oil ministry it would have been by accident: The Marines defended only the streets around their own headquarters and so-called Areas of Operation. Again, though, given the pro-regime sources favored by so many of the press corps huddled in the Palestine Hotel, it's not surprising that this rumor became gospel.

A typical piece of reporting on the ''destruction'' in Baghdad came from the Washington Post's Rajiv Chandrasekaran on April 22, which repeated all the usual gossip about the ministry of oil and then quoted Saad Jawad, a professor of political science at Baghdad University: ''The Iraqis had very high hopes for the Americans,'' Jawad told him. ''But all this euphoria about change, all this relief, went away when they saw the amount of destruction to the infrastructure of the country and the carelessness of the Americans to the Iraqis' day-to-day lives.'' Yes, euphoria is bound dissipate, but there's no sign it has yet. More important, what infrastructure destruction? The reporter lets the charge stand undisputed but must be aware that roads, bridges, power stations, and rails lines were all left unbombed and intact by U.S. forces. The exception was power substations that fed key government buildings and broadcasting facilities (unless you count army bases and secret police headquarters as ''infrastructure'').

But my favorite mad media moment was when an AP journalist turned up in a car heading to the Ministry of Information, the top floor of which was on fire. ''Why aren't you putting out the fire?'' she angrily demanded of Sgt. William Moore. He looked at her with astonishment and asked, ''How the hell am I supposed to do that?'' Turning away, he muttered, ''Piss on it?''

It is true that the military has been slow in some respects to make the transition to an occupation role. And the senior brass here and at CENTCOM have a lot of explaining to do about their planning for postwar operations—the Army arrived here with virtually no Arabic speakers and even after two weeks there were only a handful. But as Gen. Buford Blount of the 3rd Infantry Division pointed out the same day as the Ministry of Information fire, ''It's only a week since we were in combat here,'' and the media have bizarrely high expectations about how quickly a conquered city should return to normal.

Even embedded journalists (or perhaps their editors) can unconsciously misconstrue the facts on the ground. For instance, David Zucchino of the Los Angeles Times, who like me is embedded with the 4th Battalion of the 64th Armored Regiment, 3rd Infantry Division, recently accompanied my Scout platoon on a patrol. We went to an upmarket residential area, in which houses that formerly belonged to top Baath officials had been taken over by looters—and in which a house owned by Qusay Hussein had been destroyed by a JDAM bomb. I was talking to Dr. Ali Faraj al Salih, a cardiologist trained at Edinburgh, when Zucchino, a fine, experienced foreign correspondent, walked over and began listening in. I asked Dr. Ali if he'd had any trouble with looters. ''No'' he replied, ''I have guns, with license from the government. And I have two bodyguards.'' ''Have you always had the bodyguards?'' I asked him. ''Oh yes,'' he said.

But Zucchino's April 22 article in the L.A. Times—headlined ''In Postwar 'Dodge City,' Soldiers Now Deputies''—reports ''Dr. Ali Faraj, a cardiologist, stood before his well-appointed home and mentioned that he has hired two armed guards,'' as if the doctor had been driven to this expense by unrest following the arrival of the Americans.

Things may yet go horribly wrong here in American-occupied Baghdad. But it is bizarre and sad that so few journalists are able or willing to recognize this honeymoon period for what it is.

A lot of these things we are not going to see on TV because the press corps avoids writing about the friendly dealings with the U.S. forces and the local population, and really focuses more on rioting and looting and kind of misrepresenting the nature of things.

One report said, for example, that looting was going on in an unchecked frenzy, and that was not the case at all, and many things were actually returned. I want to submit this also for the RECORD, but it just goes to show that even now the left cannot let it rest.

Their first reaction after 9/11 was why do they hate us, as if people in the World Trade Center were somehow to blame for a madman flying a plane into their office building.

Then we heard if we go to war, it is going to the west, America versus all of the Islamic states. We are going to have the west versus Muslims. That did not happen. Then they said we are going to have thousands and thousands of our finest young and men returning home in body bags. That did not happen. Tragically some did come home in body bags, but not the thousands and thousands.

Then when we started up the Euphrates River, they said the worst fighting is further up river. Then we go to the towns, oh, it is the plan, it is the plan. And then it seems like every retired general who is looking for a little media time who wanted to dissent could get on nightly news and say what was going wrong in Iraq.

The next thing you know, we won, and they jump on a 23-year-old marine corporal because before tearing down the Saddam Hussein statue, he puts an American flag on it. Then the statue comes down and the report is about looting, and that is the way, unfortunately, the media looks at the world and looks at America. It is the blame America first crowd.

Here are some quotes from their allies in Hollywood, I do not know David Clennon, an actor, but here is what he said. ''I'm saying that the moral climate within the ruling class in America is not different from the moral climate within the ruling class of Hitler's Germany.''

Here is Janeanne Garofalo, another actress, ''So when I see the American flag, I go, 'Oh my God, you're insulting me.'''

Here is Whoopi Goldberg, ''I don't really view communism as a bad thing.'' That is an interesting view, but communism was not in question in the war on Iraq, but that has never stopped Hollywood, if you do not know the facts, still jump in as long as you have the microphone.

Here is somebody named Chrissie Hynde, ''Let's get rid of the economic (expletive) this country represents. Bring it on, I hope the Muslims win.''

Here is Oliver Stone. ''Bin Laden was completely protected by the oil companies in this country who told President Bush not to go after him or it would tick off the Saudis.'' I cleaned that one up a little bit.

Richard Roeper, of Ebert & Roeper, sends a strong a message to the Hollywood anti-war crowd:

''Even though you are among the luckiest and best-rewarded human beings in the history of civilization, you have moaned long and loud about life in the oppressive United States of America. And you have complained that free speech is practically an endangered species—though it's not as if you've been kidnapped, bound and gagged for expressing your views . . . But I'm just wondering: If you're such a crusader for kindness and decency and the rules of fair play, when are you going to say something about the atrocities committed by Iraqis since this war broke out?''

''I'm saying that the moral climate within the ruling class in this country is not that different from the moral climate within the ruling class of Hitler's Germany.''—David Clennon.

''So when I see the American flag, I go, 'Oh my God, You're insulting me.'''

'''We're here, we're queer!'—that's what makes my heart swell. Not the flag, but a gay naked man or woman burning the flag. I get choked up with pride.''—Janeanne Garofalo.

Trendy Protesting (of Republicans): Explaining why she and other anti-war protesters didn't organize demonstrations when President Clinton launched attacks on Iraq, Bosnia, Afghanistan and the Sudan ''It wasn't very hip'' [to protest Clinton's Wars].

''I don't really view communism as a bad thing.''—Whoopi Goldberg.

''Have we gone to war yet? We (expletive) deserve to get bombed. Bring it on.''

''Let's get rid of all the economic (expletive) this country represents! Bring it on, I hope the Muslims win!''—Chrissie Hynde.

''I think America has no experience with terrorism or even with war. In Europe, we know a little bit more about these things.''—Bono.

''Bin Laden was completely protected by the oil companies in this country who told [President] Bush not to go after him because it would piss off the Saudis.''—Oliver Stone.

Mr. Speaker, this is the caliber of debate we hear out of Hollywood, and it seems to be echoed by so much of the

media. I was actually born in Texas, and I live in Georgia right now. I used to be a Dixie Chicks fan; I am not any more. I will say this, and I am speaking as a native-born Texan, but if the Dixie Chicks are ashamed that President Bush is from Texas, I have news for them, I am ashamed that you all are from Dixie. I will say in addition to that, if you do not like it, go sell your records in Paris, and I am sure they will really like it over there.

There is a big debate going on now about who is going to help rebuild Iraq. I think that there is a humanitarian role for the U.N., but I want to point out if the U.N. is left completely in charge, they do not have such a great track record. We have been out of Kosovo for 4 years. Kosovo is a country that used to export electricity, and now they have to have rolling blackouts. Every 4 hours in Kosovo, you have to turn off your lights.

The U.N. also requires when they have free elections, that 30 percent of the candidates need to be female. They might need to be 100 percent. Free elections are supposed to decide that, not some politically correct U.N. mandate.

They have also discouraged private investment, insurance companies and so forth, are discouraged from investing in the rebuilding of Kosovo. If you do not have insurance companies investing, you do not get bank loans. If you do not get bank loans, you do not get outside investors. So the Kosovo rebuilding under the U.N. has not gone well, and that is why it is important for America to keep its presence there.

I want to say to France and Russia and to the other countries who oppose what we are doing, we are not going to kick you out of the rebuilding process, it is just when you come, bring your own checkbook.

In terms of the Brits and the 49 other countries that were in the coalition, we want them there. It is very important.

I want to read a letter from one of my constituents, Mr. Bob Braddy. He wrote a letter to Prime Minister Tony Blair in the U.K. and he says, ''Dear Mr. Prime Minister, Recognizing you are extremely busy with your country's business and world affairs, my family and I wanted to take a moment to thank you for your support of George Bush and the United States with regards to the Iraq situation.

''Your steadfastness and determination along with the coalition of nations will have historical ramifications for that country that will take generations to unfold and benefit the Middle Eastern area.

''Thank you so much and Godspeed to you in all the days to come.

''Sincerely, Mr. Robert Braddy.''

And Tony Blair wrote him back. ''10 Downing Street. Thank you for your kind words and good wishes. I appreciate you taking the time to write. My best wishes to you and your family.'' It is signed Tony Blair.

SAVANNAH, GA,
March 22, 2003.

MR. TONY BLAIR,
United Kingdom Prime Minister,
London, England.

DEAR PRIME MINISTER TONY BLAIR: Recognizing that you are extremely busy with your country's business and world affairs, my family and I wanted to take a moment to Thank You for your support of President George Bush and the United States with regards to the Iraq situation.

Your steadfastness and determination along with the coalition of nations will have historical ramifications for that Country that will take generations to unfold and benefit the entire Middle Eastern Area.

Thank you so much and God Speed for you in all the days to come.

Sincerely,

ROBERT J. BRADDY.

LONDON SW1A 2AA.

Thank you for your kind words and good wishes. I appreciate you taking the time to write. My best wishes to you and your family.

TONY BLAIR.

That is an example of the grass roots affection that goes on between Americans and the Brits. We do not feel that way about every country in the world, and that is okay, too. But we want to work together on what is best for Iraq and what is best for world affairs.

I also wanted to talk about some of the other initiatives that we have going on in the House. The House continues to be very productive. We have passed already some medical liability reform, tort reform to stop frivolous medical lawsuits. If you talk to any doctor, hospital or health care provider, they will tell you that one of their biggest expenses these days is fear of frivolous medical lawsuits.

The interesting thing is that in 70 percent of these claims, no payment ever makes it to the injured party. When it does, when money does get to them, it is an average of only 50 cents on the dollar.

□ 2245

Our bill caps some of the benefits, not the economic loss but some of the noncompensatory losses. It is modeled after a law in California which has held down frivolous medical lawsuits. I hope that the other body will take this up and do something about it, because it is very important to keep down the cost of health care.

We are also going to look at asbestos liability reform. An interesting note is that right now asbestos lawsuits, there are about 200,000 pending in Federal courts. Ninety thousand new ones are filed every year. Of those 90,000 new claims, 80 percent of them have no injury involved. Eighty percent of the claimants are not even hurt. Interestingly enough, 95 percent of them are filed in six counties in the United States of America. Yes, something is going on. We need to address it.

I want to also talk about a bill we passed out of the House that we believe will turn the economy around along with our recently passed jobs package which the Democrats opposed, and that is the energy bill. Our energy bill has three components to it, three triangles. One is conservation, another one is research and then the other one is more exploration with less dependence on foreign sources of oil. I want to just start with that. Just keep in mind, we hear so much from the environmental extremists about Alaskan oil reserves. The Alaska wildlife reserve area is the size of South Carolina. Remember, Alaska is the largest State. Texas fits inside Alaska. South Carolina is a fairly large State on the east coast. That is the size of the wildlife reserve. And in it we are talking about exploring for oil in 2,000 acres. We heard from the left and the environmentalists before in Prudhoe Bay, if you do this, it is going to hurt the caribou tribe. The funny thing is the caribou tribe actually went up after we started exploration in Prudhoe Bay. So I think we can do these things in an environmentally sensitive way. But it also ties into national security and also personal security. If somebody wants to drive an SUV and, Mr. Speaker, I know you are a single man down there in Florida, but I am a domestic guy. I have four children. I about 2 years ago was driving up to New York. I was going up I–95 from Savannah, Georgia. I did not know that you go through Delaware to get to New York. I was just driving and all of a sudden I am in a four-car collision. I have four kids in the family and my wife. I want as much metal in between me and the other guy as possible. I am driving my Suburban, which is a politically incorrect thing to many folks on the left and, lo and behold, the car behind me has to be towed away and we do not even have a scratch on the Suburban. The Delaware police who were very nice and professional said, you can go on. And so I drove on to New York in my Suburban, politically as incorrect as possible, with every kid in my family safe and unharmed. That is why I want a big car. That is why I think the moms in America should have the option of a big car. That is why it is important to realize that we have got to keep a good fossil fuel supply in this country and not just be dependent on some of our Middle Eastern allies who are not always the best allies in the world. We need to look at Alaska reserves, we need to look at Venezuela, we need to look at Russia. We need to just keep our options open, but that is a major part of our energy package.

The other thing is research. There are so many exciting things going on in research right now, cell fuels, hydrogen fuels. I was reading the other day, there is a car now that is a hovercraft. It is made by Moeller International. I think it is called an M400 Skycar. I want one as soon as possible, because it flies off the ground. It has a vertical-horizontal uptake. In fact, the gentleman from Pennsylvania probably already knows about it because he is such a fan of the Osprey, which can do that. This car just takes off and it can

toot around, a great way to get rid of the traffic jams on 395 in Washington, D.C. There is also a contraption that has already been built that if you think about it maybe like this, a lectern, the size of a phone booth, that you step in it and it flies. It is an individual spacecraft. It will go about 40 miles an hour and has a range of about 100 miles, right out of Johnny Quest which I know, Mr. Speaker, you have no idea who Johnny Quest was but I know the gentleman from Pennsylvania is an old man like me, he remembers Johnny Quest and Hadji his faithful assistant and Bandit the dog but they would fly around in these things. I am looking forward to that. It will get the kids out of the house. It will be fun.

There are so many things that the private sector is doing in the name of research right now. We are putting a lot of money in our energy bill, into more bold inventions and ways of stretching out that energy dollar. The final component of our energy bill is conservation. My dad was raised in Brooklyn during the Depression, and one of the things he taught us in Athens, Georgia, is you do not leave the room with the light left on. You do not brush your teeth with the water flowing out of the faucet. You take care of the stuff because it is all money. My dad was an early environmentalist, and he did not know it, because he made sure that we used as little energy as possible. And we recycled all kinds of things. But as I drive down Independence Avenue or Pennsylvania Avenue in Washington, D.C. and I see buildings, guess whose buildings have every single light left on? The Federal Government. You can drive by the Department of Energy, and I hate to say it, it does not matter who is in charge, Democrats or Republicans, the lights are left on. We have got to turn the lights off. We in the Federal Government need to lead the way in conservation. That is part of our energy bill, is credits for smart buildings, credits for energy-wise construction and all kinds of things like that. I hope that the other body will take this important piece of legislation up.

We also have other things that we have passed, such as the healthy forests initiative, very important. We have some endangered species relief for our military in a very good defense package. We have Medicare coming up, Medicare reform which will have a prescription drug package. We are going to have some post office reform coming up. A lot of things for veterans. The left does not like it but we did increase veterans health care spending by about 12 percent. I believe they all voted against that. The gentleman from Pennsylvania says yes. We are going to continue to stand up and do everything we can for the veterans. I am a supporter of the veterans history project which the Library of Congress is initiating and was passed under Republicans in the House. The great thing about the veterans history project is if you are a veteran of any war and you have a story to tell, not necessarily a glorious story but we want to know about your experience in the war, contact the Library of Congress, contact your local Congressman and we can archive that forever so that your great great grandchildren can go back and see what you did in the war.

Mr. Speaker, in closing I want to commend the gentleman from Pennsylvania on his work on the defense authorization bill. I think it is a great bill, and also for touching the sensitive area of training in the areas where there are endangered species, because I think you have got a good balance in there but many people do not understand that some of the training that our military does has greatly been hampered by the possibility that a species may be there and it is not even confirmed that they are. I represent Fort Stewart. They have a big problem with the red-cockaded woodpecker.

RESULTS OF TRIP TO NORTH KOREA

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced guidelines, the balance of the majority leader's hour is reallocated to the gentleman from Pennsylvania (Mr. WELDON), and, without objection, his previous order for 5 minutes is vacated.

There was no objection.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman for allowing me to take the rest of this time. It is tough to follow the gentleman from Georgia. He is not only a nice human being but he is a real genuine person as you can tell by the way he handles issues, totally committed to his job and his family. I want to let the gentleman know he is someone for whom I have the highest admiration and always brings a few laughs to us while he use that kind of down-home southern humor to convey the real message of what the American people want us to be doing. I thank my friend and colleague for his comments.

Mr. Speaker, tonight I rise for the major purpose of outlining the results of a trip that I led to North Korea this past weekend, but I want to start out by responding to some of the concerns raised by my colleagues on the other side where they have continued to demagog and basically say that President Bush and the administration lied about the reasons for the Iraqi war. I heard one of our colleagues earlier say, show me the evidence of weapons of mass destruction. I could not help let that go by, Mr. Speaker. I am the vice chairman of the House Committee on Armed Services. I work issues involving proliferation of weapons of mass destruction technology, and for anyone to suggest that there just was not a case of weapons of mass destruction in Iraq is just plain wrong. In fact, all one has to do is go to the U.N. and look through the records of the U.N. on abuses of human rights and look at the record of Saddam Hussein.

In fact, Mr. Speaker, I will at this point in time insert in the RECORD two charts. One is the past Iraqi use of weapons of mass destruction and the second is the amount of weapons of mass destruction that Iraq admitted to having at the time of the war.

1. PAST IRAQI USE OF WMDS

Date	Area used	Agent	Casualities	Target pop.
1983	Hajj Umran ..	Mustard	<100	Iranians/ Kurds.
1983	Panjwin	Mustard	3,000	Iranians/ Kurds.
1984	Majnoon Island.	Mustard	2,500	Iranians.
1984	al-Basrah	Tabun	50–100	Iranians.
1985	Hawizah Marsh.	Mustard/ Tabun.	3,000	Iranians.
1986	al-Faw	Mustard/ Tabun.	8–10,000	Iranians.
1986	Umm ar Rasas.	Mustard	5,000	Iranians.
1987	al-Basrah	Mustard/ Tabun.	5,000	Iranians.
1987	Sumar/ Mehran.	Mustard/ Nerve.	3,000	Iranians.
1988	Halabaj	Mustard/ Nerve.	800	Kurds.

2. AMOUNT OF WMDS IRAQ ADMITS HAVING

Weapon	Effect	Quantity Iraq claimed
VX	Nerve Agent—Paralysis and Death	3.9 Tons.
Sarin	Nerve Agent—Paralysis and Death	812 Tons.
Mustard Gas	Blister Agent—Burns Skin, Eyes, and Lungs.	3,080 Tons.
Anthrax	Bio Agent—Lung Infection and Death.	2,200 Gallons.
Botulinum	Bio Agent—Death if inhaled or Digested.	5,300 Gallons.
Aflatoxin	Bio Agent—Causes Liver Cancer	520 Gallons.

Mr. Speaker, the facts cannot be refuted. Saddam Hussein was responsible for killing over 20,000 human beings by using weapons of mass destruction. What were they? Mustard gas, tabun, nerve gas. From 1983 to 1988, known facts in this chart which our colleagues can read tomorrow in the CONGRESSIONAL RECORD are the specific dates, the locations and who was killed. And who was killed? Iranians and Kurds. Innocent people. And what did Iraq admit when in 1991 they in fact were kicked out of Kuwait? What did they tell the U.N. they had? They told the U.N. they had VX, which is a nerve agent, causes paralysis and death. In fact, they publicly said we have 3.9 tons of VX. They said they had sarin gas, nerve agent, causes paralysis and death, 812 tons. They said they had mustard gas, a blister agent, burns the skin, eyes and lungs, 3,080 tons. They said they had anthrax, a biological agent, lung infection and death, 2,200 gallons. They said they had Botulinum, a biological agent, death if inhaled or digested, 5,300 gallons; and they said they had aflatoxin, another bioagent that causes liver cancer, 520 gallons.

Mr. Speaker, this was the leadership of Iraq publicly telling the U.N. what weapons of mass destruction they had. For my colleagues and friends to stand up here and say they do not have any weapons of mass destruction and therefore the administration lied is just wrong and it is really unfair. In fact, every major debate involving the

events leading up to the war in Iraq, both on the Democrat and the Republican side in this body and the other, they were not arguing over whether or not there were weapons of mass destruction, they were arguing over whether we should let the U.N. inspectors continue or in fact get more time or whether we should follow the President's lead because the time had run out. Because we have not found anything since the war ended, their rallying cry is, well, where are the weapons of mass destruction? First of all, you are talking about a country the size of California, which is an extremely large area to go through, to look in every school, every underground complex, every building. And we already have found two trailers that we know were used for the development of weapons of mass destruction. The fact is we are going to continue to look and I am convinced that we will find additional evidence of weapons of mass destruction. But to say that they had no weapons of mass destruction is ridiculous. I have put in the RECORD tonight the documentation of what we have in fact verified, what the U.N. has verified.

But let me get to another point for those who criticize the President. What about Saddam's record of human rights violations? My colleagues on the other side were quick to support Bill Clinton 4 years ago when he decided we should go to war in Yugoslavia, an independent nation, because he decided the human rights record of Slobodan Milosevic was so bad that we should remove him with force. Incidentally and ironically coerced by both the French and Germans, we decided not to go to the U.N. but to bypass the U.N. because the Russians were going to issue a veto of any U.N. resolution and for the first and only time ever in the Clinton administration, we used NATO, which is a defensive body, for an offensive purpose, pushed by France, Germany and the U.S., we invaded a non-NATO country to remove the sitting head of state. Why? Because he had weapons of mass destruction? No. Because he was committing human rights violations.

In the case of Saddam Hussein, every organization on the face of the earth, from Amnesty International to the U.N., has clearly stated that Saddam Hussein's human rights record is far worse than anyone since Adolf Hitler. And so this argument being put forth by the left that somehow the Bush administration was not truthful with Congress and the American people leading up to the war is just plain wrong.

□ 2300

It is a case to try to be used by the candidates running for the nomination of the other party to try to get some kind of traction or leverage against President Bush.

The fact is, we did what we did because Saddam Hussein had a terrible human rights record, he used weapons of mass destruction. We wanted to make sure he never had that chance to use them again, and that is exactly what we have accomplished.

Mr. Speaker, the real and primary purpose of my special order tonight was to focus on a trip that I just led, we got back yesterday, from North Korea, the Democratic People's Republic of Korea.

Mr. Speaker, no one from America in an elected capacity had been to Pyongyang, North Korea, for the past 6 years, and in fact the only contact we have had with the leadership of DPRK has been through our State Department diplomats. We had a team there almost a year ago, or last fall, actually, and we had our Assistant Secretary of State, Secretary Kelly, meet in Beijing to have further discussions with North Korea.

About a year ago, Mr. Speaker, I decided it was important that the Congress attempt to understand what was happening inside of DPRK, because of the tensions building between North and South Korea. I wanted to make sure we did not end up in another conflict. So I set out to take a delegation of 13 of our colleagues into Pyongyang last May.

We sat in Beijing and we sat in Seoul for 4 days waiting for the visas to be approved. They never came. The reason given by the North Korean government was that President Bush had referred to North Korea as a part of the axis of evil, and, therefore, they did not think it right we should be allowed admittance to their country.

But, Mr. Speaker, I persevered, and throughout the last 12 months traveled up to the UN on at least two occasions, met with the Ambassador for the DPRK mission at the UN, Ambassador Han, the only representative of North Korea allowed in America, and I talked to him about taking a delegation in.

Every time I met with him, as I have done in all of my contacts, I made sure I talked to the folks at the White House, the National Security Council and the State Department, so I kept them informed.

I used seven or eight individuals and groups that have contacts inside of North Korea to convey the message that it was more important for us to bring in a delegation of non-diplomats. There was an added sense of urgency because in the late summer-early fall our intelligence community gave the evidence to the State Department that in fact North Korea had an active nuclear weapons program under way, which was a clear violation of the 1994 agreed upon framework that was negotiated in the Clinton administration.

So, for all of those reasons I kept the pressure on to take a group into Pyongyang to meet with the officials of that country, not as diplomats, not as representatives of the President, not as representatives of the State Department, but as elected officials from our country, to put a face on the American people and to tell the people of North Korea that none of us want war, none of us want conflict.

Approximately 10 days ago, Mr. Speaker, at the 11th hour, after I had planned a trip to go to Moscow and then on into North Korea, we were initially told the visas were not coming forward. Then the day after we canceled that trip I got a call from the New York embassy or New York office of the mission at the United Nations and Ambassador Han said Congressman WELDON, Pyongyang has invited you to bring your delegation into my country.

Very quickly we reassembled a team, three Democrats and three Republicans, and traveled to Pyongyang on a naval aircraft. The Navy did a fantastic job in providing support to us. We left on a Wednesday evening and flew all night. The trip took us about 30 hours, with the fuel stops that we had to make in the C–9 we were traveling in, and we arrived into Pyongyang, North Korea, from a stop in Japan, at approximately 9:30 a.m. last Friday.

For 3 days, we were hosted by the leadership of the Ministry of Foreign Affairs of the DPRK regime.

Mr. Speaker, I would say at the outset that we let it be known going in we were not going in to represent the President of the United States, nor the State Department. We were not going in to do any negotiations. We were simply going in to put a face on America so that the leadership of DPRK that has been so outrageously nasty within their country toward America and the American people should see who we are, not as diplomats, but as ordinary people.

The three Democrats and the three Republicans who went to Pyongyang made it be known that we were not going to negotiate because that is not our position, and in fact we were going in supporting the position of President Bush and Secretary Powell; that a multilateral approach to dealing with North Korea in the end had to be the vehicle, the way to get this issue of this nuclear threat under control.

Our goal was to put the human face on, and we did. In fact, during the 3 days that we were in Pyongyang, North Korea, it was an unbelievable experience. I had asked in advance, Mr. Speaker, to visit 10 sites so that we would not just be taken where they wanted us to go, but rather we would pick the type of sites that we would like to see. In fact, half of those sites they agreed to and we visited.

One was a school, a school with 1,800 children from the age of 3 years to 18 years. It was an impressive sight, a model school for the country. But it gave us an understanding of the support of the DPRK government to educate their children.

The second was the Pyongyang Computer Center, one of three buildings in the downtown city area that are used to develop North Korea's technology and information and the use of computers.

We had to visit a film studio because the leader of North Korea, Kim Chong-Il, has a major interest in producing video productions, actually movies. He does not import any from the West for his people because society in North Korea is totally closed. So I thought it would be relevant to visit what I had heard to be one of the largest studio complexes outside of Hollywood and Orlando, Florida. We visited that site where there are 1,500 employees.

Mr. Speaker, to say the least, it was unbelievable. We were driven through the back lot. I have been through the back lot of Universal Studios, and I can tell you, that this rivaled that back lot. There were scenes for movies that could be shot about Japan, about China, about Korea, about Europe, about the West. All of these sets were established so that North Korea each year can produce between 20 and 25 feature lengths films that are shown in the movie houses of North Korea, which are all oriented toward the propaganda message and the message of the North Korean leadership. So we visited that facility.

We had a shopping visit to interact with the ordinary people that were in the city. We visited restaurants.

Mr. Speaker, on the last day we were there, we were scheduled to meet with the Minister of Trade, but I asked the delegation the night before if they wanted to do that meeting, and they said not really. So I told the representative who handles U.S. issues for the Ministry of Foreign Affairs that we did not want to go to the meeting with the Minister of Trade, but instead on Sunday morning we wanted to go to church.

They agreed. They picked us up at our hotel at 9:45 in the morning, and six Members of Congress went to church in a Protestant church on a hill in North Korea, in the middle of this closed society, where there were no pictures of Kim Chong-Il or Kim Il-Song, his father, but rather were crosses, and with 300 people we worshipped in a Protestant church, much like churches all over America do every Sunday morning. So we had a good glimpse of this closed society.

Let me say, Mr. Speaker, I have visited the Soviet Union when it was communist many times and I visited China under its communist system. North Korea makes those two societies in their worst days of communism look like an open society. It is an absolutely closed society to the outside world, no access to outside media, no access to newspapers, totally closed. In fact, limitation on people traveling in is also closed.

But, Mr. Speaker, we are in a tense situation right now, because North Korea has admitted publicly in our meetings that we held that they have nuclear weapons today. They admitted that they are reprocessing the 8,000 nuclear rods from their nuclear power plants and they admitted that that reprocessed nuclear weapons grade fuel will be used to build more nuclear weapons.

Mr. Speaker, the fact is that if North Korea uses the fuel from those 8,000 rods, they will have the ability within a year to build four to six additional nuclear weapons. That is unacceptable, Mr. Speaker, and that is why we have to aggressively at this point in time move in to find a common way to solve the nuclear crisis that exists between North Korea and the rest of the world.

The thing I wanted to mention to our colleagues, Mr. Speaker, is after meeting with the leadership, after meeting with the foreign minister, the speaker of their parliament called the Supreme People's Assembly and the vice foreign minister, I came away convinced that we in fact can find a way to get the North Koreans to give up their nuclear capability.

□ 2310

Tomorrow morning I will talk to Secretary Powell on the phone, and I will relay to him the exact details of what I think could become the basis for his experts and professionals to conduct negotiations within the context that the President and the Secretary of State have defined to allow us to move away from the brink of nuclear war.

Mr. Speaker, the alternative is unacceptable. The alternative would be for North Korea to continue to develop nuclear weapons. If we try an economic embargo, they would likely offer to sell their nuclear weapons to other nations, rogue groups, terrorist organizations. That is unacceptable.

Regime change by means of war I think is unacceptable, at least until we make every possible effort to find a way to convince the North Koreans, as President Putin and Chinese President Hu Jintao have said, to have them remove nuclear weapons from the Korean Peninsula.

Mr. Speaker, I would like to include the trip report, and I would like to thank our congressional delegation Members, the gentleman from Texas (Mr. ORTIZ), who was my co-chair; the gentleman from Texas (Mr. REYES); the gentleman from New York (Mr. ENGEL); the gentleman from South Carolina (Mr. WILSON); the gentleman from Florida (Mr. MILLER). They were a dynamic team, and together we have now brought back to our colleagues the knowledge and a fuller understanding of this nation that has been so secretive.

But more importantly, we bring back to America the possibility that we can resolve this nuclear crisis on the Korean Peninsula through peaceful discussions and through peaceful resolution. Hopefully, Mr. Speaker, under the leadership of our great President and our Secretary of State and Condoleezza Rice, our security adviser, we will in fact this year be able to solve this very difficult challenge in a peaceful way.

The material referred to earlier is as follows:

U.S. CONGRESSIONAL DELEGATION (CODEL) WELDON VISIT TO NORTH AND SOUTH KOREA—DEMOCRATIC PEOPLES' REPUBLIC OF KOREA (DPRK) AND REPUBLIC OF KOREA (ROK), MAY 30–JUNE 2, 2003

OVERVIEW

North Korea DPRK

The delegation was the largest congressional delegation to visit the DPRK and the first CODEL to visit the DPRK in five years. The visit occurred during a period of escalating tensions between the DPRK, the United States, and nations of the region resulting from the DPRK October, 2002, admission of its nuclear weapons-related uranium enrichment program. Subsequent DPRK withdrawal from the Nuclear Nonproliferation Treaty (NPT); confirmation of its possession of nuclear weapons; expelling of IAEA inspectors; declared intentions to reprocess its spent fuel; continued sales of missiles and technology to terrorist nations; and allegations of nation-sponsored drug trafficking all served to further raise tensions between the DPRK and the international community.

The delegation visit was the culmination of over a year-long effort by Representative Weldon to gain entry into the DPRK for the purpose of engaging senior DPRK officials in informal discussions, free of the formality of traditional posturing and imposed pressures of negotiation objectives, to share mutual perspectives on the major political, military, and economic issues.

The resulting visit achieved its purpose by providing the Members an opportunity to engage senior DPRK officials (attachment 2) in lengthy, candid, unstructured, and often pointed, yet respectful, discussions, in several venues covering the complete range of outstanding issues. While discussions with senior DPRK officials included the predictable hard line rhetoric associated with recent DPRK public statements, balanced discussion took place in the formal as well as more personal informal sessions. The demonstrated goodwill and willingness to go beyond first level posturing gave the delegation reason to believe that there are options that should be considered to avoid conflict and resolve critical outstanding issues in a way satisfactory to both sides. There is unanimous agreement within the delegation that a way must be found to initiate discussions in an agreed framework at the earliest possible opportunity. Concern exists that failure to address these crictical issues in a timely manner could result in the proliferation of nuclear weapons and/or technology to terrorist organizations and States.

Repeated statements were made by the DPRK leadership that their brief is that the Bush Administration seeks regime change in North Korea, ''The Bush Administration finds regime change in different nations very attractive . . . and is trying to have regime change, one by one. This kind of conduct damages the U.S. image in the world and weakens the leadership role of the U.S. This is the heart of the question. If the U.S. would sign a non-aggression pact, we would give up nuclear programs and weapons.'' The DPRK seeks normalization of relations and non-interference with its economic relations with South Korea and Japan. Chairman Weldon indicated he did not believe regime change to be the goal of the U.S.—and stated his position of not advocating regime change. The issue of regime change is seen as the determining factor in whether a peaceful resolution to the current standoff is possible.

Chairman Weldon also stated his concern that the establishment of a DPRK nuclear weapons program would lead to similar programs in surrounding nations. He cited Hu-

Putin statements calling for a nuclear free Korean Peninsula. The DPRK, Vice Minister Kim, acknowledged this as a valid point, but indicated that the other nations can rely on the U.S. ''nuclear umbrella,'' while the DPRK has no such option.

A major issue often voiced by DPRK officials remains a requirement on their part to achieve a satisfactory framework for bilateral discussions because of their belief that certain issues ''are too serious'' to be dealt with in an multilateral framework. The delegation believes flexibility exists within a multilateral framework to satisfy the DPRK officials desires for bilateral discussions.

Requested visits by the delegation to the Pyongyang Information (Computer) Center, a school for gifted students, Kim Il Sung's birth place, the North Korean movie studio production facilities, and a Christian church as well as casual evening social events permitted the delegation to interact with a wide variety of North Koreans and to travel to several sections of the city.

Prior to departure, Ministry of Foreign Affairs officials extended an open invitation to the delegation for a return visit and further indicated a willingness to consider visits to the Yong Byon nuclear facility.

Seoul, ROK

In Seoul, the delegation was hosted by President Roh for a breakfast meeting, met with Foreign Minister Yoon, Members of the National Assembly, Ambassador Hubbard, General LaPorte, and other officials to discuss the meetings in the DPRK. The ROK officials expressed their appreciation for the efforts of the delegation and reinforced the need for dialogue with the North.

Observations

Each of the senior DPRK officials with whom the delegation met cited the importance of the visit, given the current tense relationship between the DPRK and the U.S. They also noted their understanding of the role of Congress and that the delegation was not visiting to negotiate issues for the United States, but to enhance mutual understanding between the two nations.

In each of the meetings, Chairman Weldon cited the past and continued importance of inter-parliamentary exchanges in improving relationships with nations and improving the well-being of the peoples once considered to be enemies of the United States, including the People's Republic of China and the U.S.S.R., and expressed his belief that this could be the case with the DPRK once normalized relations could be established. He also expressed his belief that no one in the Congress wishes ill-will toward the North Korean people and that no one wants another war.

Each of the senior DPRK officials noted the tense international situation and sought to place the blame on the U.S. ''because the U.S. seeks to make us give up our military forces which safeguard our political system.'' Each of the leaders also cited their preference for the ''Clinton approach'' in the bilateral relationship and took strong exception to President Bush's inclusion of the DPRK as part of the ''Axis of Evil.'' They stated their belief that such a characterization demonstrates that the U.S. is unwilling to ''accommodate with our country'' and the U.S. seeks regime change. ''Further, the U.S. is enlisting other nations to prepare a nuclear first strike—seeking to blackmail and intimidate us . . . The U.S. does not want to coexist with us . . . And not only does the Bush Administration not want to coexist, but wishes to get rid of my nation with its nuclear strength . . . We see the U.S. preparing for a military strike . . . The U.S. must change its hostile policy.'' Without necessarily supporting the Bush Administration policies toward the DPRK, all members of the delegation agreed with Representative Engel's point to DPRK officials, that violations of the 1994 Agreed Framework by the DPRK were the reason for the current tensions, not Bush Administration policies.

The DPRK officials stated their belief that the situation can only be resolved by acceptance of the current leadership—coexistence—and dialogue. And in the meantime it intends to continue to develop its ''restraint capability'' (nuclear deterrent). ''We have tried dialogue and have been patient . . . Our willingness to meet in Beijing in April shows our flexibility to allow the U.S. to save face, showing our flexibility and sincerity to resolve the issues at any cost . . . We have not had concrete results. The Bush Administration has not responded to our request for bilateral talks—they are more focused on our first giving up our nuclear program . . . This causes us to believe that the Bush Administration has not changed its policy about disarming my nation . . . We want to conclude a non-aggression treaty between the two countries and avoid a military strike on my country.''

DPRK officials explicitly reconfirmed their nation's possession of nuclear weapons and repeated previous public statements regarding the reprocessing of the 8,000 spent fuel rods from the Yong Byon facility. They also indicated they will use the reprocessed materials for making weapons. They further indicated that the only option open to them, given their inclusion in the ''Axis of Evil'' and U.S. refusal to engage in bilateral discussions, ''is to strengthen and possess restraint (deterrent) capability and we are putting that into action . . . I know some say we possess dirty weapons. We want to deny they are dirty ones . . . I apologize for being so frank, but I believe you have good intentions and I want to be frank. We are not blackmailing or intimidating the U.S. side. We are not in a position to blackmail the U.S.—the only super power. Our purpose in having a restraint (deterrent) is related to the war in Iraq. This is also related to statements by the hawks within the the U.S. Administration. Our lesson learned is that if we don't have nuclear restraint (deterrent), we cannot defend ourselves.''

DPRK officials maintained that their nuclear program is only for deterrence and not being pursued to seek economic aid—that ''we only wish to be left alone. The nuclear issue is directly linked to the security of our nation . . . We need frank exchange on nuclear policies.'' DPRK officials indicated that economic sanctions would be viewed as a proclamation of war.

Attachment 1

CODEL WELFON—Members of Congress: Curt Weldon (R–PA); Solomon Ortiz (D–TX); Silvestre Reyes (D–TX); Joe Wilson (R–SC); Jeff Miller (R–FL); Eliot Engel (D–NY).

Professional Staff: Doug Roach; Bob Lautrup.

State Department Interpreter: Tong Kim.

Navy Escorts: Commander Lorin Selby; Lt Commander/Dr. Erik Sawyers; Lt Frank Cristinzio; Lt Tamara Mills.

Attachment 2

DPRK—PAEK, Nam Sun, Foreign Minister; KIM Gye Gwan, Vice Minister, Ministry of Foreign Affairs; CHAI Tae Bok, Chairman, Supreme People's Assembly (SPA); CHO, Seung Ju, Director General, Bureau of U.S. Affairs, Ministry of Foreign Affairs; RHEE Sang No, Director of External Affairs, Presidium of SPA; PAK Myong Guk, Director of U.S. Affairs, Ministry of Foreign Affairs.

ROK—ROH, Moo-Hyun, President; YOON, Foreign Minister; YOO, Jay-Kun, Member, National Assembly; KIM Un-yong, Member, National Assembly; LEE, Jae-joung, Member, National Assembly; SONG, Young-gil, Member, National Assembly; LEE By-yang, Member, National Assembly; PARK, Jin, Member, National Assembly; KIM, Suh-woo, Chief of Staff to the Speaker, National Assembly; SOHN, Jang-nai, former Ambassador to Indonesia; Thomas C. Hubbard, U.S. Ambassador to ROK; General Leon LaPorte, Commander, USFK.

HEALTH DISPARITIES AMONG MINORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. DAVIS) is recognized for the remaining time before midnight as the designee of the minority leader.

Mr. DAVIS of Illinois. Mr. Speaker, I had planned to talk about health care as a result of the Congressional Black Caucus' chairman, the gentleman from Maryland (Mr. CUMMINGS), coming to Chicago on Sunday to participate in a forum dealing with health care issues that is going to be held at the Illinois Institute of Technology.

But listening to much of the discussion this evening as special order speeches have been made talking about tax cuts and tax breaks and which groups got them and which groups did not, I could not help but be reminded of the fact that President Bush has been in office now for about 2 years after being selected by the Supreme Court, and has actually presided over one of the worst downturns in our Nation's history. We have lost 2.7 million jobs, as many as 500,000 in the last 2 months alone. The only answers that I have heard the Republicans give is, tax cuts, tax cuts, and more tax cuts as we have gone from a surplus to a $350 billion deficit, the largest deficit in the history of this country.

As I listen to all of the information about tax cuts and the inability to give certain groups a break, the top 1 percent of the tax cuts that we have made will receive on an average of $24,100 in 2003, this year. Those with incomes of more than $1 million will receive an average of $93,500.

I hear people talk about what will happen for small businesses, and 52 percent of small business owners will only get between zero and $500. Seventy-nine percent of the benefits will go to individuals who have incomes of over $100,000. Twenty-nine percent of the population will go or 29 percent of the breaks will go to individuals who make more than $1 million.

More than two-thirds of the tax cuts will go to the top 10 percent of the population, and over 50 percent of the tax cuts will go to the top 5 percent of the population. The bottom 60 percent of the taxpayers will only get 8.6 percent, averaging less than $100 a year for the next 4 years. The average reduction for the richest 1 percent will be $103,899 for 4 years. Thirty-nine percent will go to this tiny group. The best off 1 percent of the population will get 52 percent of the benefit.

I am not one that always pays a great deal of attention, but oftentimes

I do read them, to what newspapers have to say about these proposals and what we are doing. But as we talk about the need to stimulate the economy, I was reading the New York Times on May 9, and they indicated or they stated, they said, that lower-income families, of course, would be the quickest to spend the money to help provide some of the stimulus the Republicans claim is their first priority. Instead, the GOP remains fixated on high-income concerns. Framing the reconciliation talks is more than an exercise in dueling sugar plums.

So I guess, concerning this whole business of who gets what, a friend of mine told me the other day that there was a quote that said the history of the world, my friend, is relationships between where the money goes, and that after everything else is talked about, look and see where the money goes.

It seems to me that as we have dealt with the tax cut issue, most of the money continues to go to the wealthy. Most of the money continues to go to those who have the most.

At any rate, our health situation is still in bad shape. I am going to spend the rest of my time talking a little bit about that. Our health care system is unacceptable for the world's most powerful and wealthy country. I would say that the state of health care in this country is one of the top critical issues facing the Nation. I do not believe that it can be cured by putting too much of our resources in one population group.

Even as we come to an end of the war against Iraq, there will still be and still are individuals in need of health care. It is true that the state of education, the state of unemployment, and the state of housing are all in dire need of improvement, as well; but they all connect to the need to have a solid, concrete health care system that serves all people.

The state of one's health sets the precedent for everything else in our lives. If we are not in good health, we cannot perform our jobs well or do well in school. If we are not in good health and do not have insurance, we end up with an exorbitant amount of debt that will be virtually impossible for anyone to pay off, if we have been sick.

The numbers are absolutely startling. There are approximately 60 million people without health insurance at some point during the year in this country. Many people believe that it is only the unemployed or individuals with low incomes that cannot afford health insurance.

However, nearly 80 percent of the uninsured are individuals from working families who cannot afford health insurance or cannot access employer-provided health insurance plans. More than one out of every five families making $75,000 a year or more has at least one member without health insurance.

□ 2320

In Chicago, those making between $25,000 and $75,000 or 34 percent have at least one family member without health insurance, as do 41 percent of families making up to $25,000. In Illinois, almost 10 percent of those with at least a bachelor's degree and 20 percent of full time workers are uninsured. America needs to realize that the face of the uninsured has changed. The level of education or salary will not automatically guarantee an individual insurance anymore.

The health crisis is not only due to the number of uninsured in our Nation. There are millions more than the estimated 60 million uninsured at some point that have less comprehensive insurance than what they actually need, and, therefore, are under-insured. They are the families working for small firms or family-owned businesses that are being hit the hardest by the current state of the economy, forcing the employers to cut back and have the employee pay higher premiums. There are senior citizens on Medicare that are being denied care by physicians who can no longer afford to care for them. These are the components of a failing health care system. With State and the Federal Government slashing Medicaid, the safety net we once depended on is instead not a net at all.

Currently in Congress there are numerous resolutions that would help mend our Nation's health care crisis as a whole. The proposed solutions range from a refundable tax credit, to purchasing private insurance, to Congress enacting health care for every American, to amending the United States Constitution. There are also resolutions to help to resolve a single issue plaguing the health system, whether it is the cost of prescription drugs, the reimbursement amounts for a mammogram under Medicare, or a new formula for FMAP.

Although minor changes in health care may be easier for a Member to get passed, it allows many Americans to remain stuck, still unable to afford expensive health insurance. I believe that Congress must act sooner rather than later and reform our health care system as a whole.

One of my American Medical Student Associate fellows, Amanda Muellenberg, once explained the problem of fixing Medicare piece by piece with an old Dutch story. She said there was once a young boy walking down the road and realized that the town's dike had a hole in it. To save the town, the young boy put his thumb in the hole to stop the leaking. Soon another crack and a hole appeared and then another and another. It was not long until the young boy ran out of fingers to clog the holes, and still with all his efforts, he could not stop the dike from leaking. Instead of clogging each new hole in our health care system, we need to rebuild it.

The Kaiser Family Foundation found that uninsured Americans cost Federal, State, and local governments about $35 billion in 2001. Much of that money went to treating individuals who had become seriously ill due to a lack of medical attention. I believe this amount that is spent on helping the uninsured ill could be better used to give screenings and preventative care, leaving less of a financial burden on taxpayers and hospitals for admissions.

President Bush made the commitment to America to leave no child behind in education. Instead, we need to ensure that no American is left behind in preventative care, access to medical treatment, and affordable insurance. The way to accomplish this and the only real way is through enactment of a national health plan, where everyone is in and nobody is out. And as much of a problem that we have across the board with health care and health insurance, when it comes to some population groups, especially when it comes to minorities, nowhere are the divisions of race, ethnicity, and culture more sharply drawn than in the health of the people in the United States.

Despite recent progress in overall national health, there are continuing disparities in the incidents of illness and death among African-Americans, Latino/Hispanic-Americans, Native Americans, Asian-Americans, Alaskan Natives and Pacific Islanders as compared with the U.S. population as a whole. We can point to 6 areas in particular: One, cancer; two, cardiovascular disease; three, infant mortality; four, diabetes; five, HIV/AIDS; and six, child and adult immunizations, aggressively.

Cancer, for example, research shows in general that people of diverse racial, ethnic, and cultural heritage are less likely to get regular medical checkups, receive immunizations, and be routinely tested for cancer when compared with the majority of the U.S. population. Cancer deaths are disproportionately high among Latino/Hispanic-Americans and African-Americans. Vietnamese women are 5 times more likely to have cervical cancer and Chinese-Americans are 5 times more likely to have liver cancer.

Cardiovascular disease. Disparities exist in the prevalence of risk factors for cardiovascular disease, coronary heart disease and stroke. Racial and ethnic groups have higher rates of hypertension, tend to develop hypertension at an earlier age, and are less likely to undergo treatment to control their high blood pressure.

Mexican-American men and women have elevated blood pressure rates. Obesity continues to be higher for African-American and Mexican-American women. Only 50 percent of Native American, 44 percent of Asian-Americans, and 38 percent of Mexican-Americans have had their cholesterol checked within the past 2 years. Coronary heart disease mortality is higher for African-Americans. Stroke is the only leading cause of death for which mortality is higher for Asian-American males.

We look at infant mortality, current studies document that despite advances, African-American and Native American babies still die at a rate that is 2 to 3 times higher than the rate for white Americans. Infant mortality is really a measure that health professionals use to measure quality of life. If infant mortality is high, it usually means that the quality of life is low. If infant mortality is low, it usually means that the quality of life is high.

Statistics revealed that among Native Americans and Alaskan Natives, the incidents of Sudden Infant Death Syndrome, SIDS, is more than 3 to 4 times the rate for white American babies. And while the overall infant mortality rate has declined, the gap between black and white infant mortality rates has widened.

□ 2330

Diabetes, studies indicate that diabetes is the 7th leading cause of death in the United States. Approximately 16 million people in the U.S. have diabetes. African Americans are 1.7 times more likely. Latino Hispanic Americans are 2.0 times more likely. The Alaskan natives and Native Americans are 2.8 times more likely to have diabetes than whites. The Pima tribe of Arizona has the highest known prevalence of diabetes of any population in the world. Native Americans and African Americans have higher rates of diabetes-related complications such as kidney disease and amputation as compared to the total population.

HIV/AIDS, recent data from prevalence surveys and from HIV/AIDS cases surveillance continue to reflect the disproportionate impact of the epidemic on racially, ethnic and linguistically diverse population groups, especially women, youth and children.

The African Americans and Hispanic Latino group accounted for 47 and 20 percent respectively of persons diagnosed with AIDS in 1997. Among African Americans, 56 percent of new HIV infection and AIDS cases are a result of intravenous drug usage. For Hispanic Latino groups, 20 percent of new HIV infections and AIDS cases results from intravenous drug use. Seventy-five percent of HIV/AIDS cases reported among women and children occur among diverse racial and ethnic groups.

Six, child and adult immunizations. Statistics from the President's Initiative on Race reveal that for the most critical childhood vaccines, vaccination levels for preschool children of all racial and ethnic groups are about the same. However, immunization levels for racial and ethnic groups are lower.

School age children and elder adults of diverse racial and ethnic backgrounds continue to lag when compared to the overall vaccination rates for the U.S. general population. While 79 percent of white preschoolers are fully immunized by 2 years of age, only 74 percent of African American and 71 percent of Hispanic Latino children, including preschoolers and school age children, are fully vaccinated against childhood diseases.

Annually, approximately 45,000 adults die of infections related to influenza, pneumonia infections and hepatitis B, despite the availability of preventive vaccine. Among the elderly, there is a disproportionate amount of vaccine preventable diseases in racial, ethnic and underserved populations.

Although the reasons for these disturbing gaps are not well understood, it appears that disproportionate poverty, discrimination in the delivery of health services and the failure of health care organizations and programs to provide culturally competent health care to diverse racial, ethnic and cultural populations are all contributing factors.

For people under 65, blacks and Hispanics have a higher percentage of being uninsured than whites; 12.7 percent of non-Hispanic whites are uninsured; 22.8 percent of blacks are uninsured; and 24 percent of Hispanics are uninsured.

Minorities face greater difficulty in communicating with physicians. Hispanics are more than twice as likely as whites, 33 percent versus 16 percent, to cite one or more communication problems, such as understanding the doctor, not feeling the doctor listens to them or that they had questions for the doctor but did not get asked. Twenty-seven percent of Asian Americans and 23 percent of blacks cite that they also have communication problems.

Minorities, of course, are more likely to be without a regular doctor. Hispanics are twice as likely to not have a regular doctor than whites, 41 percent versus 19 percent. Thirty-one percent of Asian Americans and 28 percent of blacks are without a regular doctor.

Compared with the rates for whites, coronary heart disease mortality was 40 percent more for Asian Americans but 40 percent higher for blacks in 1995. Stroke is the leading cause of death for which mortality is higher for Asian American males than for white males.

Racial and ethnic minorities have higher rates of hypertension, tend to develop hypertension at an earlier age, are less likely to undergo treatment to control their blood pressure. From 1988 to 1994, 35 percent of black males 20 to 74 had hypertension compared to 25 percent of all men.

Among adult women, the age-adjusted prevalence of overweight continues to be higher for black women, 53 percent, and Mexican American women, 52 percent, than for white women. Only 50 percent of American Indians, native Alaskans, 44 percent of Asian Americans and 38 percent of Mexican Americans have had their cholesterol checked in the last 2 years.

According to the 2001 Surgeon General's Report on Mental Health, the prevalence of mental disorders is believed to be higher among African Americans than whites, and African Americans are less likely to be treated for mental problems such as depression or anxiety.

Infant death rates among blacks, American Indians and Alaskan natives and Hispanics in 1995 and 1996 were all above the national average of 7.2 deaths to 1,000 births. The black infant death rate is 14.2 deaths per 1,000 births. This is nearly two-and-a-half times that of white infants, 6 deaths, 1,000 births. Puerto Ricans have a rate of 8.9 deaths, 1,000 births, and overall, American Indians have a rate of 9 deaths to 1,000 live births.

HIV/AIDS is the sixth leading cause of death for African American males and the 10th leading cause of death for African American females. In 2000, 47 percent of all cases reported in the United States were among African Americans. The rate of new AIDS cases among African Americans was almost 10 times higher than among whites.

Cancer is the second leading cause of death in the United States, accounting for more than 544,000 deaths each year. For men and women combined, blacks have a cancer death rate about 35 percent higher than that for whites, 171.6 versus 127 per 100,000. The death rate for cancer for black men is about 50 percent higher than that for white men, 226.8 versus 151.8 per 100,000. The prostate cancer mortality rate for black men is more than twice of that of white men, 55.5 versus 23.8 per 100,000. The death rate for lung cancer is about 27 percent higher for blacks than for whites, 49.9 versus 39.3.

□ 2340

Incident rates for lung cancer in black men is about 50 percent higher than in white men, 110.7 versus 72.6 per 100,000. Native Hawaiian men have also elevated rates of lung cancer compared with white men. Alaskan native men and women suffer disproportionately higher rates of cancer of the colon and rectum than do whites. Vietnamese women in the United States have a cervical cancer rate five times that of white women, 47.3 versus 8.7 per 100,000. Hispanic women also suffer elevated rates of cervical cancer. Black women have the highest death rate from cervical cancer. Stomach cancer mortality is substantially higher among Pacific Islanders, including Native Hawaiians, than other populations.

We mention these numbers because America, our country tis of thee, has a goal to create equal justice, equal opportunity, equal service. The idea that out of many can be one, and one not just in concept but also one in reality. And to make real these ideas, there is obviously a need for special programs and special activities, in addition to changing the way we provide treatment in some instances.

There is a need to increase the numbers of minorities in medical schools, in nursing schools, and to train more professionals. There is the need to put more ambulatory care programs in places where there are none. There is a need to increase accessibility. Of course we know that poverty plays a tremendous role. There is a need for

more education, more assistance for individuals to take control of their own health.

And that is why the Congressional Black Caucus has made health one of its top priority issues. That is why we are pleased that our chairman, the gentleman from Maryland (Mr. CUMMINGS), will in fact be in Chicago on one of his stops as he and other members of the caucus go across the country trying to help raise the issue, trying to help people to understand what they can themselves do, and also continuing to suggest to America that we have to put our resources where our conversations are; that we have to make available quality comprehensive health care to all people in this great country without regard to their ability to pay.

So, Mr. Speaker, as I come to the close of my special order, I want to thank you for your indulgence. I want to thank the American people for watching and listening. And I hope that we can indeed let America be America again, the land that never has been and yet must be. The America that we all continue to dream about. The America that we all continue to hope for. The America that can ultimately crown its good with brotherhood from sea to shining sea. And the America that can have quality comprehensive health care for you and quality comprehensive health care for me.

Ms. LEE. Mr. Speaker, today members of the Congressional Black Caucus rise to expose the truth about minority health disparities in our health care system.

Many of my colleagues will outline the ongoing racial divide when it come to minorities' reliance on emergency and ambulatory services, the issue of access to health care and how minorities are disproportionately uninsured. Others will talk about the leading illnesses and health conditions that kill more Blacks and Latinos than Whites because of social and economic community distrust of the health care system.

However, tonight I want to bring attention to the increasing minority health disparities connected to environmental racism. The simple fact is the environment affects your health, and Blacks, Latinos and other people of color are suffering and dying because of toxins in the environment.

Dr. Martin Luther King, Jr. laid the groundwork when he declared that ''we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.'' The metaphors of nature are the metaphors of life, and that is fundamentally where environmental justice begins and ends.

Unfortunately, the waters themselves in much of the world are tainted, and the toxic streams flow all too often through neighborhoods at the economic margins of society, particularly minority neighborhoods.

Far too often, the issue of minority health and the environment is ignored. Now, the Administration continues to roll back all of the environmental protections that Democrats have fought for, minorities will pay the highest price of all, trapped in homes near brown fields, power lines and sanitation plants. Democrats must stand against the Administration and the deceptive conservatism that continues to sweep our policy debates and our nation.

Members of the Congressional Black Caucus see the forces of environmental injustice playing themselves out in terms of minority health disparities.

These disparities follow a cradle to grave cycle: beginning with infant mortality, continuing with workplace hazards and increased exposure to pollution, and ending with disparate access to healthcare, diagnoses, and medical treatment.

We see these forces clearly in diseases that strike most deeply into our cities and affect children most severely.

Asthma rates among the urban poor are reaching alarming proportions. Death rates from asthma, and a host of other treatable diseases, are significantly higher among African Americans than any other ethnic group.

In my own district, asthma rates are among the highest in the country, and children in West Oakland are seven times more likely to be hospitalized for asthma than children in the rest of California.

Over twenty-eight percent of low-income African American children suffer from lead poisoning, more than twice the level of exposure among low income white children, and far higher than among children of the middle class or wealthy.

Toxins concentrate along the color lines that have historically divided American society. Children of color are much more likely to suffer from lead poisoning, resulting in devastating effects on mental development. We are also finding that public housing communities have been secretly dealing with mold for years, another place where minorities are disproportionately located. These are minority health injustices that we cannot accept.

Environmental minority health disparities grow not only out of poverty, but racism. We must address the ravages of the past while we forge sounder policies for tomorrow. Our environment may be defined as our surroundings. Inner city neighborhoods that have liquor stores but no grocery stores speak to years of less than benign neglect and to the need for meaningful social and economic investment. That is a form of racism. Superfund sites that are under-funded; factories and plants that emit carcinogens under the protections of grandfather clauses; healthcare that is inadequate and racially biased; all demand our attention and financial resources. They are all forms of environmental racism.

We must demand environment health justice for our communities. The gap between minorities and whites in health care continues to grow, but I stand here today in support of universal health care, more resources for minority health initiatives, and a re-evaluation of the national agenda for health and justice. We must consider the environmental health agenda because it affects our homes, our communities, and the overall health of America.

Mr. CONYERS. Mr. Speaker, in 2002, the Institute of Medicine released a telling report entitled: Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care. The report documented many troubling findings which unfortunately, health experts in the underserved communities have been crying out about for decades. It documents the case that the American health care system was set up so that African Americans, Hispanics, and other underserved minorities would receive ''second class back of the bus health care'' in public hospitals and community clinic—many of which are on the verge of economic collapse.

Minority Americans are at least twice as likely as white Americans to be uninsured. More than 30 percent of Latinos and 20 percent of African Americans do not have health insurance—and the gap has been widening over the last decade. Astoundingly, minorities now account for two thirds of the new AIDS cases, and HIV infection is the leading cause of death among younger African Americans. Yet, African Americans are 41 percent–73 percent less likely than whites to receive particular drug therapies.

African American women are far less likely to receive a mammogram than white women and are at far greater risk of being diagnosed with breast cancer. Black men are also 1.5 times more likely to develop prostate cancer than white men, and they are three times more likely to die of the disease. Even more disturbing, African American children are plagued by asthma. They are twice as likely to be diagnosed with the disease and a whopping six times as likely to die from it as white children. Just last month the Harlem Hospital found that an incredible 25 percent of children in central Harlem has asthma—one of the highest rates ever documented in an American neighborhood. Add to all the previously noted findings the fact that African American infant mortality rates are three times higher than the rate for white American babies, and the diagnosis for the future of the African American family seems not only chilling but painfully malignant.

Under George W. Bush and the Republicans, the current health disparities are likely to get worse—the principle reason is that they are gutting health care in general and Medicaid in particular. Medicaid is the bedrock of health coverage for poor Americans in general and minorities in particular—it insures one out of five children in America and two thirds of all nursing home residents.

Because of the budget crisis in the states, the Center on Budget and Policy Priorities has predicted that as many as 1.7 million Americans could lose health coverage entirely under Medicaid cut back proposals in the states. Amazingly, the Bush Administration is opposing efforts to help the States pay their Medicaid responsibilities and help keep poor and minority Americans insured.

This Congress I have been dedicated to bridging the gap in health care disparities amongst Americans. I have introduced a bill that would provide universal health care for all Americans. H.R. 676, ''Medicare For All'' is a national health insurance bill endorsed by 4000 physicians across the country. I also reintroduced H. Con. Res. 99, a resolution that commits to covering all of the uninsured by 2005. Just last month, the Congressional Black Caucus launched campaign to end racial disparities in healthcare by backing my universal healthcare resolution. I am also planning to introduce legislation that will bring Medicaid to anyone earning less than 200 percent of the poverty level. This will allow almost all working poor and unemployed Americans to have health coverage. It will also ensure that major urban hospitals can receive sufficient reimbursements so that they are not forced to shut their doors.

In 2003, in without a doubt the most powerful and wealthy society in the history of the

world, there is absolutely no excuse for the health disparities that are crippling and killing off our African American and minority communities. I urge my colleagues today to support the efforts of the CBC and others who are fighting to improve the health of all Americans.

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

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for today on account of official business.

Mr. LEWIS of Kentucky (at the request of Mr. DELAY) for today and June 5 on account of a death in the family.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TURNER of Texas) to revise and extend their remarks and include extraneous material:)

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 11.

Mr. PENCE, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. WOLF, for 5 minutes, June 5.

Mr. COLLINS, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WAXMAN, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $780.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 313. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Energy and Commerce.

ADJOURNMENT

Mr. DAVIS of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 45 minutes p.m.), the House adjourned until Thursday, June 5, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2511. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Beef from Uruguay [Docket No. 02-109-3] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2512. A letter from the Director, Regulations Policy and Management Staff, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Canada Because of BSE [Docket No. 03-058-1] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2513. A letter from the Under Secretary, Department of Defense, transmitting the Department's quarterly report entitled, ''Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account,'' pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

2514. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Service, transmitting the Department's final rule — Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use [Docket No. 02N-0359] (RIN: 0910-AA01] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2515. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Antidiarrheal Drug Products for Over-the-Counter Human Use; Final Monograph [Docket No. 78N-036D] (RIN: 0910-AA01) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2516. A letter from the Director, Office of Management and Budget, transmitting the Office's FY 2002 report on Federal Government Information Security Reform; to the Committee on Government Reform.

2517. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area [Docket No. 021212307-3037-02; I.D. 052103B] received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2518. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Framework Adjustment 2 [Docket No. 030225045-3096-02; I.D. 020603A] (RIN: 0648-AQ29) received June 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2519. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revision of Charter Vessel and Headboat Permit Moratorium Eligibility Criterion [Docket No. 030303053-3118-02; I.D. 022403] (RIN: 0648-AQ70) received May 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2520. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Mystic River, CT [CGD01-03-047] received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2521. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Correction of Compliance Dates [Docket No. RSPA-01-10373 (HM-220D)] (RIN: 2137-AD58) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2522. 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; Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey [CGD05-03-049] (RIN: 1625-AA08) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2523. 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; Delaware City, Delaware [CGD05-03-013] (RIN: 1625-AA08 (Formerly RIN: 2115-AE46)) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2524. A letter from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Inflation Adjustment of Civil Monetary Penalties (RIN: 2133-AB48) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2525. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Transportation of Hazardous Materials; Unloading of Intermodal (IM) and UN Portable Tanks on Transport Vehicles [Docket No. RSPA-01-10533 (HM-218A)] (RIN: 2137-AD44) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2526. A letter from the Regulations Officer, FHWA, Department of Transportation, transmitting the Department's final rule — Federal-Aid Highway System [FHWA Docket No. FHWA-97-2394] (RIN: 2125-AD74) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2527. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a Report of Building Project Survey for Columbia, MO, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2528. A letter from the Commissioner, Social Security Administration, transmitting the 2003 Annual Report of the Supplemental Security Income Program, pursuant to Public Law 104—193, section 231 (110 Stat. 2197); to the Committee on Ways and Means.

2529. A letter from the Director, Office of Personnel Management, transmitting the Office's legislative proposal ''To amend title 28, United States Code, to eliminate the requirement for a separate system of pay and benefits for FBI police''; jointly to the Committees on the Judiciary and Government Reform.

2530. A letter from the Secretary, Department of Homeland Security, transmitting the Department's legislative proposal entitled the ''Coast Guard Authorization Act of 2003''; jointly to the Committees on Transportation and Infrastructure, Government Reform, Armed Services, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. Supplemental report on H.R. 1086. A bill to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes (Rept. 108–125, Pt. 2).

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 258. Resolution providing for consideration of the bill (S. 222) to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes, and for consideration of the bill (S. 273) to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes (Rept. 108–140). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Concurrent Resolution 190. Resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people (Rept. 108–141). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. ALEXANDER, Mr. ANDREWS, Ms. BALDWIN, Ms. BERKLEY, Mr. BOSWELL, Ms. CORRINE BROWN of Florida, Mrs. CAPITO, Mr. CAPUANO, Mr. CARSON of Oklahoma, Ms. CARSON of Indiana, Mr. COSTELLO, Mr. CRAMER, Mrs. DAVIS of California, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DINGELL, Mr. DOYLE, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GIBBONS, Mr. GORDON, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Ms. HOOLEY of Oregon, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mr. KANJORSKI, Mr. KENNEDY of Rhode Island, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Ms. LOFGREN, Mr. LUCAS of Kentucky, Mr. LYNCH, Mrs. MALONEY, Mr. MENENDEZ, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MCNULTY, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. NEAL of Massachusetts, Mr. OBERSTAR, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. REYES, Mr. RODRIGUEZ, Mr. RYAN of Ohio, Mr. SANDERS, Mr. SANDLIN, Mr. SCOTT of Georgia, Mr. SMITH of Washington, Mr. SOUDER, Mr. STRICKLAND, Mr. STUPAK, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Mr. WALDEN of Oregon, Mr. WEXLER, Ms. WOOLSEY, Mr. SULLIVAN, Mrs. CHRISTENSEN, Mr. TOWNS, and Mr. GRIJALVA):

H.R. 2318. A bill to amend title 38, United States Code, to provide for a assured adequate level of funding for veterans health care; to the Committee on Veterans' Affairs.

By Mr. COX (for himself, Mr. FROST, Mr. VITTER, Mr. BAIRD, Ms. JACKSON-LEE of Texas, Mr. CAMP, and Mr. SHADEGG):

H.R. 2319. A bill to include the Secretary of Homeland Security within the order of Presidential succession which applies in the absence of a qualified President and Vice President, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 2320. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of disabled children, and individuals who became disabled as children, without regard to income or assets; to the Committee on Energy and Commerce.

By Mr. ANDREWS (for himself and Mr. PAYNE):

H.R. 2321. A bill to promote and facilitate expansion of coverage under group health plans, and for other purposes; to the Committee on Education and the Workforce, 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. ANDREWS:

H.R. 2322. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of certain disabled individuals who have no health insurance coverage; 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. BILIRAKIS:

H.R. 2323. A bill to amend title 5, United States Code, to provide that the Civil Service Retirement and Disability Fund be excluded from the budget of the United States Government; to the Committee on the Budget, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPITO:

H.R. 2324. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand the refundability of such credit, and for other purposes; to the Committee on Ways and Means.

By Ms. DELAURO (for herself, Mr. ALEXANDER, Mr. EMANUEL, Mr. RANGEL, Mr. HOYER, Mr. DAVIS of Alabama, Ms. SCHAKOWSKY, Mr. LEVIN, Mr. STARK, Mr. CARDIN, Mr. STENHOLM, Mr. JEFFERSON, Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. SPRATT, Mr. MCDERMOTT, Mr. BROWN of Ohio, Mr. OBERSTAR, Mr. RODRIGUEZ, Mr. OLVER, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. CAPUANO, Mr. LANGEVIN, Mr. MENENDEZ, Mr. HINCHEY, Mr. SERRANO, Mr. GONZALEZ, Mr. BOUCHER, Mr. RYAN of Ohio, Ms. SLAUGHTER, Ms. WOOLSEY, Mrs. LOWEY, Mr. EVANS, Ms. ESHOO, Mr. FORD, Mr. ENGEL, Mr. TANNER, Ms. LEE, Mrs. DAVIS of California, Mr. TIERNEY, Mr. LANTOS, Mr. BAIRD, Ms. ROYBAL-ALLARD, Mr. MCNULTY, Mr. SANDLIN, Mr. MICHAUD, Mr. INSLEE, Mr. MARKEY, Mr. GRIJALVA, Mr. DAVIS of Florida, Mr. BLUMENAUER, Mr. ISRAEL, Mr. DELAHUNT, Mr. HOEFFEL, Mr. REYES, Mr. CLYBURN, Mr. WYNN, Mr. PALLONE, Ms. BORDALLO, Mr. CONYERS, Mr. PASCRELL, Ms. SOLIS, Mr. COOPER, Mrs. MALONEY, Mr. TOWNS, Ms. CORRINE BROWN of Florida, Mr. POMEROY, Mr. DOGGETT, Mr. BERRY, Mr. DAVIS of Tennessee, Mr. TAYLOR of Mississippi, Mr. SKELTON, Mr. STRICKLAND, Mr. UDALL of New Mexico, Mr. DEFAZIO, Mr. SANDERS, Ms. KAPTUR, Mr. DOYLE, Mr. SCOTT of Virginia, Mr. ABERCROMBIE, Mrs. MCCARTHY of New York, Ms. DEGETTE, Mr. ACEVEDO-VILA, Mr. JOHN, Mrs. CAPPS, Mr. CROWLEY, Mr. EDWARDS, Mr. CUMMINGS, Mr. SCOTT of Georgia, Mr. FROST, Mr. KUCINICH, Mr. MATSUI, Mr. HASTINGS of Florida, Mr. THOMPSON of Mississippi, Mr. MEEHAN, Ms. MCCOLLUM, Mr. CASE, Mr. HINOJOSA, Mr. HOLT, Mr. OWENS, Mr. CARDOZA, Mr. RUPPERSBERGER,

Mr. PRICE of North Carolina, Mr. OBEY, Mr. BOSWELL, Mr. JACKSON of Illinois, Mr. LAMPSON, Mr. PASTOR, Mr. ORTIZ, Mr. BECERRA, and Mr. FILNER):

H.R. 2325. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 2326. A bill to require the conveyance of certain Bureau of Land Management lands in Nye County, Nevada, to Ponderosa Dairy in Amargosa, Nevada; to the Committee on Resources.

By Mr. GOODE (for himself and Mr. HILL):

H.R. 2327. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes; to the Committee on Resources.

By Mr. HOEFFEL (for himself, Mr. BRADY of Pennsylvania, Mr. DOYLE, Mr. ENGLISH, Mr. FATTAH, Mr. GERLACH, Mr. GREENWOOD, Ms. HART, Mr. HOLDEN, Mr. KANJORSKI, Mr. MURPHY, Mr. MURTHA, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. TOOMEY, Mr. WELDON of Pennsylvania, Mr. OBERSTAR, Mr. LATOURETTE, Mrs. TAUSCHER, and Mr. LAMPSON):

H.R. 2328. A bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the ''Robert A. Borski Post Office Building''; to the Committee on Government Reform.

By Mr. KIRK (for himself and Mrs. TAUSCHER):

H.R. 2329. A bill to provide for global pathogen surveillance and response; to the Committee on International Relations.

By Mr. LANTOS (for himself, Mr. KING of New York, Mr. HYDE, Mr. SMITH of New Jersey, Mr. RANGEL, Ms. ROS-LEHTINEN, Mr. MENENDEZ, Mr. ROHRABACHER, Mr. FALEOMAVAEGA, Mr. PITTS, Mr. LEVIN, Mr. SOUDER, Mr. ACKERMAN, Mr. SHERMAN, Mr. GEORGE MILLER of California, Mr. CROWLEY, Mr. HOEFFEL, Mr. BROWN of Ohio, Mr. ENGEL, Mr. BLUMENAUER, Mr. SCHIFF, Mr. ANDREWS, Mr. MCGOVERN, Mr. OLVER, Mr. FARR, Mr. EVANS, and Mr. ABERCROMBIE):

H.R. 2330. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATHESON (for himself, Mr. RENZI, and Mr. UDALL of New Mexico):

H.R. 2331. A bill to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MILLER of Florida:

H.R. 2332. A bill to amend the Jobs and Growth Tax Relief Reconciliation Act of 2003 to make permanent the treatment of dividend income as capital gains; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself, Mr. POMEROY, Mr. BEREUTER, Mr. OSBORNE, Mr. MCINTYRE, Mrs. EMERSON, Mr. PETERSON of Pennsylvania, Mr. WALDEN of Oregon, Mr. TOWNS, Mr. BERRY, Mr. KIND, Mr. TURNER of Texas, Mr. LEACH, Mr. ALEXANDER, Mr. MARSHALL, Mr. UDALL of New Mexico, Mr. EDWARDS, Mr. KING of Iowa, and Mr. NUNES):

H.R. 2333. A bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for Medicare beneficiaries who reside in rural areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 2334. A bill to amend the District of Columbia Home Rule Act to establish the Office of the District Attorney for the District of Columbia, headed by a locally elected and independent District Attorney, and for other purposes; to the Committee on Government Reform.

By Mr. OWENS:

H.R. 2335. A bill to provide for general revenue sharing and assistance for education for States and their local governments; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself, Mr. RAHALL, Mr. DREIER, Mr. WICKER, and Mr. GARRETT of New Jersey):

H.R. 2336. A bill to amend the Higher Education Act to establish and strengthen postsecondary programs and courses in the subjects of traditional American history, free institutions, and Western civilization, available to students preparing to teach these subjects, and to other students; to the Committee on Education and the Workforce.

By Mr. REYNOLDS:

H.R. 2337. A bill to provide for the Secretary of Veterans Affairs to conduct a pilot program to determine the effectiveness of contracting for the use of private memory care facilities for veterans with Alzheimer's Disease; to the Committee on Veterans' Affairs.

By Mr. SAXTON:

H.R. 2338. A bill to prevent loans for Iraq from the International Monetary Fund or the International Bank for Reconstruction and Development from being used to pay off Iraq's creditors; to the Committee on Financial Services.

By Mr. SAXTON:

H.R. 2339. A bill to require door delivery of mail sent to persons residing in senior communities; to the Committee on Government Reform.

By Mr. SAXTON:

H.R. 2340. A bill to amend the Internal Revenue Code of 1986 to repeal the required beginning date for distributions from individual retirement plans and for distributions of elective deferrals under qualified cash or deferred arrangements; to the Committee on Ways and Means.

By Mr. SESSIONS (for himself, Mr. POMEROY, Mr. SOUDER, Mr. SMITH of Texas, Mr. PETERSON of Pennsylvania, Mr. PAUL, Mr. BONILLA, Mr. NETHERCUTT, Mr. GONZALEZ, and Mr. EDWARDS):

H.R. 2341. A bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. RANGEL, Mr. MATSUI, Mr. MCDERMOTT, Mr. SANDLIN, and Mrs. JONES of Ohio):

H.R. 2342. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 2343. A bill to amend title XVIII of the Social Security Act to exclude services of certain providers from the skilled nursing facility prospective payment system under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS:

H. Con. Res. 206. Concurrent resolution supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H. Con. Res. 207. Concurrent resolution supporting the efforts to establish a moderate and tolerant political system in Afghanistan that is protective of the rights and dignity of all communities; to the Committee on International Relations.

By Mr. MARKEY:

H. Res. 259. A resolution calling for robust inspections in Iran; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

63. The SPEAKER presented a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8015 memorializing the United States Congress to pray that new federal procedures be established to assure that future sales of wheat stocks from federally held grain reserves be conducted in a manner that such sales will not unduly disrupt the market while also fulfilling the original intent; to the Committee on Agriculture.

64. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 58 memorializing the United States Congress to continue providing assistance to Michigan to help eradicate bovine tuberculosis; to the Committee on Agriculture.

65. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8000 memorializing the United States Congress to pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place and withdraw the Notice of Proposed Rulemaking establishing a Standard Market Design for electricity; to the Committee on Energy and Commerce.

66. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8012 memorializing the United States Congress to pray that the Federal Energy Regulatory Commission leave the Northwest electricity system in place; to the Committee on Energy and Commerce.

67. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1168

Joint Resolution memorializing the President, the United States Congress, and the United States Department of Transportation to not cut essential air services funding; to the Committee on Transportation and Infrastructure.

68. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 14 memorializing the President and the United States Congress to pursue and support fuel cell research projects in Michigan; to the Committee on Science.

69. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8003 memorializing the United States Congress to pray to restore the deduction of retail sales under the federal income tax; to the Committee on Ways and Means.

70. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8002 memorializing the United States Congress to provide adequate funding levels for the United States Forest Service and continually assess the progress towards a healthy forest environment; jointly to the Committees on Agriculture and Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. FORD.
H.R. 49: Mr. UPTON.
H.R. 58: Mrs. KELLY, Mr. REYES, and Mr. HOLT.
H.R. 179: Mr. FLETCHER.
H.R. 188: Ms. LEE.
H.R. 193: Mr. WICKER.
H.R. 262: Mr. KLINE.
H.R. 303: Mr. BARTON of Texas, Mr. LANGEVIN, Mr. HOYER, and Ms. BORDALLO.
H.R. 310: Mr. ROGERS of Kentucky.
H.R. 331: Mr. MCINTYRE and Mr. RANGEL.
H.R. 369: Ms. KILPATRICK, Mr. CONYERS, and Mr. DINGELL.
H.R. 391: Mr. BROWN of South Carolina, Mr. MICA, Mr. BURGESS, Mr. DEAL of Georgia, Mr. LATHAM, Mr. GINGREY, Mr. JONES of North Carolina, and Mr. GUTKNECHT.
H.R. 401: Mr. CARDOZA and Mr. CHOCOLA.
H.R. 414: Mr. DAVIS of Illinois and Mr. OWENS.
H.R. 430: Mr. BURGESS.
H.R. 438: Mr. EHLERS.
H.R. 459: Mr. BURGESS.
H.R. 465: Mr. GREEN of Wisconsin.
H.R. 490: Mr. GUTIERREZ.
H.R. 502: Ms. GINNY BROWN-WAITE of Florida.
H.R. 527: Mr. ROGERS of Kentucky.
H.R. 584: Mr. DELAHUNT and Mr. LATHAM.
H.R. 589: Mr. CUNNINGHAM and Mr. CANNON.
H.R. 648: Mr. SIMPSON, Mr. BISHOP of Utah, Mr. ENGLISH, and Mr. PETRI.
H.R. 660: Mr. HULSHOF, Mr. ISTOOK, Mr. SHADEGG, Mr. CHABOT, Mrs. MYRICK, and Mr. GIBBONS.
H.R. 687: Mr. EVERETT, Mrs. MUSGRAVE, Mr. SIMMONS, Mr. MILLER of Florida, and Mr. STENHOLM.
H.R. 713: Mr. GARY G. MILLER of California and Mr. STUPAK.
H.R. 731: Mr. HOLDEN and Mr. BROWN of Ohio.
H.R. 756: Mr. WICKER.
H.R. 785: Mr. OSBORNE.
H.R. 817: Mr. BOUCHER, Mr. MCCOTTER, and Ms. DELAURO.
H.R. 822: Mr. GRIJALVA, Mr. MARKEY, and Mr. NADLER.
H.R. 857: Mr. OWENS.
H.R. 876: Mr. HASTINGS of Florida, Mr. BURGESS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. WICKER, and Mr. SNYDER.
H.R. 898: Mrs. BIGGERT and Ms. KAPTUR.
H.R. 973: Mr. ANDREWS.
H.R. 976: Mr. LAHOOD.
H.R. 979: Mr. THOMPSON of Mississippi.
H.R. 980: Mr. LEWIS of Kentucky.
H.R. 983: Mr. GARY G. MILLER of California.
H.R. 996: Mr. GUTKNECHT, Mr. LATHAM, Mrs. CAPITO, Mr. JOHN, Mr. WEINER, Mrs. MYRICK, Mr. BONNER, Mr. FORD, and Mr. BOEHNER.
H.R. 997: Mr. MCHUGH and Mrs. EMERSON.
H.R. 998: Mr. HOLT.
H.R. 1007: Mrs. MCCARTHY of New York.
H.R. 1031: Mr. LINCOLN DIAZ-BALART of Florida and Mr. DEUTSCH.
H.R. 1049: Mr. BISHOP of Utah.
H.R. 1052: Mr. UDALL of Colorado.
H.R. 1063: Mr. PITTS and Mr. PALLONE.
H.R. 1105: Mr. CONYERS.
H.R. 1115: Mr. BRADLEY of New Hampshire, Mr. WICKER, and Mr. GOODE.
H.R. 1125: Mr. ROGERS of Kentucky.
H.R. 1130: Mr. BALLANCE and Mr. THOMPSON of Mississippi.
H.R. 1157: Mr. MORAN of Kansas.
H.R. 1179: Mr. CULBERSON.
H.R. 1220: Mr. MANZULLO.
H.R. 1244: Mr. BACA.
H.R. 1268: Mr. GONZALEZ and Mr. HONDA.
H.R. 1294: Mr. DAVIS of Illinois, Mr. NADLER, Ms. BALDWIN, and Ms. KAPTUR.
H.R. 1305: Mr. STEARNS and Mr. GARY G. MILLER of California.
H.R. 1321: Mr. COOPER, Mr. OWENS, Mr. GRIJALVA, and Mr. GUTIERREZ.
H.R. 1421: Mr. RANGEL.
H.R. 1472: Ms. WOOLSEY, Mr. BAIRD, Mr. WYNN, Mr. CAPUANO, Mr. ACEVEDO-VILA, and Mr. ORTIZ.
H.R. 1479: Mr. MCCRERY and Mrs. JO ANN DAVIS of Virginia.
H.R. 1508: Mr. PALLONE, Mr. BACA, and Mr. JACKSON of Illinois.
H.R. 1513: Ms. ROS-LEHTINEN, Mr. EHLERS, Mr. GORDON, and Mr. SANDLIN.
H.R. 1532: Ms. KILPATRICK, Mr. OLVER, Mr. LARSON of Connecticut, Mr. WAXMAN, and Mr. SMITH of New Jersey.
H.R. 1536: Mr. SULLIVAN.
H.R. 1539: Ms. LEE.
H.R. 1551: Ms. LINDA T. SANCHEZ of California and Ms. MCCOLLUM.
H.R. 1565: Ms. JACKSON-LEE of Texas.
H.R. 1586: Mr. BISHOP of Utah.
H.R. 1655: Mr. LUCAS of Kentucky, Mr. FARR, Mr. HINCHEY, Mr. MCNULTY, Mr. LANTOS, Mr. FROST, and Mr. WAXMAN.
H.R. 1675: Mr. COLE and Mr. CARDOZA.
H.R. 1710: Mr. HOLDEN and Mr. MURPHY.
H.R. 1725: Mr. BURGESS.
H.R. 1738: Mr. MICHAUD, and Mr. FRANK of Massachusetts.
H.R. 1742: Ms. LINDA T. SANCHEZ of California and Mr. BONILLA.
H.R. 1749: Mr. RAHALL.
H.R. 1755: Mr. CHOCOLA.
H.R. 1767: Mr. SULLIVAN, Mr. AKIN, Mr. HAYES, Mr. FEENEY, Mr. ROHRABACHER, Mr. PENCE, and Mr. SIMMONS.
H.R. 1769: Mr. SAXTON and Mr. CARTER.
H.R. 1784: Mr. LEWIS of Kentucky and Mr. REYES.
H.R. 1813: Mr. CARDIN, Mr. WAXMAN, Ms. WATERS, and Ms. SCHAKOWKSY.
H.R. 1824: Mr. ENGEL, Mr. BAKER, Mr. GALLEGLY, Mr. FEENEY, and Mr. BRADLEY of New Hampshire.
H.R. 1881: Mr. OSE.
H.R. 1902: Mr. MILLER of Florida, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, and Ms. KAPTUR.
H.R. 1926: Mr. MILLER of Florida.
H.R. 2012: Mr. MENENDEZ.
H.R. 2017: Ms. BALDWIN.
H.R. 2023: Mr. LANTOS.
H.R. 2030: Mr. SCHIFF.
H.R. 2032: Mr. BROWN of Ohio, Mr. FRANK of Massachusetts, and Mr. BOEHLERT.
H.R. 2037: Mr. RAHALL.
H.R. 2052: Mr. HINCHEY, Ms. WATSON, Mr. FILNER, Mrs. JOHNSON of Connecticut, Mr. SCOTT of Georgia, Mr. ABERCROMBIE, Mr. ISAKSON, Mr. GOODE, Mrs. MYRICK, Mr. PENCE, Mr. LUCAS of Oklahoma, Mr. BRADLEY of New Hampshire, Ms. SOLIS, Mr. BACA, Ms. DELAURO, Mr. COX, Mr. MORAN of Virginia, Mr. MORAN of Kansas, Mr. LEACH, Mr. HOYER, Mr. FRANK of Massachusetts, Mr. GREEN of Wisconsin, Mr. LATHAM, Mrs. MALONEY, Mr. DEUTSCH, Mr. PICKERING, Mr. UDALL of New Mexico, Mr. MENENDEZ, Ms. JACKSON-LEE of Texas, Mr. COOPER, Mr. DUNCAN, Mr. SPRATT, and Mr. COBLE.
H.R. 2068: Mr. MCDERMOTT, Mr. MARKEY, Mr. GREEN of Texas, Mr. RODRIGUEZ, and Mr. ANDREWS.
H.R. 2069: Mr. MCDERMOTT, Mr. MARKEY, Mr. GREEN of Texas, Mr. RODRIGUEZ, Mr. ANDREWS, and Mr. LANTOS.
H.R. 2077: Mr. MCHUGH.
H.R. 2125: Mr. MCDERMOTT and Ms. MILLENDER-MCDONALD.
H.R. 2127: Mr. OWENS.
H.R. 2131: Mr. DAVIS of Florida.
H.R. 2133: Mrs. KELLY.
H.R. 2152: Ms. JACKSON-LEE of Texas.
H.R. 2162: Mr. ISRAEL.
H.R. 2169: Mr. RYAN of Ohio.
H.R. 2182: Mr. BOUCHER, Mr. FROST, Mr. STARK, Mr. CARDIN, and Mr. MCNULTY.
H.R. 2183: Mr. CANTOR.
H.R. 2198: Mr. HOLT, Mr. PALLONE, and Mr. DEAL of Georgia.
H.R. 2203: Ms. HART and Ms. MCCOLLUM.
H.R. 2205: Mr. JEFFERSON, Mr. CLYBURN, Mr. OLVER, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. LANTOS, Mr. HONDA, Mr. ISAKSON, Mr. FOSSELLA, Mr. CLAY, Mr. SHAYS, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. LEACH, Mr. MCNULTY, Mr. OWENS, Mr. RANGEL, Mr. WYNN, Mr. MOORE, and Ms. DELAURO.
H.R. 2212: Mr. OWENS.
H.R. 2213: Mr. DAVIS of Florida.
H.R. 2233: Mr. LANTOS, Mr. OLVER, Mr. MORAN of Virginia, and Mr. UDALL of Colorado.
H.R. 2242: Mr. WELLER.
H.R. 2246: Mr. KILDEE, Mr. HOEFFEL, Mrs. LOWEY, and Mrs. KELLY.
H.R. 2247: Mr. OWENS, Ms. SCHAKOWSKY, Mrs. CAPPS, Ms. MCCOLLUM, Ms. SOLIS, Mr. DAVIS of Illinois, Ms. CORRINE BROWN of Florida, Ms. ESHOO, Mr. HOEFFEL, Mr. BOSWELL, Ms. LINDA T. SANCHEZ of California, Mr. GONZALEZ, Mrs. TAUSCHER, Mr. GEPHARDT, Ms. WOOLSEY, Mr. LEVIN, and Ms. MILLENDER-MCDONALD.
H.R. 2249: Mr. LUCAS of Kentucky and Mr. WAXMAN.
H.R. 2250: Mr. OWENS, Mrs. CHRISTENSEN, and Mr. GONZALEZ.
H.R. 2268: Mr. FROST, Ms. WATERS, Mr. SCHIFF, Mr. PASCRELL, Mr. DAVIS of Illinois, and Ms. LEE.
H.R. 2286: Mr. MATSUI, Mr. DOGGETT, Mr. POMEROY, Mrs. JONES of Ohio, Mrs. DAVIS of California, Ms. LOFGREN, Mr. TIERNEY, Mr. OBERSTAR, Mr. NADLER, Mr. OLVER, Mr. FILNER, Mr. BELL, Mr. LANTOS, Ms. HARMAN, Mr. LANGEVIN, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. WYNN, and Mr. CARDIN.
H.R. 2291: Mr. PLATTS, Mrs. CHRISTENSEN, and Mr. STARK.
H. Con. Res. 60: Mr. GORDON, Ms. WATSON, Mr. RAMSTAD, Mr. CANNON, Mr. COLLINS, Mr. TERRY, Mr. SULLIVAN, Mr. AKIN, Mr. GOODE, and Mrs. BONO.
H. Con. Res. 78: Mr. GRIJALVA.
H. Con. Res. 93: Mr. THOMPSON of California, Mr. GALLEGLY, Mr. MILLER of Florida, Mr. DOOLITTLE, Mr. FARR, Mr. BERMAN, Mr. COX, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Mr. GARY G. MILLER of California, Mr. GEORGE MILLER of California, Mr. NUNES, Mr. POMBO, Mr. RADANOVICH, Mr. THOMAS, and Mr. STUPAK.

H. Con. Res. 99: Mr. FRANK of Massachusetts and Ms. DELAURO.

H. Con. Res. 115: Mr. ACKERMAN and Ms. SCHAKOWSKY.

H. Con. Res. 116: Mr. FLAKE.

H. Con. Res. 122: Mr. FRANK of Massachusetts, Ms. LEE, and Ms. MCCOLLUM.

H. Con. Res. 190: Mr. GOSS, Mr. LINDER, Ms. PRYCE of Ohio, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Washington, Mrs. MYRICK, Mr. SESSIONS, Mr. REYNOLDS, Ms. SLAUGHTER, Mr. MCGOVERN, and Mr. HASTINGS of Florida.

H. Res. 157: Ms. LOFGREN.

H. Res. 233: Ms. LEE.

H. Res. 234: Mr. CLAY and Mr. CAPUANO.

H. Res. 242: Ms. HARRIS and Mr. GALLEGLY.

H. Res. 246: Mr. MICHAUD, Mrs. JONES of Ohio, and Ms. WOOLSEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 898: Mr. GEPHARDT.

H.R. 2180: Mr. GORDON.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1474

OFFERED BY: MS. HART

AMENDMENT NO. 1: In section 1, insert ''or the 'Check 21 Act''' before the period at the end.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, JUNE 4, 2003 *No. 81*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

The PRESIDING OFFICER. The prayer will be offered by the guest Chaplain, the Very Reverend Nathan D. Baxter of Washington National Cathedral.

PRAYER

The guest Chaplain offered the following prayer:

The Lord of hosts is with us; the God of Jacob is our strength.—Psalm 46:7.

O God, who is our strength, we begin the work of this day as servants of our Nation's people and stewards of democracy. We pray Thy blessings of courage and wisdom for the Members of the Senate, its officers and staff. So guide them in the work of this day, that our liberties may be preserved, the wellbeing of all our people advanced, and that in all things, You, O God, the author of liberty, may be glorified. Amen.

PLEDGE OF ALLEGIANCE

The Honorable Senator SAM BROWNBACK 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 4, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, for the information of all Senators, there will be a period of morning business until 11 a.m. There are several legislative and executive matters that the Senate will consider during today's session.

Following morning business, it is possible that the Senate will resume consideration of the Defense authorization bill, as provided under the consent agreement of May 23. Under that order, we should be able to finish action on that bill within a couple of hours and then send it to conference with the House.

We will also resume consideration of the Energy legislation today. We made very good progress on the ethanol issue yesterday. However, I understand that additional amendments will be offered on that matter. It is my hope that Members offer their ethanol amendments so the Senate can then begin to consider other energy-related amendments.

In addition, discussions are underway to devise a process for consideration of the child tax credit legislation, as we talked about yesterday on the floor. We are now discussing the best way to address this very important issue. It will be addressed and, over the course of the morning, a final decision will be made on what is the fairest and most efficient way to address the child tax credit legislation.

The chairman of the Finance Committee introduced his legislation yesterday and is working with many colleagues on the best course of action so that we can expeditiously consider that bill.

We are also working to clear additional nominations during today's session. Members should expect votes throughout the day, and Senators will be notified when the first vote is scheduled. I am going to make a very brief statement on Medicare. I will proceed with that and then we can proceed in morning business.

MEDICARE

Mr. FRIST. Mr. President, 5 years ago, this body launched a bipartisan commission on Medicare with the purpose of addressing both the short-term, mid-term, and long-term challenges we have with sustaining Medicare, preserving Medicare, and strengthening Medicare. That bipartisan commission did develop a solid bipartisan proposal. Since 1999, the Senate Finance Committee has held 29 hearings on Medicare, and 7 of those hearings specifically focused on adding a prescription drug benefit to Medicare coverage.

We have discussed the issue, we have debated the issue, we have dissected it, and we have deliberated on the issue of Medicare modernization and Medicare improvement for years now—for 6 years since we first began talking about the Medicare commission.

I sincerely believe that the stars are aligned for legislative action and a vote to preserve Medicare and strengthen and improve it and address the prescription drugs issue right now, this month. It is now time for us not to just talk about the issue again but to act on the issue.

Since I became majority leader, I have made it clear that it would be my intention to address the issue using the

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normal order of business, and that is to have a proposal that is developed and generated in a bipartisan way through the Finance Committee, bring that bill to the floor of the Senate for further debate and further amendment. The Finance Committee is progressing well. The action of the Finance Committee is on course to accomplish my goal.

Our leadership goal is bringing this to the floor on about June 16, 2 weeks from now. I am pleased with the progress to date. I understand we have a long way to go. It is a complex piece of legislation, but a very important piece of legislation that I am absolutely convinced we can bring to resolution for the benefit of seniors and individuals with disabilities.

We will have approximately 2 weeks on the floor of the Senate. I have made that very clear as well so that people, for the last several months, have been able to prepare and think through what is important to them, talk to their constituents, talk to their counselors to make sure we address this in a very thoughtful way.

I think we will be able to work together—both sides of the aisle—to cull the very best of our ideas and give America's seniors a Medicare system that will do what we want to do: provide our seniors and individuals with disabilities real health care security.

I believe we need to work to make sure that seniors do have the choice and the flexibility to be able to choose the type of coverage that best meets their individual needs. We need to make sure that coverage is available to every senior, everywhere. There has to be a special focus, as we all know, on the issues that pertain directly to the rural population. You can do that, for example, by requiring plans to bid in large geographic areas across the country, instead of just cherry-picking, whether it is urban, or suburban, or just a rural population. I think we can get rid of the cherry-picking that has emerged in the current system. If a health coverage plan wants to serve patients in a high-cost, densely populated suburban or urban area, they will also have to offer coverage in rural areas, whether it is Maine, Wisconsin, Montana, or in Iowa.

We can do all of this if we focus on the big picture for the future. Our fellow citizens are clearly relying on us and we need to focus on them. Now is the time for us not to just get by another year but to transform this system in a positive way.

Seniors deserve choice. They deserve having a system that is focused on the patient, one that is really patient centered. They deserve care that is flexible, with less paperwork and bureaucracy. They deserve care that focuses on prevention and not just in response to acute episodic injury, so that you can capture that early heart disease before it becomes what is called a cardiomyopathy or a chronic congestive heart failure. It ends up being less expensive, more valuable, and certainly keeps patients healthier. They need to be protected from catastrophic out-of-pocket expenditures. Most seniors do not realize today that if they get very sick, there is no limit as to the out-of-pocket costs they have to pay. We need to protect them especially in those events surrounding catastrophe.

I think seniors should be in a system that allows them the opportunity to see the doctors they choose. Thus, it is my hope and intention that we will vote on final passage before leaving for the Independence Day recess. Once passed, I am very hopeful that the bill, whatever its final shape, will begin to help seniors as soon as possible.

Whenever we bring up to date or strengthen a system, it takes time to implement that plan in a careful and systematic way. I think as we develop that plan and begin to implement it, there are ways we can immediately begin to help those seniors who need help with prescription drugs.

In 1963, when leading the fight to enact Medicare, President John F. Kennedy said:

> A proud and resourceful nation can no longer ask its people to live in constant fear of a serious illness for which adequate funds are not available. We owe the right of dignity in sickness as well as in health.

Medicare, as I mentioned yesterday in this Chamber, has served a generation of America's seniors very well. Our challenge now is to take a system which is out of date—if you look at the way state-of-the-art care is delivered—and bring it up to date so we can serve the current generation and next generations of seniors equally well.

We have an opportunity to do that now. We have an obligation, I would argue, to do that now so that we can provide real security for generations to come.

AFRICAN AMERICAN MUSEUM

Mr. FRIST. Mr. President, I close my opening remarks today by commenting on an issue that will be talked about later in morning business. It has to do with the development and launching of legislation on the National Museum of African American History. I thank, in particular, the Presiding Officer of the Senate now, Senator BROWNBACK, for his leadership on this issue. Also, I thank Senator DODD, Senator LOTT, Senator SANTORUM, Senator STEVENS, Representative JOHN LEWIS of Georgia, and Representative J. C. Watts for their outstanding efforts in launching the National Museum of African American History.

Currently, there is no national museum that honors the African-American story, and my colleagues seek to change that. They have introduced legislation to plan and construct a museum within the Smithsonian Institution dedicated to celebrating and preserving African-American history at a national level.

The legislation sets forth a joint Federal-private partnership for building the museum and authorizes $17 million for the first year to launch the museum council which will be comprised of leading African Americans from the museum, historical, and business communities.

The Museum of African American History will help educate all Americans and visitors alike on the rich history of African Americans and their essential role in transforming America's politics, its culture, its character, and its soul.

I take this opportunity to thank my colleagues for their commitment and for their leadership in this important endeavor.

Mr. President, I yield the floor.

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 will be a period for morning business not to extend beyond the hour of 11 a.m., with the first 30 minutes under the control of Senator BROWNBACK or his designee, and that the remaining time be equally divided between the two leaders or their designees, and that Senators be limited to 5 minutes each.

The Senator from Illinois.

PRESCRIPTION DRUG BENEFIT

Mr. DURBIN. Mr. President, there are many issues that will be before us this morning and during the course of this week, such as the Energy bill, which, of course, is of great importance to the security of the United States of America. We have had amendments on that bill over the last several days. But we will also be considering an important issue for millions of Americans, and that is the cost of prescription drugs. It is an issue which families face all the time, particularly if they have someone in the family with a serious illness. It is particularly difficult as well for senior citizens on a fixed income.

There are two different issues that are going to be tested in this Chamber. There is a Republican approach which suggests we need to basically privatize Medicare, that we need to basically abandon the system of health insurance protection for seniors which has been effective for over 40 years.

There are many on the Republican side of the aisle from a conservative political viewpoint who really do not care much for our Medicare system. They have been fairly outspoken about it. One of them is Senator SANTORUM of Pennsylvania, one of the leaders on the Republican side. This is what he said recently about Medicare:

> The standard benefit, the traditional Medicare program, has to be phased out.

''Has to be phased out,'' he said. That was a statement by Senator SANTORUM, a Republican leader, in the New York Times on May 21.

What the Republicans will bring us in terms of prescription drugs is really the first and critical step toward phasing out Medicare. It is their belief that Medicare should be eliminated and replaced with private insurance coverage, but most American families know, if they have been at the mercy of a health insurance company, that, frankly, that is not a very wise tradeoff, nor a very fair one. That is why we come down to some fundamental differences between Democrats and Republicans when it comes to prescription drugs.

We on the Democratic side believe that a prescription drug benefit should be part of Medicare; that it should be a voluntary program; that there should not be any coverage gaps; that there should be reliable coverage all across America; and that we ought to lower the cost of medicine for everyone by ensuring access to generic drugs.

On the Republican side, they have serious gaps in coverage in prescription drugs. If you are paying for prescription drugs on a monthly basis for a serious illness and expect to pay for it throughout the course of the calendar year, there are periods in the beginning when Republicans would protect you for a short period of time and then long periods of months when there is no protection whatsoever before your bills get so huge you qualify for catastrophic coverage. That is not very much protection for a family or a sick person.

They also, on the Republican side, will force seniors out of Medicare and into unreliable HMOs where seniors will not be able to choose their own doctors. Do you remember the debate we had over 10 years ago about the future of health care in America? Wasn't one of the serious issues we talked about one's ability to choose one's own doctor? The Republican approach on prescription drugs, the suggestion we privatize Medicare, that we move people into HMOs, will take away the ability of seniors to choose their own doctors, their ability to choose the doctors they trust. That is pretty fundamental.

Also, the Republicans suggest spending billions to privatize Medicare and turning this over to big insurance companies. Have you spoken recently to someone who has had to deal with health insurance companies, the rates they charge, and the conditions on coverage? I have; I sat down with small business people in Illinois. I find it absolutely scandalous what is going on. These insurance companies are cherrypicking. They are deciding who they will insure and who they will not insure. They are deciding the length and duration of coverage and the type of coverage.

If you, during the course of the calendar year when you are covered, turn in any claim relative to any part of your body or any illness, you can virtually bet that next year, when you go to sign up for health insurance, it will be excluded; you are on your own. Is that the kind of coverage which we want to see in America?

The Republicans say that is a choice; we are giving people a choice. Let me tell you, Mr. President, the seniors of America have chosen for over 40 years the right choice, and that choice is Medicare. Medicare is a system which protects all Americans. It is a system with low administrative costs. It is a system which has worked. It has worked because the life expectancy of seniors has increased. It has worked because hospitals across America provide benefits to seniors. That is what is at stake in this debate.

I say to my colleagues who argue this is just a question of choice, it is the wrong choice. The best choice is to stick with Medicare, to stick with protection.

In closing, I wish to speak about cost. There will be those who come to this Chamber and say: You Democrats and those who support a plan under Medicare have to understand how expensive it is.

They will say, you do not understand the expense of your proposal. I wish those same critics could remember the debate just 2 weeks ago on the Senate floor when the Bush administration came in and asked for us to provide over $350 billion in tax breaks for some of the wealthiest people in America. Two years ago, that same administration asked for over $1 trillion worth of tax breaks for the elite investors in America. The money was there for tax breaks for the wealthiest people in America but, sadly, when it comes to providing health insurance coverage, when it comes to prescription drug coverage, time and again the same people who voted so willingly for tax breaks for the wealthy will not come up with the dollars necessary for real prescription drug coverage that will cover our seniors across America.

That is what this debate is about, the future of Medicare, a fair program to protect all senior citizens and to provide for cost of prescription drugs.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I have spoken to the majority leader and the Democratic leadership when they were both in the Chamber, and I ask unanimous consent that morning business be extended until 11:30 today, and that at that time we go to the Defense Bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Connecticut.

THE NATIONAL AFRICAN AMERICAN MUSEUM OF HISTORY AND CULTURE ACT

Mr. DODD. Mr. President, just before the Memorial Day recess, the distinguished Presiding Officer and I had the great honor of introducing bipartisan legislation, S. 1157, to create a National Museum of African American History and Culture within the Smithsonian Institution.

We were joined in that effort by 44 of our colleagues, and I might point out that another four have joined since that time, bringing the total number of cosponsors to this legislation to 48. I presume before the day is out we will have a clear majority of our colleagues who endorse the legislation introduced by the distinguished Senator from Kansas.

Senator BROWNBACK and I introduced similar legislation in the last Congress and I am pleased that we have such strong continuing interest from our colleagues, ensuring this important museum be created.

This long overdue legislation will guarantee that the compelling stories and invaluable contributions of African Americans to our Nation will finally be shared with all Americans, indeed all peoples of the world.

This legislation also allows us to publicly display the contributions of African Americans to the founding of our Nation and educate students of all ages about the importance of their experience. This museum is not intended to replace the numerous museums and institutions of African American culture and history that already exist in our country. Instead, it will bring a national focus and prominence to the contributions and experiences of African Americans.

In New Haven, CT, for example, we are fortunate to be the home port of the 19th century freedom schooner, Amistad. The recreated Amistad is a floating classroom and reminder of the devastating effects of the transatlantic slave trade. Amistad America is dedicated to promoting the legacies of the Amistad incident of 1839 and to celebrating and teaching the historic lessons of perseverance, leadership, justice, and freedom experienced by African Americans during that incident, and similar ones like it during the centuries before 1839.

It is my hope, of course, that organizations such as Amistad America and numerous others will be able to work with the Smithsonian to ensure that these important stories may be told. I am pleased that we have been able to provide support for these numerous organizations and associations, such as Amistad, in this bill as well.

During my tenure as chairman of the Senate Rules Committee, I was pleased to work with colleagues to pass legislation to establish the Presidential Commission on the National Museum of African American History and Culture action plan.

In April, the Presidential commission issued its report in which it documented the voices of African Americans across the Nation, calling for a national place to tell their individually collective stories. This long overdue

legislation will provide such a place, and I commend the distinguished Presiding Officer for his leadership on this issue.

The mission statement contained in that report sums up the purpose of this legislation:

> This museum will give voice to the centrality of the African American experience and will make it possible for all people to understand the depth, complexity, and promise of the American experience.

It is that very goal, of completing the American story of our quest for freedom and truth by publicly incorporating the experience and contribution of African Americans, that is the essence of this legislation. This museum offers the promise and the hope that all Americans can come to understand the full story of how this Nation was formed. It is past time that we publicly acknowledge and incorporate the African Americans' experience into our collective identity and this museum will provide the appropriate means for accomplishing that very goal.

Again, I congratulate my colleague, Senator BROWNBACK, and I want to specifically highlight the tremendous contribution of Representative JOHN LEWIS of Georgia, who is the lead sponsor in the House of Representatives for this bill, on their perseverance in this matter. I am honored today to join them as their lead sponsor on this side of the aisle.

I see my colleague from Mississippi, who I know has some comments he wants to make on this as well. I thank him for his leadership. As the chairman of the Rules Committee, he will have a lot to say about how this bill moves through the committee and comes to the floor.

My congratulations to the Presiding Officer from Kansas and all others who have joined with us in this collective effort this morning.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Mississippi.

Mr. LOTT. I yield myself 5 minutes of the time reserved for the Senator from Kansas, Mr. BROWNBACK.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I am pleased to join my colleagues today in cosponsoring and supporting the introduction of legislation to create the National Museum of African American History and Culture. I particularly want to commend Senator BROWNBACK, the Presiding Officer this morning, for his leadership on this issue. This legislation could not be introduced today in a way that it can be considered and acted upon without his willingness to stay behind it, to work through some of the problems that did exist and to work with the Rules Committee and our staff to make sure we had legislation that could have broad-based support and could actually be passed by the Senate.

I am pleased to see my colleague from the Rules Committee, the ranking member, Senator DODD, as a cosponsor, as well as Senator FRIST, Senator STEVENS, Senator SANTORUM, Senator SMITH, and Senator DASCHLE. Obviously, leadership on both sides of the aisle has decided to join in sponsoring this truly historic legislation.

The National Museum of African American History and Culture will be built and operated within the Smithsonian Institution and be a full-fledged Smithsonian Museum. That is a critical point to be made. It gives additional stature, credibility, and supervision that will be very helpful in the years ahead as we try to make sure this museum exhibits the way it should and is fully utilized by the American people and supported by the Congress.

I rise to express my support for the legislation because this museum will showcase not only the history and the culture of African American experience, but it will serve as a vivid display of the countless contributions that African Americans have made to the United States and in fact to the world.

Back in 2001, I had an unusual experience. It was one of those rare weekends when I stayed in Washington and my family, including my wife, were all back home in Mississippi. So I took a bicycle ride down the Mall and I wound up at the Vietnam Veterans Memorial. I parked my bicycle across the way kind of in the edge of the bushes and just watched people. I do not know what really started me to doing that, but I guess I was struck, as I pulled up, at the number of people there and how they were relating to this memorial. They touched it. They shed tears there. They stood there. It was obviously a moving and spiritual experience, a connecting experience, maybe an experience of closure for some people. It struck me what an important monument and memorial that site is.

Later on that same week, I was meeting with a group of African American business leaders and we ended up talking about how to properly and adequately recognize the contributions of African Americans and their role in shaping American history. I conveyed to them the story of my experience at the Vietnam Memorial and how it seemed to positively affect the people that came there, and that it caused me to recognize that every American needs a monument, a memorial, that is sort of theirs that reflects their heritage. It could be of all kinds of backgrounds in America. We have talked about the need for the Native American monument somewhere in this city to honor what they have contributed to this country. So I believe the creation of this museum will go a long way toward a similar type healing process for African Americans, and I am honored to be a part of it.

The Smithsonian is no doubt one of the world's leaders in preserving, displaying, and telling the story of the American experience. Often called the ''Nation's Attic,'' the Smithsonian houses the great collections of the United States and educates the public on our rich history and the importance of ensuring that knowledge passes from one generation to the next.

However, our national attic currently has some voids and we should work to fill those voids in a very careful, thoughtful, and responsible way. Having this museum is one of those voids that needs to be addressed.

Last year, a Presidential commission was appointed to study the possibility of creating a museum dedicated to African American history and culture. The commission spent thousands of hours researching the possibilities of bringing this museum to light. The commission held dozens of forums and meetings across America and received feedback from a broad spectrum of citizens and leaders within the African American and other communities. These forums and discussions were thoughtful, calculated, and complete. The feedback was resoundingly clear—a national museum is the proper vehicle for showcasing and telling the world about the African American experience. I could not agree more.

I am delighted to join in sponsoring this legislation. The history and culture of African-American life in this country is a very important part of the history of our culture and all that is America. Its story needs to be included in the sacred places in this city.

I commend Senator BROWNBACK for his leadership. I am glad to join in a bipartisan effort to get this legislation approved.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The minority leader.

Mr. DASCHLE. Madam President, I add my voice to those of Senator LOTT and Senator DODD and others in expressing my support and commendation to the Presiding Officer for his leadership, as well as to Senator DODD and Senator LOTT, Senator SANTORUM, Senator STEVENS, and others who have taken the initiative to show such leadership on this very important project.

If I could think of one word as I consider the prospect of the National Museum of African American History and Culture, it would be ''overdue.'' It is overdue. It is long past due. I hope on a bipartisan basis we continue to demonstrate our recognition of the remarkable contributions of African American culture and African American leadership to our country. One cannot understand the story of America without understanding the story of African Americans.

I hope we continue to work to move this project along. Again, I commend those directly involved.

PRESCRIPTION DRUGS

Mr. DASCHLE. Madam President, let me talk briefly about the important legislation addressed by the distinguished majority leader. He had spoken

about the importance of our effort this month on prescription drugs. I applaud him for making this a priority. When I was majority leader almost a year ago, we made that same commitment. Of all my disappointments, the one that perhaps may be at the top of the list last year was our inability to pass the legislation. We got 52 votes. The majority of the Senate went on record in support of the plan that was taken up by the Senate. We did not have the 60 votes because there were opponents to the legislation that made points of order that kept the Senate from accomplishing our goal of getting to conference and moving through the bill.

Let me simply list five concerns I have as we begin. Hopefully, all of the concerns can be addressed. It is critical we consider them very carefully. The first concern is procedural. The distinguished majority leader noted that we have had 29 hearings on Medicare since 1999 and, indeed, we have studied this issue a good deal. What I am concerned about now, however, is that we did not have a bill before the Senate. I know Senator GRASSLEY is working tirelessly with others to provide a vehicle to allow us the opportunity to debate this issue. The administration, of course, has come out with their recommendations that Senator DURBIN addressed a moment ago. However, we ought to have a hearing on the bill itself once it is written so we can walk through it and make sure we know exactly what we will be voting on and considering. Having that hearing on the bill seems to me to be an essential aspect of the procedural requirements we have to consider as we prepare for the debate on the Senate floor itself.

The second issue has to do with the context. Some will use Medicare and prescription drugs as a Trojan horse to privatize the Medicare system. How tragic that would be if in the name of providing good prescription drug benefits to seniors, we end up with a system that most seniors will not recognize.

Before Medicare was created in 1965, less than half of Americans over the age of 65 had health insurance. Now, 95 percent of seniors over the age 65 have health insurance. The reason they do is because of Medicare.

If we privatize Medicare, seniors in rural areas, in particular, will suffer. Let us not privatize the system. Let us not destroy a system that works so well for so many.

I find it interesting that those who laud the advantages of private-sector health care have difficulty explaining why Medicare can have such low administrative costs. Medicare's administrative costs are about 2 to 3 percent. The private sector administrative costs today are about 15 percent—5 times greater than the administrative costs of Medicare. We should think about that. I hope we are absolutely certain that in the name of prescription drugs we do not remove, we do not eliminate, we do not undermine a system that has worked so well for seniors, whether they are in urban or rural areas.

The third concern is what kind of a package we will provide. The one thing seniors tell me they need is a clear understanding of what benefits they are going to get so they can compare whatever choices they may be offered. They need to know what the benefit plan is going to be. So let's make sure we define the benefits, describe them and put them in writing, so that no one has any question what it is we are going to do.

Seniors also need to know what premium they will be asked to pay. We have to define that premium right in the bill itself.

I hope our colleagues would all share that point of view, as well. Be as transparent when it comes to benefit and premiums as we can be so that seniors know what their benefits will be and can have confidence that those benefits will be there when they're needed.

Fourth and finally, I hope, more than anything else, that we make the benefits consistent. For us to say seniors will be covered for a while, and then not covered even though they continue to pay premiums, and then covered again, would be a terrible mistake. Such coverage gaps, or sickness penalties, would lead to a deep-seated cynicism not only among seniors but among all Americans. I hope we recognize how important it is that we avoid any coverage gaps by including defined benefits and defined premiums.

That is, in essence, what we are hoping we can achieve. As we draft the bill, let's simply do this: Let's make sure we have hearings so we know what is in it. Make sure that, in the name of prescription drugs, we don't privatize Medicare and dramatically change a system seniors depend on. Then let's tell seniors three things. They are going to get a defined benefit, a defined premium, and defined coverage all year with no sickness penalty. If we can agree on these principles, we can get broad bipartisan support for the bill at the end of this month.

Again, I compliment the majority leader for his determination to continue the efforts we made in the last Congress on prescription drugs. We have a chance to do it right. We have a chance to do it in a bipartisan fashion. We have a chance to ensure that at long last we make a real contribution to health care in America, for seniors in particular. That is our opportunity that awaits us as we take up the drug bill later this month.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to.

Mr. REID. I have listened to both the majority leader and you, the Democratic leader, this morning. I ask the Senator from South Dakota, the distinguished Democratic leader, if he is aware of some statements that have been made by Republican Senate leaders talking about doing away with Medicare.

Let me be more specific. Our friend, the distinguished Senator from Pennsylvania, said just 2 weeks ago:

> I believe the standard benefit traditional Medicare program has to be phased out.

Is the Senator aware the distinguished Senator from Pennsylvania made that statement?

Mr. DASCHLE. The comment was made. I was not aware of it until just a few days ago. But I think it goes to the heart of what I was talking about. I appreciate the Senator from Nevada raising this question.

Unfortunately, we have a much larger question at hand, if there are those on the other side who will see this as an opportunity to privatize—to eliminate the Medicare system, as the comments of the Senator from Pennsylvania suggest. If they want to eliminate Medicare, then I think all hope of accomplishing something regarding prescription drugs will be lost. If this is a Medicare debate, if we have to back up and first defend Medicare and make sure it is protected and kept intact, then we will never have an opportunity to get to prescription drugs.

I hope the Senator from Pennsylvania would recognize the consequences of words of that magnitude. Obviously, we are prepared to have a debate about Medicare. But it will be at the expense of a debate about prescription drugs and whether we can add prescription drugs to Medicare sometime this year, hopefully this month.

Mr. REID. Will the Senator yield for another question?

Mr. DASCHLE. Yes.

Mr. REID. The distinguished Senator from Utah, Senator BENNETT, a longtime friend of this Senator, stated about 7 weeks ago:

> Medicare is a disaster. We have to understand that Medicare is going to have to be overhauled. Let's create a whole new system.

Is the Senator aware our friend from Utah has made that statement?

Mr. DASCHLE. There are those on the other side—and I assume from that comment that Senator BENNETT may be among them—who believe that eliminating or dramatically altering Medicare is the only option available to us. Frankly, I am troubled by that. I think Medicare has been one of the greatest health care success stories in our Nation's history.

My mother is a beneficiary of Medicare. The remarkable consistency and the extraordinary access to health care that Medicare has provided to her and tens of millions of other seniors simply cannot be overestimated.

As I said earlier, the administrative cost for Medicare is about 3 percent. The administrative cost for private health care plans is 15 percent, 5 times greater.

Medicare provides every senior in South Dakota a chance to get health care. There are no private sector plans in large parts of South Dakota because HMO's and PPO's don't serve rural America. So from an access point of view, from an administrative point of view, from a benefit point of view, from an assurance and confidence point of view for seniors, I don't know how you could do much better than Medicare.

Can it be improved? Absolutely. Could we provide more preventive and wellness care? Absolutely. Can we provide a prescription drug benefit? Absolutely.

But when we draw down the Medicare trust fund to pay for tax cuts, we are, in essence, stealing from that very fund that will be needed in future years to provide the kind of health care that our parents, our grandparents, and our families depend upon.

The quotes from our Republican colleagues are very disconcerting and troubling. As I say, if that becomes the debate, if the debate is about the future existence of Medicare itself, we will never be able to get to a drug benefit debate.

Mr. REID. Will the Senator yield for one final question? I know there are others here wishing to speak. This will be the last question.

Mr. DASCHLE. I am happy to.

Mr. REID. The State of Nevada has two large metropolitan areas, Reno and Las Vegas, but most of the State population is in small towns—Mesquite, Ely, Hawthorne, Battle Mountain, Tonopah—places that have no managed care. If we change Medicare drastically, I don't know what will happen to the seniors in those rural communities.

I have heard the Senator today and on other occasions speak about the problems in South Dakota, which has many rural communities in it. If we do not take care of Medicare in the traditional fashion so that it is a level playing field no matter where you live, I think our Medicare Program as we have known it, that has been so successful, will leave many seniors simply without any medical care. Does the Senator agree with that statement?

Mr. DASCHLE. I couldn't agree more. In fact, what troubles me is there are those who would turn Medicare into a great big HMO. I don't know many people who are enthusiastic about the kind of care they get from their HMO. There are some good ones, I certainly would not deny that. But I must say, HMOs are not the panacea. There is not a one-size-fits-all HMO, health maintenance organization, or PPO, for that matter, preferred provider system, that would work in rural areas.

We know. We have seen from our own experience. They have tried it. They have attempted to create managed care systems in rural areas. The demographics don't work. Our health care delivery system in rural areas does not allow for a managed care system that works. Perhaps it does in Washington DC, or Los Angeles or New York.

So we cannot have a one-size-fits-all system. That is the beauty of the Medicare system. The Medicare system has adapted over the years, organizationally and administratively, to fit Alaska and South Dakota and Nevada in a way that has worked far beyond the expectations, I am sure, of many who created the system in the 1960s.

Let us not throw out a system that has worked well. Let's improve it. Let's build on it. Let's provide better benefits through it. But to privatize Medicare—to eliminate it and replace it with a new HMO in the name of Medicare—is a mistake that we will fight to the last day. That would be a real tragedy because we have an opportunity to debate how to provide a good prescription benefit. Let's agree in a bipartisan way to have that debate. This is our moment and our opportunity and I hope we seize it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I yield myself such time as I may consume under the time I have reserved for the National Museum of African American History and Culture Museum.

The PRESIDING OFFICER. The Senator has that right.

NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE

Mr. BROWNBACK. Mr. President, I rise to join several colleagues who have already made presentations here today about the introduction of a bill for a National Museum of African American History and Culture. We currently have 48 cosponsors of this bill. I hope after today we will have a strong and clear majority sponsoring this legislation.

I want to particularly thank Senator DODD, who is the lead Democrat sponsor of this bill, and Senator LOTT, who chairs the Rules Committee through which it will go, both of whom are cosponsors of the bill, along with the majority leader and the Democratic leader who are also cosponsors of the bill, for pushing this issue, making it go forward.

I cannot go forward without recognizing Congressman JOHN LEWIS from Georgia, who has been the lead sponsor in the House, along with J.C. Watts, before he left that body, being the inspirational leader behind moving this issue forward.

Over 200 years ago, there was a dream that was America for a group of individuals who were brought to our shores in shackles, a dream so powerful it compelled a race of people to fight for the liberty of others when they were in bondage themselves, a dream that not only served as a catalyst for physical liberation in the African-American community but removed societal shackles from our culture and enabled us to realize the ideals set before us in the Constitution—that all men are created equal under God.

Today, we celebrate this magnificent history, a history of a people's quest for freedom that shaped this Nation into a symbol of freedom and democracy around the world. I am proud to stand here today with my colleagues and introduce once again to this body a bill that will create the National Museum of African American History and Culture.

I would specifically like to mention Senator DODD, Senator STEVENS, Senator LOTT, Senator SANTORUM, and the other 48 cosponsors who are pushing this museum forward.

The National Museum of African-American History and Culture Presidential Commission—signed into law by President Bush—stated that the time is now. Indeed the time is now to honor this incredible history that has shaped this great Nation.

I thank the Presidential Commission for their hard work and effort in recommending to Congress that we should build this museum, and that there is sufficient interest in the philanthropic community to financially support this museum, and that there are sufficient artifacts to fill this museum.

So many Americans will be able to share in the celebration of this museum—a uniquely American museum, one that we can celebrate. I remember when I met with the Dean of the Afro-American Studies at Howard University. He told me of a story about his grandfather who finished a bowl the day the Emancipation Proclamation was authorized. His grandfather decided to keep the bowl because it no longer was the property of a slave master but the man who made it—his grandfather.

The dean has this bowl in his home—an incredible piece of history, and I am sure there are many more pieces out their waiting for a home, a national home.

Today, we are not just introducing a bill; we are completing a piece of American history by introducing the National Museum of African-American History and Culture, which will create a museum to honor African-American contributions to this Nation—which is an extraordinary story of sacrifice and triumph.

This bill will create this museum within the Smithsonian Institution—America's premier museum complex. We have worked very hard with the Smithsonian Institution to craft a bill that will compliment their programs. And, indeed, we have done just that.

This bill is very similar to the American-Indian Museum, slated to open next year. And I know that the Smithsonian Institution will create another national treasure—one that tells the story of African-Americans in this country—a proud history, a rich history.

This bill charges the Board of Regents of the Smithsonian Institution, along with the Council of the National Museum to plan, build, and construct a museum dedicated to celebrating nationally African-American history—which is American history.

In addition, this bill charges the board of regents with choosing a site on or adjacent to the National Mall for the location of the museum.

Additionally, the bill establishes an education and program liaison section designed to work with educational institutions and museums across the

country in order to promote African-American history.

Finally, the bill sets forth a Federal-private partnership for funding the museum, and authorizes $17 million for the first year in order to begin implementation of the museum council, which will be comprised from a mixture of leading African-Americans from the museum, historical, and business communities.

It has been well over 70 years since the first commission was formed to seek ways to honor nationally the contributions of African-Americans—70 years. It is about time that we move forward with it.

It has always been my hope that this museum will not only showcase nationally the accomplishments of African-Americans—which are great—but will also serve as a catalyst for racial reconciliation in our Nation. Indeed we have triumphed over our difficulties in this area, but we must continue to do more.

I can see a number of people going through this museum with a lot of tears coming out as they see the progression of people coming to this continent in shackles and moving forward in triumph. There are going to be a lot of tears along that trail. The beautiful thing about tears is that they don't have color; they just cleanse. I think they will be tears of cleansing.

I do not pretend that this museum is a panacea for racial reconciliation, which this country desperately needs. It is, however, a productive step in recognizing the important contributions and the debt all Americans owe to African Americans.

I close my comments with a quote from Dr. Martin Luther King, a prophet in his time and now a prophet to us. He said this that could have been said about the museum in this time we are in:

> That the dark clouds of [misconceptions] will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great Nation with all their scintillating beauty.

We are one step closer to that today.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, are we currently in morning business?

The PRESIDING OFFICER. The Senator is correct.

ORDER OF PROCEDURE

Mr. CORNYN. Madam President, I talked to the Senator from Iowa who also wishes to be recognized immediately after my very brief remarks. I ask unanimous consent that he be recognized immediately following my remarks and that I be allotted 5-minute increments; that should I go over another minute or 2, I be allotted such time as I consume, not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING ESTELLA REYES NARANJO

Mr. CORNYN. Madam President, there are two things I want to address very briefly this morning.

I rise to pay tribute to Estella Reyes Naranjo, a great citizen of my State of Texas.

I think it is important to recognize contributions such as those of Estella, which are primarily in the area of the education of the children of San Antonio, my hometown, and her 50 years of unselfish service to the city of San Antonio, the State of Texas, and to the United States of America.

Estella has taught for 40 years in Texas public schools and for another 10 years in Catholic schools. Through her dedicated service in the classroom and the community, she has been a positive influence for countless lives, and for thousands of young Texans.

Estella earned a bachelor's degree from Texas A&I University in Kingsville and has served as the president of the Pan American League. During her tenure, the league donated more than $1 million toward a center to assist San Antonio's inner city, and contributed over $250,000 in scholarships administered through The University of Texas at San Antonio.

Estella has been honored with an outstanding service award for her dedication and hard work in the public school system, and has received a leadership award for her many contributions to the Catholic school system. She has also been honored by the International Good Neighbor Council for her work to promote the ''Principles of Good-neighborliness'' between Mexico and the United States.

As a teacher, a volunteer, and a diligent leader, Estella is an inspiration to her family, her friends, and her community. She is truly an important part of what President Bush calls ''the armies of compassion.''

I have always believed that patriotism is not just expressed by flying the flag. It is about more than that. Patriotism means we all share a part in something larger than ourselves. In all of our differences, there are some things we all have in common. In all our diversity, each of us still has a bond with our fellow man.

The fact that dedicated individuals, working faithfully in their communities, can accomplish more than any government program is well established, and it is established again in the life that we celebrate today.

Alexis de Tocqueville described it this way:

> Countless little people, humble people, throughout American society, expend their efforts in the betterment of the community, blowing on their hands, pitting their small strength against the inhuman elements of life. Unheralded and always inconspicuous, they sense that they are cooperating with a purpose and a spirit that is at the center of creation.

Today I am proud to herald the work of Estella Reyes Naranjo. I know I speak for all the citizens of the great State of Texas when I say that I am grateful for her dedication, her compassion, and her tireless work to build a stronger community and a better world.

THANKING THE CONTINUITY OF GOVERNMENT COMMISSION

Mr. CORNYN. Madam President, I wish to also, in the brief time I have allotted, say a few words about a very important subject to our Government and to our Nation. I wish to say a few words about the importance of continuity of our Nation's Government.

Today, the Continuity of Government Commission, a joint project of the Brookings Institution and the American Enterprise Institute, is releasing a report to the Congress on this matter. I express my appreciation to the commission for their responsible and forthright assessment of needed constitutional reforms in this area. Their report will be an invaluable addition to this ongoing discussion, and it will provide a sound basis for hearings I plan to hold in the Senate Judiciary Committee's Subcommittee on the Constitution later this year.

I was not here serving in Washington in this body when the attacks came on September 11. Like so many other Americans, I was at home, preparing for work, when I heard the terrible news and saw it displayed on the television set. But I know that many of my friends and colleagues who were here on that horrific day feel a very personal debt to the heroes of flight 93.

The brave passengers on that flight did more than just save the lives of their fellow citizens. Absent their courageous sacrifice, it is likely that flight 93 would have reached its final destination in this very building, in an attack that would have virtually eliminated an entire branch of our Government.

Even as we have dedicated ourselves to fighting terror at home and abroad, even as we hope and pray that the tragedies of September 11 will never be repeated, we must always remain conscious of our promise as Senators to serve the people of our States and our Nation and to support and defend the Constitution of the United States.

In the aftermath of those attacks, it is now increasingly clear that our current system providing for the continuity of government in the event of a disaster is inadequate in the reality of the post-9/11 world. If an attack of this nature occurred again, and was even partially successful, our Government and our Constitution would be ill prepared for the sudden ramifications.

As unthinkable as another attack of that magnitude may be, we in the legislative branch must be ready for the worst. We must provide for the stable

continuance of government, despite all possible calamities. We owe it to the American people to ensure that our Government remains strong and stable even in the face of disaster.

What the evildoers who committed this terrible act on 9/11 will never understand is that America cannot be destroyed by weapons, by armies, or by terrorist attacks. No matter how many weapons they try to make, no matter what secret schemes they concoct, no matter what buildings they destroy, as long as the dream of freedom lives within our hearts, America endures, a beacon of light shining for all the world to see.

The passengers on flight 93 were everyday Americans, men and women with jobs, with families, and dreams. Like all of us, they made promises to their loved ones before they boarded that plane: promises of vacations and baseball games, of presents and anniversaries.

Some promises are not cheap, others cost nothing, others require that we risk all, even our very lives. The crash site left behind by the heroes of flight 93, nestled in the hills of Pennsylvania, is filled with memories of the promises they made and will never keep. That hallowed ground marks their last promise: a promise carried on to the Nation, their children, their loved ones left behind—a promise that says freedom will not end here in the violent acts of evil men. It persists, it endures, and it will not be destroyed.

Our Government must not fail the children of flight 93. This body must not fail them. We must prepare for all contingencies, fulfilling our oaths of office, to ensure that the promise of our free Government—a government of laws, not men—shall not perish from this Earth.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CUTS AND MEDICARE

Mr. HARKIN. Madam President, last Thursday the New York Times of May 29 had a front-page picture, a big, color picture on the front page, of the President signing the tax cut bill in the East Room of the White House. As I looked at this picture, I thought: This really is appropriate. Pictures say a thousand words. Here is a picture of the President signing the tax bill, and he is in the East Room, with all the big crystal chandeliers, all the trappings of power, and an audience.

I was looking at this audience. I thought: Who are these people? I am looking at them all. Do you know what? This looks like the rich and the powerful of America sitting there with all these chandeliers and getting all these big tax cuts. There is not one person of color sitting in that audience, not one. Now, there may be. I cannot see back behind where the picture was taken. Maybe there was one. Maybe one of the ushers back there was an African American. But it just kind of leaps out at you that these are the people who really benefit from that tax cut.

Why didn't the President take that tax cut signing down to middle America someplace? Why didn't he take it down to a small community of middle-income taxpayers? Why didn't he take it to a low-income area, say—well, I don't care, pick a city: Newark, Philadelphia, Pittsburgh, Des Moines, IA, Houston, TX; maybe Detroit, MI or Flint, MI—and go to an area of that city that is low-income where people go to work every day, where they are struggling to make ends meet, where they have to find some child care for their kids so they can go to work to put bread on the table to maybe have a little bit of a decent lifestyle, and they are having trouble finding decent child care and other costs of raising children? Why didn't the President go down there and sign that tax cut bill?

Well, because the sentence right under the picture says why he did not do that:

> Tax law omits $400 child credit for millions.

Look at the picture: All the trappings of power, all the rich and powerful of America sitting in that audience. Right below it: ''Tax law omits $400 child credit for millions.'' One picture says a thousand words. And right underneath, it tells you why the President signed the bill in front of all these people and not out in middle America.

So now we are just beginning to find out. We are just beginning to find out, as the New York Times said, that:

> Because of the formula for calculating the child care tax credit, most families with incomes from $10,500 to $26,625 will not benefit.

Zero, nada, nothing.

> The Center on Budget and Policy Priorities, a liberal group, says those families include 11.9 million children or one of every six children under 17.

Madam President, 11.9 million children left out of the tax bill.

You don't see them sitting in the audience. You don't see single moms, for example, sitting in this audience when they are signing the tax bill, balancing a couple kids on their knees. You don't see that.

> ''I don't know why they would cut that out of the bill,'' said Senator Blanche Lincoln, the Arkansas Democrat who persuaded the full Senate to send the credit to many more low income families before the provision was dropped in conference. ''These are the people who need it the most and who will spend it the most. These are the people who buy the blue jeans and the detergent . . .''

As I said, the New York Times picture and the story underneath it say it all.

The Des Moines Register, closer to my home, had an editorial from May 31: ''A Tax-Cutting Disgrace.'' This is from the Des Moines Register editorial:

> Congress looked out for investors in the last-minute revision of the tax bill President Bush just signed into law.
>
> As a result, millions of low-income families won't get the extra $400-a-kid check from Uncle Sam this summer.
>
> But most families earning $10,500 to $26,625 annually will be left out. Giving them the credit would have cost about $3.5 billion and would have required sending checks to some who don't pay enough income taxes to deliver the credit as a refund.

People of low income work hard. They go to work every day. They may make just above the minimum wage, but they are not paying income taxes. But they have child care needs, and they are left out.

> House Republicans contend that a $350 billion cap on the tax cut package didn't leave enough room to give the child credit to low-income families.

To quote the Des Moines Register: ''Nonsense.''

> They easily could have done less for the richest Americans and more for Americans who barely scrape by. And it's unconscionable that they didn't.

Well, just look at that picture in the New York Times, look who is there. Then read the articles in the paper, read the Des Moines Register editorial, and you will find out what this tax bill was all about.

Now we find something else out about this tax bill as we open up the newspaper this morning, the Washington Post from today: ''Middle Class Tax Share Set To Rise.'' Well, well, well. ''Studies say the burden of the rich to decline.''

Here is what the Washington Post said this morning:

> Three successive tax cuts pushed by President Bush will leave middle income taxpayers paying a greater share of all Federal taxes by the end of the decade, according to new analyses of the Bush administration's tax policy. As critics of the tax cuts in 2001, 2002 and 2003 have noted, the very wealthiest Americans, those earning $337,000 a year or more per year, will be the greatest beneficiaries of the changes in the nation's tax laws.

So what will happen? They go on to point out, the middle class will pay more and more. As the rich pay less and less, the middle class will pay more and more of their share of taxes. Thus, ''Middle Class Tax Share Set To Rise.''

That brings us to what is going on right now with Medicare. Again, one may wonder what the connection is between the tax cut bill and the problems that we are confronting ahead in Social Security and Medicare. Don't take my word for it. Just read the Financial Times, not a Democratic newspaper or anything like that. The Financial Times of Friday May 30, front-page story: ''Bush Aware of 'Crushing' Deficit Threat.'' This is the article. I have it blown up here in the chart, ''Bush Aware Of 'Crushing' Deficit Threat.''

Ari Fleischer, White House spokesperson told a press briefing.

Listen to this quote:

> ''There is no question that Social Security and Medicare are going to present [future]

generations with a crushing debt burden unless policymakers work seriously to reform those programs.''

Now it becomes clear. Huge tax breaks and cuts for the wealthy. The middle class tax share is to rise. Low-income families who have child care credit needs are written out. Because of the huge gap that is going to happen in the next 10 years because of the lack of revenues for the Federal Government, we are going to have problems in Social Security and Medicare. And so what does Mr. Fleischer say? We are not going to rescind the tax cuts. We are not going to ask the wealthiest to pay a greater burden. No, we are going to reform Social Security and Medicare.

What does he mean by ''reform''? That is just a fancy, two-syllable word for a one-syllable word, ''cuts.'' Reform to Mr. Fleischer, the Bush White House, and the Republicans means cuts—cut Social Security, cut Medicare. Again, don't take my word for it. On May 21, the third ranking Republican in the Senate, my friend from Pennsylvania, Senator SANTORUM, said:

I believe the standard benefit, the traditional Medicare program, has to be phased out.

Senator ROBERT BENNETT, on March 19, the Senator from Utah said:

Medicare is a disaster. . . . We have to understand that Medicare is going to have to be overhauled. . . . Let's create a whole new system.

And then to kind of wrap it all up, yesterday at a hearing here on the Hill, before the Senate Special Committee on Aging, who did they have as a lead-off witness? Former House Speaker Newt Gingrich, who, in 1995, said Medicare should wither on the vine.

Well, it looks as if the withering is taking place, the huge tax cuts, quotes by my fellow Senators from the other side of the aisle. They want to get rid of Medicare. They want to phase it out. They want to take all the elderly and put them in private HMOs. There isn't one Medicare HMO in the entire State of Iowa. So it is an anti-rural, anti-small-State approach, but you see the pattern. Wither on the vine, huge tax cuts that benefit the wealthy, no child credit to help those with low income, and as the Post pointed out this morning, a greater share of the taxes to the Government are going to be borne by the middle class. What are more middle-class programs than Medicare and Social Security? Those are the middle-class programs. Those are the programs we have had for years to make sure that people who work hard and play by the rules, who raise their families, when they reach retirement age can retire with dignity and decent health care coverage.

Now we see the game plan of the Republicans and of this President: Cut Social Security. Cut Medicare. That is what their reform means.

Now they are going to use the argument that we will not have enough money to pay for the Medicare benefits, to pay for a decent prescription drug benefit, and to keep Social Security benefits going. We don't have enough money. Why? It all went to the wealthy. As I pointed out on the Senate floor during the tax cut debate, the projected shortfall in Social Security over the next 75 years would be more than made up by the shortfall in revenue of the tax cut bills, if they are extended as the President desires.

So you have to ask yourself, what is more important to the middle class in America? Is it making sure that Warren Buffett, the third richest man in the world, gets a $310 million tax break, which he himself said was wrong and that he should not be getting? He said the tax cut ought to go to the middle class, and I commend him for his honesty and forthrightness. What is more important? Is it giving him a $310 million tax break or is it more important to the middle class, to make sure we have a decent prescription drug benefit, to make sure we have a decent Medicare Program and a sound Social Security program? That is what is important to the middle class. That is what has been taken away by the tax cut bill. That is what the Republicans are trying to take away with cuts to Medicare, and that is what they are going to try to continue to take away with further cuts to Social Security. That is why we have to be out here to fight every day for the middle class in America.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Michigan is recognized.

HEALTH CARE FOR OLDER AMERICANS

Ms. STABENOW. Mr. President, I wish to follow what my friend and colleague from Iowa was speaking about earlier in terms of the importance of Medicare. I think his comments were so right on point.

I find interesting—I was not around at the beginning for the debate—the debate on Medicare. I understand that in 1960, originally, there were proposals to provide a broad universal care for all Americans and that, in true compromise form, the Congress and the President, when there was not support for that, ended up with a plan called Medicare for seniors and the disabled in this country. So it was a compromise. It was viewed as a first step, not a last step, in providing universal care for all Americans.

I believe Medicare has been a great American success story. We have seen both Medicare and Social Security bring our seniors out of poverty. Today, we have about 10 percent of our seniors in poverty rather than close to 50 percent prior to Social Security and Medicare.

During that debate, if one reads the RECORD, there was a major concern about who could provide health care to seniors better—the private sector or the public sector through Medicare.

The reason the Congress, in its wisdom, decided to move forward with Medicare was because at least half the seniors could not find or could not afford health care insurance in the private sector. Seniors and all of us who are getting older and using more medications and going to the doctors more frequently understand that older Americans require more health care, more costs, and are not exactly the prize group an insurance company goes for. They want my son and daughter in their twenties and younger healthier people to balance out those of us who are getting older and needing more care.

We believed, as a great American value, it was important that older Americans have health care. It was important that those who are disabled have health care, be able to pick their own doctor, be able to go where they choose to receive their care but that they would know it was always there, it was stable, a constant premium; they would know what it would cost; they could pick their own doctor; and it has worked.

Since that time, there have been a lot of debates, and we have one going on today, about how to provide Medicare prescription drug coverage. But the real issue is beyond that. It is about how to provide health care for older Americans.

The next big change that happened of which I was aware in 1997 when I was in the House was to offer private Medicare HMOs. Also at that time, there were major cuts made in Medicare for providers. I believe they went way too far. Many of us have been trying to change that ever since. There were cuts to hospitals, home health agencies, and doctors that have affected people being able to get care.

At that time, something was put in place that was touted as this great new program. In fact, Tom Scully at the time predicted an Oklahoma land rush of moves to private health plans in 1999. He said: You are going to see seniors pouring into managed care Medicare.

In fact, that did not happen. That is not what happened. But what we have seen happen, unfortunately, is what the former Speaker, Newt Gingrich, talked about in terms of a strategy of cutting off resources so Medicare would wither on the vine, an effort to convince people that Medicare was not working, even though the majority of seniors know it is because they use it every day.

I found it interesting that back in 1997 there was a strategy paper put out by the Heritage Foundation, an extremely conservative organization that I know does not support Medicare as we have it today, advising my Republican colleagues. They recommended a strategy to move to the private sector by doing four things: First, to convince Americans that Medicare provides inferior medicine and poor financial security. They set out to do that. We are

going to hear a lot about that in this Chamber, that it is inferior medicine, even though seniors know that is not true. There is not evidence that is true, but we are going to hear a lot of talk—and we have for 5 years—about how Medicare is not as good.

Second, convince Americans that Medicare cannot be sustained for long. We have heard continually that we cannot afford it anymore. As my colleague from Iowa pointed out, if there is concern about being able to afford it, it is only because we are spending the money on tax cuts for the privileged few instead of beefing up Medicare and Social Security. So it is a conscious choice. It is a question of values and priorities that we have to decide every day, just as American families do.

Third, compare or reform the Medicare system to the Federal Employees Health Benefits Program. We hear a lot about that now: Seniors should have the same kind of plan that we do. I happen to agree with that, but during the tax debate I offered an amendment that simply said we are going to defer the tax cut to the privileged few at the very top, less than 1 percent of folks who already received a tax cut 2 years ago; we are going to defer the next one until we can fund Medicare at the level that Senators and House Members and other Federal employees receive. My colleagues voted no on that issue. It would cost twice as much as in the budget resolution—$800 billion instead of $400 billion—and, unfortunately, the majority voted no. But we are going to continue to hear about how we should have private sector plans instead of Medicare, and it should be the same as we receive.

I agree with that, and I am happy to offer my amendment any time folks want to support it so we can pay for that benefit and make it real for our seniors.

Finally, fourth, they said protect current beneficiaries. They said the calculation was the private alternatives generated by the voucher-style option, private HMOs, would be so much more efficient and so much more attractive that fewer and fewer seniors would decide to remain in the traditional system. Hence, Speaker Gingrich's remarks that the traditional Medicare system would wither on the vine because the demand for that option would decline sharply over time.

Obviously, that is not true. Nine out of ten seniors in this country, when given a choice, have picked Medicare. Seniors have made their choice. Since 1997 when they were given the option of private HMOs, they have overwhelmingly said no.

It is very interesting; 89 percent of the seniors in this country right now are covered under Medicare, and 11 percent are covered under a private sector HMO. Some do not have that option. In Iowa, there is not a private sector HMO. In Michigan, only 2 percent of beneficiaries have that option. Of the 64 percent of the seniors who have that option, only 11 percent of them have chosen to go into a private sector HMO.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. Mr. President, I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Chair.

Mr. President, today I wish to debunk the myths we have heard and are going to keep hearing so that we can get through what is fact and what is myth and focus on what we need to be doing, which is to strengthen Medicare to cover prescription drugs.

I agree with Secretary Thompson who says we need to focus more on prescriptions. We can do that through traditional Medicare in which seniors overwhelmingly have voted to remain. We can make sure they have their own doctor, the stability of knowing what their cost is for their premium and their copay, and still update the system to modernize it, using more technology, making sure we have more prevention, and making sure we have prescription drugs.

Fundamentally, I do not believe that is what this debate is about. If we can agree that we are going to do it through Medicare, then I believe we can sit down with the dollars available and work up something together, and I hope we will because the seniors of this country have waited long enough. I am very hopeful we will be able to do that.

I will briefly debunk what we are going to hear, unfortunately, and that we have to get beyond.

First, seniors want the choice to be in a private plan. Obviously, not true.

The private sector plans will offer seniors more choices, including prescription drugs. Unfortunately, many seniors do not have access to the private plans, and there is not one offered in 80 percent of the counties nationwide. So the choice is not available to them.

I find it interesting that my mother, who is a very healthy 77-year-old woman and plays on three golf leagues—I am so glad I have her genes. I am very hopeful I will have the same opportunity she has had to enjoy her retirement. As a retired nurse, she chose an HMO. She is very healthy. She wanted prescription drug coverage. She could get it through an HMO, so she chose a Medicare HMO. The problem was she got dropped. This has happened to thousands of seniors where the HMO decides it is no longer financially viable for them to cover older adults under Medicare, and so they drop them. So my mother lost her doctor. She liked the HMO she was in. It worked for her. She lost that opportunity.

So even in situations where people chose Medicare+Choice, the HMOs go in and out of the market. Forty-one thousand people in Michigan chose Medicare+Choice, and they were dropped because the plans go in and out. So it is not dependable, it is not reliable. That is why the majority of seniors did not pick it—because they wanted the reliability of their own doctor, knowing it would be there, knowing it was not going to be complicated by new systems and new paperwork. They like Medicare.

We also hear that private plans will give seniors more choices while letting them continue to use their own doctor. Of course, that is not true because if one goes into an HMO or even a PPO and their doctor is not part of that system, they do not have the opportunity to go to that doctor or they may have to pay more to go to that doctor.

The private sector Medicare plans will save money; how many times have we heard that? We hear that they are more efficient. In fact, it is just the opposite. They are not more efficient and, in fact, cost more money than being in traditional Medicare.

In the year 2000, the General Accounting Office estimated that payments to Medicare HMOs exceeded the costs that would have been incurred by treating patients directly through traditional Medicare by an annual average of 13.2 percent. So it cost more for the folks who went into the HMO, it cost Medicare more than if they had stayed in traditional Medicare.

Two recent studies found that private health plan fees are about 15 percent higher than Medicare: This is the other part of the myth. Frankly, I think our providers would love it if we funded Medicare at the same level as private insurance does because on average they would get 15 percent more dollars. We are cutting our doctors, hospitals, home health agencies, and nursing homes. In the private sector, on average, in some cases it is much higher than 15 percent more for the same services. Surgical procedures I believe are closer to 25 percent more in the private sector. So in terms of dollars, we would see higher costs and higher rates.

The private sector plans have lower administrative costs than traditional Medicare: How many times have we heard that? Many studies have shown that Medicare has a lower overhead rate than private plans. Medicare has a 2 to 3 percent administrative cost. Private Medicare HMOs, on average, spend 15 percent on administrative costs, and some spend as much as 30 or 32 percent. So, again, it does not cost less. The administrative costs are not less under private plans.

Finally, the myth that we can provide a Medicare drug plan like Federal employees benefits for under $400 million over 10 years, which is in the budget resolution—in fact, the numbers we have been given indicate to us that it would cost twice as much as what is in this budget resolution. When given the opportunity, our colleagues on the other side of the aisle voted no on funding the same level that we receive through Federal employee health insurance.

So let's talk about myth, let's talk about facts, and let's get beyond all of this and say seniors of this country have chosen overwhelmingly to stay in Medicare. They like Medicare. It works. It just does not cover prescription drugs.

Mr. HARKIN. Will the Senator from Michigan yield for a question?

Ms. STABENOW. I am happy to yield.

Mr. HARKIN. First, I preface my question by thanking the Senator from Michigan for her depth of understanding of the whole Medicare issue and also for her clarity of argument. I should say her clarity of exposition, for exposing what this is all about. It is not about tinkering around with it; it is really about an assault on the Medicare system itself. So I thank the Senator from Michigan for pointing that out, and I hope the Senator will continue to do this so that the American people understand what this is really about. It is about a fight for Medicare, whether we are going to have it.

Now, my question is this: As the Senator pointed out, Mr. Scully and others, back when Medicare+Choice came in, were lauding it, saying we were going to see seniors pouring into managed care Medicare. The Senator talked about how Mr. Scully said this was going to be an Oklahoma land rush to move to private health plans, and the Republicans who put up Medicare+Choice had all of these visions that seniors would go into it. But as the Senator from Michigan pointed out, that did not happen, did it? It did not happen.

Ms. STABENOW. That is correct.

Mr. HARKIN. Now we only have 11 percent of seniors who chose that. I ask the Senator from Michigan, does it somehow appear that since voluntarily the Republicans could not get seniors into HMOs and private health care plans, there now seems to be an approach that we are going to force them into HMOs by doing away with the Medicare system and restructuring it into a private HMO type system that would force the elderly to do what the elderly do not want to do? Does that seem to be the kind of thing we see laid out in front of us?

Ms. STABENOW. Well, I think my colleague is very wise in pointing that out. I often say that seniors made their choice and now our colleagues on the other side of the aisle have said: We do not like that choice. Pick again. You cannot have this choice. Door No. 1 is closed and locked. You can only pick door No. 2. That is really what is happening. Even among the fancy words, now we are hearing that under Medicare there will be the same prescription drug proposal, the same plan as our private plans; we are going to give the same prescription drug plan. But then we hear, but other things will be better in the private sector plans, such as we will have more prevention; we will have a better catastrophic cap; we will have other things that are better. So they are moving the words around.

It may appear that the prescription drug part is the same, but other things will be better because of the belief—and there is a genuine philosophical difference, there is a divide, about what is the best way to proceed. There are colleagues who believe that probably Medicare should never have been enacted. I have heard it said it is a big government program, it should be private insurance run, and they would like very much to get back as close as they can to a privately run system.

Mr. HARKIN. Again, I thank the Senator for pointing this out. As the Senator knows, the majority of Republicans voted against Medicare when it came in, in 1965. Even my good friend Senator Dole, when he was running for President, said he voted against Medicare and he was proud of it.

Now I would give them that that is their philosophy, and that is where they are coming from. I understand that. I understand when Newt Gingrich says he wants to have Medicare wither on the vine. I understand when the third ranking Republican in the Senate says the Medicare benefit ought to be done away with. That is their philosophy and that is where they are headed.

So again, I thank the Senator for pointing out that this is really the goal.

Ms. STABENOW. Absolutely.

Mr. HARKIN. This is the goal that is out there, to destroy the Medicare system.

Ms. STABENOW. Absolutely.

Mr. HARKIN. Again, I ask the Senator from Michigan, when Medicare came in, was it not because the private sector had failed in terms of elderly health care in America?

Ms. STABENOW. Absolutely.

Mr. HARKIN. Was that not the history? And if one has these private plans, that they are going to pick and choose, and they are going to cherry pick, and they are going to have a segregation of elderly pushed off in some corner someplace, begging for some kind of health care if we do not have a universal Medicare system? Is that not what might happen?

Ms. STABENOW. I think the Senator is absolutely correct. It is not that there is not a place for private sector insurance, but when Medicare came into place, it was because half the seniors in the country could not find a private plan that would cover them or they could not afford it. So there was such a huge need.

We as Americans have a basic value about making sure older Americans can live in dignity and have access to health care and a quality of life that they deserve, as well as those who are disabled. This is a great American value. I believe it is a great American success story. Even though there are those who since that time have been trying in some way to undermine it, we should be proud as a country. I absolutely agree with colleagues who say it needs to be modernized. We can focus more on prevention strategies.

In addition to prescription drug coverage, there are other ways we can make the system better. We can use more technology, less paperwork, all of which are good. If we could get beyond the debate that says we should move back toward the private sector, and somehow that is cost effective and saves money and the dollars will go further—none of which is true; there is no evidence of that—if we could get beyond that, we could come up with a bipartisan plan that would be meaningful. The seniors have been waiting for us to get the message. They want Medicare. They just want prescription drug coverage. They want it modernized. But they want Medicare. They have been saying that loudly and clearly.

I hope we can get the message and work together to actually get it done.

Mr. HARKIN. I thank the Senator for her leadership on this issue.

Ms. STABENOW. We appreciate the opportunity to share this today.

We have a real opportunity here, as Members on both sides of the aisle, to do something very meaningful. I hope we will do that rather than debate whether or not Medicare has been successful and seniors want choices. I believe we should look at the choice they made. It is very clear. They want us to work together and get something done, and do it in a way that will allow seniors to know that medicine, which is such a critical part of their lives and a great cost to their pocketbook, will be covered or partially covered and they will receive some assistance to be able to afford such a critical part of health care today, which is outpatient prescription drugs. It is too important to people. We do not want them choosing between food and medicine in the morning. We want them to have confidence that Medicare will cover and help with the costs of prescription drugs.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1588 by title.

The legislative clerk read as follows:

A bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities

of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 1050 is inserted in lieu thereof.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 847

(Purpose: To change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes)

Mr. KENNEDY. Mr. President, I call up amendment No. 847.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, and Mr. SCHUMER, proposes an amendment numbered 847.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. KENNEDY. Mr. President, I offer this amendment on behalf of myself, Senators BROWNBACK, MCCAIN, REID, BINGAMAN, DURBIN, CANTWELL, LEAHY, CORNYN, INHOFE, CLINTON, KERRY, and SCHUMER.

First, I wish to express my very sincere appreciation to the floor managers for giving us an opportunity to address this issue which is of enormous importance to a number of our servicemen and servicewomen. We have debated matters of enormous importance in terms of our national security during the consideration of the Defense authorization bill. I appreciate the patience given by the chairmen of the committee, Senator WARNER, and Senator LEVIN, and I appreciate their willingness to give an opportunity for the consideration of this amendment.

I am very hopeful that after discussion of it there will be a willingness to accept the amendment.

Mr. President, I understand we have a half an hour. I yield myself such time as I might use.

Mr. President, the amendment we are offering is a bipartisan effort intended to recognize the enormous contributions by immigrants in the military. It gives immigrant men and women in our Armed Forces more rapid naturalization, and it establishes protections for their families if they are killed in action.

In all our wars, immigrants have fought side by side and given their lives to defend America's freedoms and ideals. One out of every five recipients of the Congressional Medal of Honor, the highest honor our Nation bestows on our war heroes, has been an immigrant. Their bravery is unequivocal proof that immigrants are as dedicated as any other Americans in defending our country.

Today, 37,000 men and women in the Army, Navy, Marines, Air Force, and Coast Guard have the status of permanent residents. Another 12,000 permanent residents are in the Reserves and the National Guard. Sadly, 10 immigrant soldiers were killed in Iraq. The President did the right thing by granting those who died posthumous citizenship, but it is clear that we must do more to ease the path to citizenship for all immigrants who serve in our forces.

This amendment improves access to naturalization for lawful permanent residents serving in the military. It provides expedited naturalization for members of the Selected Reserves during military conflicts, and it protects spouses, children, and parents of soldiers killed in action by preserving their ability to file for permanent residence in the United States.

Specifically, the amendment reduces from 3 to 2 the number of years requires for immigrants serving in the military during times of peace to become naturalized citizens. It exempts them from paying naturalization filing fees, and it enables them to be naturalized while stationed abroad. Affordable and timely naturalization is the least we can do for those who put their lives on the line to defend our Nation.

During times of war, recruiting needs are immediate and readiness is essential. Even though the war in Iraq has ended, our commitment to ending global terrorism will continue, and more and more of these brave men and women will be called to active duty. Many of them are members of the Selected Reserves.

I point out, for the benefit of my colleagues, we are just looking at the Selected Reserves. There are a number of aspects to the Reserve units. We have the Selected Reserves as a part of the Ready Reserve, but we are just targeting this on the Selected Reserves. It does not apply to the individual Ready Reserves, the inactive National Guard, Standby Reserve, or Retired Reserve. These are individuals who must keep their competency up under regular kinds of training programs and are very much involved and integrated into the military units. Many of the Selected Reserves have already been activated in the Reserve and National Guard units, and many more expect to be called up at a moment's notice to defend our country and assist in military operations.

Over the years, many Reserve and Guard units have become full partners with their active duty counterparts.

We saw that in Operation Iraqi Freedom, where you had the highest mobilization of our Reserves and Guard in recent years. Their active duty colleagues cannot go to war without them. Being a member of the Selected Reserves is nothing less than a continuing commitment to meet very demanding standards, and they deserve recognition for their bravery and sacrifice. The amendment allows permanent resident members of the Selected Reserves to expedite their naturalization applications during war or military hostilities.

Finally, the amendment provides immigration protection to immediate family members of soldiers killed in action. Provisions reached through compromise will give grieving mothers, fathers, spouses and children the opportunity to legalize their immigration status and avoid deportation in the event of the death of their loved one serving in our military.

It just permits them to be a permanent resident alien. Then they take their chances in moving along to become citizens.

We know the tragic losses endured by these families for their sacrifices, and it is unfair that they lose their immigration status as well.

The provisions of the amendment are identical to those in S. 922, the Naturalization and Family Protection for Military Members Act, which also has strong bipartisan support and is also endorsed by numerous veterans organizations such as the Veterans of Foreign Wars, the Air Force Sergeants Association, the Non-Commissioned Officers Association, and the Blue Star Mothers of America.

The amendment is a tribute to the sacrifices that these future Americans are already making now for their adopted country. They deserve this important recognition. I look forward to working with my colleagues to see that these provisions are enacted into law.

Th provisions of this amendment, reached through compromise, give immigration protection to the family members of some slain soldiers. They do not, however, offer protection to all family members, particularly the ones who are undocumented.

Our duty to soldiers who give their lives does not depend on how their parents or spouses or children entered the United States. Deportation is never fair pay for the death of a family member. As we together enact these provisions, I will continue working to make sure that we uphold our duties to all of our immigrant soldiers.

Mr. President, I have had a chance to talk to the chairman of the committee and the ranking member of the committee and to work with their staffs over a period of time to respond to a number of their very important questions that they have had, and I am hopeful that the Senate will accept this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this amendment will expedite the naturalization process for noncitizen soldiers serving on active duty, in the Select Reserves, and will enact safeguards to protect

noncitizen immediate relatives of American and noncitizen soldiers who are killed in action.

More than 48,900 noncitizens are currently serving in the United States military on active duty and in the Selected Reserves. Hundreds are serving from the State of Nevada. They place their lives on the line for our country every day.

In recognition and appreciation of their service, they deserve a naturalization process that does not unnecessarily delay the grant of citizenship or impose other restraints because they are stationed in another country.

These noncitizen soldiers love America so much they are willing to make great sacrifices to protect us and promote our values and even defend the Constitution—although they do not fully enjoy its protections. They deserve better treatment than they currently receive.

Like many Americans, I am moved by the story of Airman Dilia DeGrego, who is a legal resident of the State of Nevada.

Airman DeGrego's story is a tale of exemplary courage. She was born in Mexico and came to the United States at the age of 4. Airman DeGrego's family wanted so much for her to be a citizen that her mother relinquished her parental rights and gave full custody of Airman DeGrego and her two sisters to her aunt and uncle who live in the United States.

Airman DeGrego joined the Air Force, in her words, because she wants to serve her country. Her Country. Airman DeGrego knows no other home than the United States.

She is a proud member of the Air Force family and is a true patriot.

I am honored to tell you that last night Airman DeGrego sent a short message to my office stating that she has been granted an interview within the Office of Citizenship. She completed her message with two simple yet overwhelmingly powerful statements. ''I have been blessed. God, bless America.''

Who can say that active duty Airman DeGrego, citizen or not, is any less of a hero?

These noncitizen heroes have defended our liberty in every single Great War in which our Nation has participated and represent over 20 percent of the recipients of the Congressional Medal of Honor.

This amendment will provide necessary relief to current noncitizens serving in active duty and the selected reserves within the United States military by setting forth an expedited process of naturalization.

The amendment will also provide protections for noncitizen spouses, unmarried children, and parents of citizen and noncitizen soldiers who are killed as a result of their service, to file or preserve their application for lawful permanent residence.

This amendment is supported by the Veterans of Foreign Wars, the National Guard Association of the United States, the Air Force Sergeants Association, the Air Force Association, the Non-Commissioned Officers Association, the Blue Star Mothers of America, the National Council of La Raza, the National Asian Pacific American Legal Consortium, the National Federation of Filipino American Association, the National Association of Latino Elected Officials, the Mexican American Legal Defense Fund, and the American Immigration Lawyers Association.

I rise today in support of action that will recognize and honor current noncitizen soldiers serving in the United States armed forces and will honor the legacy of all of our soldiers who have been killed in action by providing fair and sympathetic treatment of their immediate relatives seeking legal permanent residency.

Mr. President, I ask unanimous consent that a letter written by Airman Dilia DeGrego, who portrays exactly what the Senator from Massachusetts is saying about the tremendous sacrifice made by these people who are willing to fight for our country—and they should be treated accordingly—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To Whom It May Concern:

My name is Airman Dilia DeGrego, I am a United States permanent resident presently active-duty military trying to become a U.S. citizen. I was born in Mexico June 3, 1984 and have been in the U.S. for about 15 years. I was brought here by my aunt Martha Ayala, who is a U.S. permanent resident as well, and my uncle, Antonio Ayala Jr. who is a U.S. citizen. I lived with them until I left for the Air Force. When I was 12 my biological mother gave full custody of myself as well as custody of my two younger sisters to my aunt and uncle. The adoption was complete approximately two years later. My parents sponsored my sisters and I and we received our permanent residency about three years later in April of 2002. I applied for my citizenship May 30, 2002. I have not received a response from the immigration office. My dates are not exact, but the INS has record of it all. February of this year I got married in El Paso, TX to Brian Andrew DeGrego, whom I love dearly and is also active-duty Air Force, currently serving a remote tour in Osan Air Base, Korea. My sisters received a permanent ''green card'' in October of 2002 and I did not receive anything. When I asked all I was told was that because my citizenship was pending I would not receive it. My original temporary permanent residency card expired April 21, 2003. I currently have a duplicate that expires December 21, 2003. I hope to receive some word about my citizenship before then because if not I will have to take leave and fly to El Paso, TX where my records are currently being held. I have mailed in a change of address form with a copy of my orders to the immigration office letting them know that I am currently assigned at Nellis AFB, Nevada. I did not receive word that they received my information. I currently do not know my status. Pardon me for complaining, but I don't think it's fair that I will have to keep renewing my ''green card'' and not actually getting a permanent card. I went to the Air Force and asked if I could apply through them to help my situation. I was told I could not and would have to wait until I get a reply from the INS office before the Air Force could do anything. I have called the immigration office in El Paso and received nothing more than a machine I have left messages. As far as I know I have to wait three years of being in the service or three years of being married to my husband. If the bill is passed I will be able to apply for my citizenship again August 2004. I don't understand where I am now in my situation. Anything you could do to help would be greatly appreciated.

I joined the Air Force to serve my country like many other permanent residents and U.S. citizens. To me this is the family that status did not matter, but I have experienced difficulty in my career as Public Affairs. I am unable to get an e-mail account or finish my security clearance thus unable to go on the flight line. I am unable to perform my job effectively. I am the base only staff writer for the base paper ''The Bullseye'' it is my job to work with people on a daily basis as well as all kinds of information. I cannot attend certain meetings if there is any unclassified information mentioned. I understand their reasons, but my job is communication and because I am not a U.S. citizen I cannot do my job the way it is suppose to be done. I am part of the Air Force family and I will fight to do all I can to do the best I can. It's unfortunate that I am in this situation, but sometimes you have to get tossed around to finally settle in somewhere. I love the Air Force and hope to be a proud member for the years to come, because despite what any paper says in my heart, I am a citizen. Serving as a member of the U.S. Air Force only makes me a prouder one. I know my situation may be common and that is why I can sincerely say that it would only help my brothers and sisters if this bill is passed. Thank you for your time and concern. God bless America!

Amn. DILIA DEGREGO,
AIR WARFARE PUBLIC AFFAIRS,
U.S. Air Force.

Mr. REID. So I commend and applaud the Senator from Massachusetts for offering this amendment. And, of course, as he indicated, I am a proud cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend my colleagues on this timely and very compassionate initiative. I particularly thank, on my side, Senator SESSIONS, Senator CORNYN from Texas—who momentarily will address this issue—and Senator KYL, who talked to me this morning. He expressed that the two of you had reconciled, in large measure, some concerns that he had.

So I say to Senator KENNEDY, we thank you for taking this initiative. We have all worked diligently as a team to provide this situation. Each of us knows the distinguished service by those who come from lands abroad in the Armed Forces of the United States. It is a part of our history, and it is a traditional means of demonstrating the allegiance and commitment to the ideals of this Nation to which these individuals have come to join our society.

I believe this amendment—which would shorten the waiting period from 3 years to 2 years for noncitizen service members, both Active Duty and Reserve, and which eliminates fees for

processing, and which extends an accelerated naturalization process to certain spouses and parents and children of deceased alien members—has great merit and should be supported.

At this time, Mr. President, I yield such time as the distinguished Senator from Texas desires.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Texas.

Mr. CORNYN. Mr. President, I thank the distinguished Senator from Virginia, the chairman of the Armed Services Committee on which I serve, for his courtesy as well as that of Senator LEVIN, the ranking member. And I especially state my appreciation to Senator KENNEDY and those others who have cosponsored this amendment. I am proud to be one of them.

Mr. President, I rise today to say a few words about this amendment, the Naturalization and Family Protection for Military Members Act of 2003.

In every war our Nation has fought, from the Revolutionary War to Operation Iraqi Freedom, brave immigrants have fought alongside American-born citizens. They have fought with distinction and courage. Twenty percent of the recipients of the Congressional Medal of Honor, our Nation's highest honor for war heroes, have been immigrants.

One in 10 active duty military personnel call my home State of Texas their home. And as a member of the Armed Services Committee, I am dedicated to doing everything I can to look out not only for their interests but for the interests of all military personnel, including immigrants.

That is why earlier this year I introduced the Military Citizenship Act that will expedite the naturalization process for 37,000 men and women serving in our Armed Forces who are not U.S. citizens. I believe there is no better way to honor the heroism and sacrifice of those who serve than to offer them the opportunity for American citizenship they deserve.

I am proud to be a cosponsor of this amendment because I believe it fulfills a crucial responsibility to welcome those who fight for our Nation and to help immigrants become naturalized citizens, providing their families easy access to naturalization and family immigration protections.

All you need to do is look at this chart which sets out the scheme for an alien military service member to seek naturalization under current law. As you can tell, it is a sea of redtape and needless bureaucracy and is overly burdensome on those who want nothing more than to earn the opportunity of American citizenship and who have demonstrated their commitment to this Nation's ideals and values by their very service.

I believe it is time to do away with this sort of thing once and for all. This amendment and the provisions of this bill streamline the process and make it one that welcomes immigrant service members for their bravery and sacrifice and not one that sets up unnecessary obstacles to their becoming citizens.

I thank my distinguished colleagues for supporting the bill. I again express my appreciation to Chairman WARNER for including language in the Defense authorization bill that directs the Department of Defense to determine if any additional measures can be taken to assist in the naturalization of qualified service members and their families.

I also strongly support the action of the President, retroactive to September 11, 2001, to exempt military members from the requirement to serve 3 years on active duty before applying for citizenship. We must always remember that our own freedom was not won without cost but fought and paid for by the sacrifices of generations who have gone on before us. We must honor the heroic dead for their courage and commitment to the dream that is freedom, and we must honor the worthy heroes who fight today and embrace them as our fellow citizens.

In 1944, Winston Churchill spoke at Royal Albert Hall to the combined British and American troops and reminded them of a greater cause they served, regardless of the bounds of nations or cultures. He said:

> We are joined together in this union of action which has been forced upon us by our common hatred of tyranny, shedding our blood side by side, struggling for the same ideals, until the triumph of the great causes which we serve shall be made manifest. . . . Then, indeed, there will be a day of Thanksgiving, one in which all the world will share.

In Iraq, the brave men and women of our Armed Forces and the coalition forces fought against those who hate our Nation's values. They hate us because we believe that all men are created equal regardless of their nation of birth, regardless of their religious faith. They hate us because we believe in the God-given rights to life, liberty, and the pursuit of happiness, rights that extend to all mankind. They hate us because we still say: Give me your tired, your poor, your huddled masses yearning to breathe free.

These brave immigrant soldiers are taking on the uniform of our Nation, serving under the flag of our Nation, and fighting the enemies of our Nation and our values. It is only right that they should be welcomed as citizens of this great Nation.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Virginia.

Mr. WARNER. Mr. President, to my knowledge, there are no other speakers on this side of the aisle.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator KENNEDY and all of his cosponsors for offering this amendment. The Senator from Massachusetts has identified a significant shortcoming in our current naturalization law. When we have people who are here legally, legal immigrants who have green cards, who join the Armed Forces, who put their lives on the line for our Nation, the least we can do is to make it easier for them to become citizens through the naturalization process.

A number of things in this amendment highlight the clear and simple message we are trying to send to the men and women who are willing to go into harm's way for us and to make the commitment to our Nation that military service involves.

Just a few elements: Naturalization can be carried out abroad. Right now that is not possible. Men and women of the military would have to come here, back to the geographical limits of the United States, in order to become naturalized. They could be assigned abroad, on duty abroad, and surely we want to make it possible for them to file their naturalization papers, to be interviewed, to take the oath to this Nation abroad at U.S. embassies or consulates or military installations.

We also ought to take care of the members of the family of those who are killed or who die as a result of injury or disease that is incurred pursuant to military service. Those families, those noncitizen spouses and unmarried children and parents, who could become citizens while the loved one is alive surely should not lose that status and protection when the loved one is killed or lost in action or as a result of injury or disease.

So what is done here is fundamentally human but also fundamentally significant in terms of what this Nation is all about. The men and women who are willing to join our Armed Forces to go and put their lives on the line for this Nation surely are owed a major debt by our country. One way we can in part pay this debt to them as well as to all members of the Armed Forces is to adopt the Kennedy amendment.

Again, I commend him and all the cosponsors for offering it.

Mr. HATCH. Mr. President, I am pleased to support this amendment, which provides a more expeditious naturalization process for the brave noncitizens who serve in our Nation's military. It is a recognition of and an expression of appreciation for their dedication and sacrifice during this time of conflict. Moreover, this amendment reflects our Nation's compassion and gratitude to those who gave their lives in defense of our freedom, as it grants, for the first time, derivative benefits to the immediate family members of these fallen men and women who only became citizens posthumously.

Senator KENNEDY's amendment allows members of the military to apply for naturalization after 2 years of service instead of 3 years. It also provides for naturalization proceedings overseas so that the servicemen who serve abroad may become citizens without having to travel back to the United

States at their own expense. In addition, the amendment benefits the immediate family members of servicemen who died in combat and are granted posthumous citizenship. Now, these family members will have at least an opportunity to derive immigration benefits based on the posthumous grant of citizenship. Indeed, this amendment allows these family members to stay in the country for which their loved ones gave their lives.

I thank Senator KENNEDY for his effort in reaching out for bipartisan support on this amendment, and for his willingness to accept the input and suggestions from Democrats and Republicans alike. In particular, I am grateful that Senator KENNEDY accepted my proposal to close some loopholes so that alien smugglers and other worthy individuals do not inadvertently reap a benefit from this amendment. I am confident that this amendment now appropriately reflects the values and virtues that are inviolable to all of us as Americans.

Mr. CHAMBLISS. Mr. President, I am pleased to support this amendment to provide for the men and women who serve in our armed forces. I particularly want to express my heart-felt appreciation to the families of servicemen who gave their lives in our fight for freedom and victory in Iraq.

This amendment accomplishes three purposes. First, for permanent residents who serve honorably in our Armed Forces, it changes the waiting period from 3 years to 2 years of service in order to begin the naturalization process. This provision also requires the Department of Defense to formulate a policy to ease and facilitate naturalization for these men and women.

Secondly, the amendment provides a process of immediate naturalization for our selected reserve Armed Forces serving during a time of hostility. In today's military, we rely heavily and strategically on our reservists, and it is only fair to extend this benefit to reserve as well as active duty personnel serving our country in a time of war.

Thirdly, the amendment benefits the immediate family members of servicemen who are U.S. citizens killed in combat. These immediate family members may be non-immigrants who rely on the citizenship of their spouse, father or mother, or even son or daughter to adjust their status to become permanent residents and eventually citizens themselves. In honor and respect of U.S. citizens who die in combat, this amendment will provide their families the temporary ability to continue the immigration process.

This amendment further compliments a bill that my Georgia colleague, Senator MILLER, and I passed in the Senate 2 months ago. That legislation expedites the granting of posthumous citizenship to immigrant soldiers who die in combat. Our bill and the amendment offered today reduce the waiting periods, eliminate the red tape, and reward those who serve in our armed services and especially those who make the ultimate sacrifice while defending freedom.

Today we will adopt an amendment to further respect servicemen like 19-year-old Diego Rincon from Conyers, GA, who was killed in Iraq. These members of our armed forces, whether citizens or permanent residents, and their families should be fully appreciated for their service to our country, and in some cases, receive the benefit of continuing the process to become citizens.

Mr. BROWNBACK. Mr. President, I am pleased to join Senators KENNEDY and MCCAIN today in submitting an amendment to honor the contributions of immigrants who have shown their dedication both to this country and to creating a better future for themselves by joining the military. This amendment will do two critically important things: it will offer easier access to naturalization for immigrant men and women of our armed forces, and it will establish immigration protections for their families if they are killed in action.

Having just been through a tough period of war, it is especially important to recognize those who fight on our behalf to preserve our freedom and our way of life. This is particularly true for those immigrants who have too often given their lives to defend our principles.

This is poignantly illustrated by an anecdote from the President's visit to Bethesda Naval Hospital with his wife, Laura, back in April. In the press conference afterward, visibly moved by the heroes he met, he noted a special moment for him—witnessing two wounded soldiers sworn in as citizens of the United States. As the President put it himself, ''You know we got an amazing country where so powerful, the values we believe, that people would be willing to risk their own life and become a citizen after being wounded. It's an amazing moment. Really proud of it.''

The President's words speak to exactly why this legislation is so important—and so worthwhile. These men and women are willing to risk their own lives on our behalf, even though they are not yet citizens of this country.

In fact, there are more than 30,000 noncitizens on active duty in the U.S. military—approximately two percent of the total U.S. forces—who are willing to risk their lives on our behalf without the privileges of citizenship. In the Reserves and the National Guard are another 20,000 noncitizens. These immigrants have proven a dedication to our country by joining the military or the Reserves or National Guard, dedication which should be recognized and rewarded.

Our amendment will do that. First, it provides easier access to naturalization to members of the armed services who are already lawful permanent residents. Currently, being a member of the armed services allows a permanent legal resident to reduce their wait time for naturalization from five years to three years—our legislation would reduce the time to only two years. It would also ease this process by allowing naturalization interviews and oath ceremonies abroad at U.S. embassies, consulates, and overseas military installations, and by waiving naturalization fees.

In addition, the language provides for the immediate families of immigrant service personnel killed in action by either giving them the opportunity to legalize their immigration status or by allowing them to proceed with their own applications for naturalization as if the death had not happened. By protecting their immigration status, this element provides critical acknowledgment of the sacrifices that the families of our military members make as well.

Finally, the amendment remembers those courageous men and women who ensure that in times of war or hostility, our country is ready and our recruiting needs are met, by saying that members of the Reserves or National Guard will have expedited naturalization during times of war or hostile military operations.

It is easy to see why so many groups are supporting this amendment—from the Veterans of Foreign Wars to the Non-Commissioned Officers Association to the National Council of La Raza to the National Asian Pacific American Legal Consortium, among others.

This amendment on the naturalization and family protection for military members is a vitally important piece of legislation that both honors and rewards immigrants to this nation. They are already legal permanent residents—this simply ensures that they have the opportunity to truly become a part of this country through citizenship. Therefore, I urge my colleagues to support this amendment today.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I observe no other speakers to this important amendment. The managers of the bill are prepared to take it on a voice vote. Therefore, I urge adoption of the amendment.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 847.

The amendment (No. 847) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we will proceed to a second amendment. Prior to that being done, I wish to advise the Senate there is a third amendment regarding the BRAC process which will

be introduced by the Senator from North Dakota and the Senator from Mississippi. At this time, so the Senate is aware, we will ask for the yeas and nays on the amendment that will be offered.

The PRESIDING OFFICER. There is no amendment offered.

Mr. WARNER. We will wait.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from North Dakota is here. If I yield, he can go forward. I am happy to withhold.

Mr. DORGAN. Mr. President, I am waiting for Senator LOTT. I know he is near the Chamber. As soon as he arrives, we are ready to go. The Senator from Nevada may proceed first.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 848

Mr. REID. Mr. President, I call up amendment No. 848.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, and Mr. BIDEN, proposes an amendment numbered 848.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability)

At the appropriate place in title VI, add the following:

SEC. ___. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

Mr. REID. Mr. President, I rise today with Senators MCCAIN, DORGAN, INHOFE, BILL NELSON, JEFFORDS, COLLINS, EDWARDS, BINGAMAN, and MURRAY to offer an amendment on behalf of our Nation's disabled veterans.

This amendment would end the longstanding injustice that prevents disabled veterans from drawing the disability compensation and retirement pay they have rightfully earned. It sounds unusual, but it is true. This prohibition on ''concurrent receipt'' has plagued our veterans for more than a hundred years.

First, I thank Senators LEVIN and WARNER for their support on this issue year after year. As a result of their dedication, deliberation and fairness in conference, we have been able to make some progress each year, and I commend them for the work they have done. The establishment of the special compensation programs has ensured that about 30,000 veterans can receive the benefit of both retirement pay and disability pay. But there are still hundreds of thousands of disabled veterans who need our help.

Many people wonder why we return to this issue year after year in an attempt to keep this fight alive. After all, the White House and the Pentagon are opposed to concurrent receipt, and we are told by OMB there is no money for it. So why take up the struggle year after year in this environment?

For me, it is simply a matter of fairness. Why would we deny a veteran who served honorably for 20 years the right to the full value of his retirement pay because his service caused him to become disabled? That is what this terribly unfair law does. A retired and disabled veteran must deduct from his retirement, dollar for dollar, the amount of disability compensation received. In many cases, the effect is to totally wipe out the retirement pay. The end result is that the disabled military retiree loses all the value of his 20 or more years of service to our Nation. We don't subject any other Federal retiree to this kind of offset—only our disabled military retirees.

Let me give you a specific example that strikes close to home for this Senator. MAJ Len Shipley is a decorated Marine Corps officer from Henderson, NV. He served combat tours in Vietnam and in the first Gulf War. He retired in 1993 with 26 years of honorable service—13 years enlisted and 13 years as an officer. Tragically, last year, Major Shipley developed Lou Gehrig's disease, a terminal illness for which there is no cure. This disease kills most of its victims within 18 months of diagnosis. There are exceptions, of course, and I hope Major Shipley is one of them. But in all likelihood, he doesn't have much time left to live.

Subsequent to this diagnosis, the VA found Major Shipley to be 100 percent service-connected disabled. He was drawing his full retirement pay prior to receiving his disability rating, but once he was found to be entitled to disability compensation, he lost almost $2,400 of his monthly retirement pay because of the prohibitions on concurrent receipt. Major Shipley's wife, already a Navy reservist, has been forced to work overtime as a nurse in the local hospital to make ends meet. Her husband's disability—and now the loss of the retirement pay he has been collecting for more than a decade—has impacted her family severely.

We should be doing things to make Len Shipley's life better, not worse. He served his country honorably. The restriction on concurrent receipt is fundamentally unfair, unwise, and unsound policy. We should fix it.

I understand the new special compensation programs were designed to help veterans like Len Shipley, but he was told he does not qualify for this Severely Disabled Compensation Program because he received his disability rating more than 4 years after his retirement. Mr. President, Lou Gehrig's disease does not pause to consider when its victims retired from the military.

We still don't know whether Major Shipley will qualify under the Combat Related Special Compensation Program. I hope the program will be fairly administered, but I am already concerned about a Pentagon ruling that excludes the National Guard and Reserve forces from eligibility for special compensation benefits. I hope this is simply a mistake by the Pentagon that will be corrected immediately. If you are combat disabled and retirement eligible, why should it matter whether

you served on active duty, the National Guard, or the Reserves? It was never the intent of Congress to exclude the National Guard and Reserves from the Special Compensation Program.

But these special compensation programs are necessary only because this ancient prohibition on concurrent receipt is still on the books. It is time to finally end the prohibition, get rid of the special compensation programs, and lift this unfairness from the backs of the disabled veterans.

The support for concurrent receipt in the Congress is clear. I have mentioned a few cosponsors of this most important amendment, but I believe if we shopped it, most of the Senate would sign on. About 90% of the entire 107th Congress was on record supporting full concurrent receipt in the 2003 National Defense Authorization Act. Disabled military retirees were extremely disappointed when the legislation fell short after a veto threat by President Bush.

So it is time for us to demonstrate a sense of fairness to our retired disabled veterans. Let's end this prohibition once and for all. I urge my colleagues to support this most worthy amendment.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend Senator REID for his constancy and his commitment to this cause. His leadership has been nothing less than extraordinary. Last year, the legislation, which he initiated, to repeal this prohibition had 82 cosponsors. He has continued to fight for this repeal, fight the administration's significant opposition. I support that effort, and I think it is particularly important at a time when we have troops being shot at in Iraq and in Afghanistan. We know some of our service members are going to suffer injuries and disabilities because of that service and service elsewhere. We must assure them that if they complete a military career, they will not be deprived of the benefits they have earned. So I support this amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, our committee through the years has addressed this very important amendment. I, too, commend the distinguished Senator from Nevada, who has been the spearhead, together with others, on this issue. He has enumerated others, including Senator MCCAIN on this side, who have fought so hard for this measure. Senator LEVIN just spoke of his endorsement, and I now add mine.

I don't wish to prolong this because in last year's record I spoke extensively on this measure. Each time I have addressed it, I have mentioned I have had two brief tours of active military duty, but pretty much of a lifetime association with the Reserves and the Guard in my State and others. My military career is insignificant compared to that of many valiant members of the Armed Forces, generations of whom, hopefully, are to be benefited, quite properly and justifiably and fairly, by this legislation.

I see no further speakers on our side.

Mr. REID. Mr. President, if I may say one thing, the Senator from Virginia has stated—and I heard him say this—his military career is insignificant. The Senator's military career, of course, was significant. Anybody who serves in the military adds to the dimension of our defense posture in the country.

I want the RECORD to reflect that the armed services, the men and women who serve in the U.S. military, have been improved as a result of the service of the Senator from Virginia as a member of the Senate. He has been devoted to the committee that is now handling this legislation, and the teamwork the Senator from Virginia has shown with the Senator from Michigan—talk about insignificant, mine is really insignificant; I have had no military service. I proudly serve in the Senate, doing what I can to help those people who have served in the military and are serving in the military.

My service in trying to accomplish what I think is important for the military is really insignificant compared to the work done by the two managers of the bill. When the history books are written about this era of our country, there will have to be a chapter about what has been done by the two Senators who are managing this bill for their cooperation, partnership, and for moving this legislation forward.

It would be very easy to have a very agitated relationship. We do not have that here. Senator WARNER and Senator LEVIN set an example for the rest of the Congress as to how people can work together, even though their views may not always be in sync, to work together for the betterment of the country.

I thank them very much for working so hard on this legislation, as they have over the years. But for the two of them, as I have already stated on the record, we would not be anywhere. We can pass all kinds of legislation in the Senate, but when it passes Statuary Hall and goes to the House, many times issues are gone.

As a result of the work of Senator WARNER and Senator LEVIN, veterans in this country will forever be helped.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield?

Mr. REID. I will be happy to yield, but before yielding—I was going to say this—the Senator from North Dakota has been—I am trying to find a word to describe the push and pull, the ability to put legislation at the forefront of what we do. The Senator from North Dakota has done a remarkable job. But for him, we would not be where we are.

I will be happy to yield.

Mr. DORGAN. Mr. President, I wish to observe that what the Senator said about the chairman and ranking member is something most all of us in the Senate believe. They are two extraordinarily able people, and I am proud to serve with both of them. I think they produced a good piece of legislation.

I especially wish to say, as coauthor of the concurrent receipt legislation with Senator REID, I am pleased this will be accepted. My understanding is this will be part of the bill in the Senate. It is the right result for disabled veterans. I am very pleased they are allowing us to make this a part of the bill today. I thank Senator REID for his leadership.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am deeply humbled by Senator REID's kind remarks. I wish to say, certainly this is not about my own career. I always felt I benefited more from my brief tour of military service than did the military for my service in those days. I tried to, in a sense, pay back so that other members of the service today can have the same and greater benefits than I had. I would never have received a college education in all probability had it not been for the GI bill.

Although I did serve twice, I never placed myself in the category of combat arms and the valorous heroes of this great country but did my duty, as millions of others have, and was privileged to do so.

On the Committee of Armed Services, no one could have a more wonderful working partner than my colleague from Michigan. We have sat side by side this quarter of a century, but we have achieved a high water mark of bipartisanship because we are really there to be responsive to the needs of the men and women of the Armed Forces and the overall security needs of our country. As each President has sent forth his message to the Congress, we have done our best to fulfill that message.

I thank my colleague from Nevada and thank my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I must add a word of gratitude to Senator REID for his always gracious commentary. This institution could just simply not function as well as we do with all of the roadblocks we face without Senator REID. He is utterly unique in this institution in terms of moving the process forward. When we have setbacks or differences, he has overcome more of those than any other person in this Chamber as he serves as our assistant Democratic leader. I think everybody on both sides of the aisle is very much in his debt for his work, as well as for his excessively flattering comments for which I am personally indebted. I thank Senator DORGAN as well for his comments.

One word about Senator WARNER. Like him, I always look forward to our work on the Armed Services Committee. To put it in a nutshell, I have

been blessed to have him as a partner. I just cannot conceive of having somebody with whom I would rather work on issues than having Senator WARNER working on them as he does day in and day out. I agree with Senator REID, it would not diminish his contribution militarily——

Mr. WARNER. We must move on, Mr. President.

(Laughter.)

Mr. LEVIN. I will take that as my time is up. I yield back the remainder of my time on Senator WARNER.

Mr. WARNER. Senator LEVIN should know my sentiments.

Mr. CHAMBLISS. Mr. President, I want to discuss Senator REID's amendment, which would permit retired members of the Armed Forces who have a service-connected disability to receive both their full military retired pay and disability compensation.

On March 27, I held a Personnel Subcommittee hearing with my colleague Senator NELSON specifically about this issue of concurrent receipt. Our colleague, Senator REID of Nevada, was the first to testify, and he was followed by Undersecretaries Dan Cooper and Charlie Able and several experts from the General Accounting Office, Congressional Budget Office, and various veterans groups. There was a lot to learn about the intricacies of Federal benefits and compensation, but ultimately the hearing reinforced the fact that this legislation is extraordinarily complex and expensive.

All said though, I intend to support this amendment because this compensation is long overdue for our Nations' veterans. It is unfortunate that the cost of concurrent receipt is so high, but America's veterans have earned their benefits through their long service to our Nation.

Last year, Congress funded a form of special compensation for retired soldiers who had certain combat-related disabilities. The first check for this limited compensation will be cut on July 1, 2003, and this is good news for those veterans who qualify. This is an important step in the fight to help our nation's veterans but we must do more.

These benefits for veterans and their families are important and we should honor those who interrupted their lives and the lives of their families to defend this country and preserve our freedom.

Mrs. LINCOLN. Mr. President, I rise to speak in strong support of the amendment offered by my friend and colleague from Nevada. This proposal to overturn current law that prohibits concurrent receipt of retired pay and disability benefits for military retirees with 20 years of service is long overdue. I believe the current policy is unfair and that our military retirees should receive their entire benefits package, just as any other Federal worker would.

Last year, the administration and leaders of the House and Senate Armed Services Committees negotiated a compromise that partially repealed the dollar-for-dollar offset for certain military retirees who also receive VA disability pension benefits. Although the passage of this provision represented a step in the right direction, I recognize that many veterans who sacrificed to defend our freedom did not benefit under the compromise signed into law last year. That is why I am proud to support, once again, the amendment before us today to fully repeal the dollar-for-dollar offset.

I have the highest respect for the men and women who have served our Nation in uniform. I congratulate the Senator from Nevada for his leadership on this important issue and I am pleased to join him and others today in honoring the sacrifice of the veterans in my State who have served our Nation so well.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 848.

The amendment (No. 848) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we are about to turn to an amendment by our colleague from North Dakota and our colleague from Mississippi. I say to these two fine, outstanding colleagues, while I must oppose this amendment, I have rarely seen such extraordinary tenacity as exhibited by these two Senators in their strong convictions with regard to the matter that is about to be put forward. I wonder if the two Senators will offer the amendment, and then I wish to do a housekeeping measure with regard to the vote.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 849

Mr. DORGAN. Mr. President, I send the amendment to the desk on behalf of myself, Senator LOTT, Senator DURBIN, Senator BOXER, Senator SNOWE, and Senator BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, and Mr. BINGAMAN, proposes an amendment numbered 849.

Mr. WARNER. Mr. President, I wonder if I may ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with.

The amendment is as follows:

(Purpose: To repeal the authorities and requirements for a base closure round in 2005)

At the appropriate place in the bill, add the following:

SEC. ___. REPEAL OF AUTHORITIES AND REQUIREMENTS ON BASE CLOSURE ROUND IN 2005.

(a) REPEAL.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking sections 2906A, 2912, 2913, and 2914.

(b) CONFORMING AMENDMENT.—Section 2904(a)(3) of that Act is amended by striking ''in the 2005 report'' and inserting ''in a report submitted after 2001''.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that any votes ordered with respect to H.R. 1588 be postponed to occur at 2:50 p.m. today; provided further, that immediately following disposition of any pending amendments, the bill then be read a third time and the Senate proceed to a vote on passage, as provided for under the previous order. I further ask unanimous consent that passage of S. 1050 be vitiated, and that following the passage of H.R. 1588, the Senate substitute be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is we have 15 minutes on our side in support of the amendment; is that correct?

The PRESIDING OFFICER. The amendment has 30 minutes equally divided. The Senator is correct.

Mr. DORGAN. Mr. President, I wish to be reminded when I have consumed 5 minutes.

This amendment is really quite simple. It would rescind the provisions of law that now exist authorizing a round of military base closures in the year 2005. The Senate actually voted on this a couple years ago, in a relatively close vote, regarding an amendment offered by Senator BUNNING, supported by Senator LOTT and myself.

I bring the amendment to the floor with my colleague, Senator LOTT from Mississippi, today for a number of reasons. Let me begin to describe them.

First of all, President Bush says—and he is right—we are at war, a war against terrorism. We do not know when the war will end. We do know that on 9/11 2001, this country was struck by terrorists. Since then we have sent our forces to fight a war in Afghanistan and a war in Iraq, and we know there are significant other challenges that confront us. Yet the 2005 base-closing round, the one that provides for a BRAC Commission, was conceived prior to 9/11.

The shadow of 9/11 is long and has changed virtually everything. But we have not changed our pre-9/11 notion that we should have a base-closing round in 2005. Before 9/11 Secretary Rumsfeld said: Let's close as many bases in one round as we did in all four previous base closure rounds.

There are two reasons I think this is a bad idea. No. 1 is a military reason. We do not know what the military is going to look like 5, 10, and 20 years from now. We do not know how big it is going to be. We do not know the force

structure. We do not know where our troops will be based. We have no idea how many troops will be based in Asia, in Europe, or the United States.

If we bring troops home from Europe, for example, where will we base them in the United States? We have mechanized divisions in Europe that were there to protect Western Europe against the Communist threat from Eastern Europe. But, of course, the Warsaw Pact and Communist Eastern Europe no longer exist. So will we bring those divisions home? If so, where will we house them?

We know the Army does not have enough large mobilization bases. That was proved when we mobilized the Guard and Reserve in the war against Iraq.

So all of these issues beg this question: What is the threat? Is the threat different now since 9/11? The answer is, yes. Do we know the answers to how will we reconstruct, reconfigure, and reformulate our defense establishment and our military to respond to this new threat? As it is now, before we develop the answers to that question, we will be propelled into a round of base closings that, in my judgment, could be very counterproductive to our military preparedness.

We might need more bases for homeland security purposes in this country, rather than fewer bases. I do not know. But before we know, the Pentagon wants to go ahead with a round of base closings which itself will be very expensive and very costly.

Two things: One, everything has changed since 9/11, except we still have in place this requirement for a BRAC round in 2005. It ought to be struck at this point. If there is unneeded capacity, let us respond to that and do it in a thoughtful way. But let's not put every military installation in this country at risk of being closed.

Second, I cannot think of a worse time to be considering this. We have an economy that is sputtering in this country. It is weaker than we would like it to be. In every major city, where there is a military installation, if an investor is told, oh, by the way, this military installation could very well be closed as a result of a 2005 BRAC round, what do you think an investor is going to do? What do you think a lender is going to do? They are going to say, we have to wait.

There is no quicker way to stunt economic growth in cities with military installations than to say there is going to be a BRAC round in 2005. Virtually every single military installation will be at risk of closure. In some States, and in some communities in those States, that closure of a military installation, according to studies, will mean there will be 20- to 30-percent unemployment.

Do you think it stunts the economic growth in those communities right now to have that specter in front of their military installation? The answer is, yes, of course.

So for two reasons, one a military reason and the other dealing with the precarious position of this country's economy, we ought to scrap the 2005 base-closing round. That does not mean that we should not be able to close some military installations that represent excess capacity. Of course, we should. But we ought not to create a commission that is required to meet in 2005, with a judgment that every military installation in this country will be at risk and potentially on the list. We ought not do that in contradiction to what we know is in the best interest of this country's military needs and also economic needs.

That is why Senator LOTT and I have offered this amendment. We have had some close votes on these issues, and they should not be represented as votes between people who believe we should never close a base versus those who believe we should always use a BRAC. I think there is room in between. It is just that at this time, at this place, at this intersection, with respect to our military needs and also our economic requirements, we ought not leave in law a requirement for the 2005 base-closing round. So I hope very much that we will receive a favorable vote on our amendment.

I am mindful that the White House senior advisers would recommend a veto to the President if this bill had this in it. I am sure my colleagues will point that out.

I cannot conceive of a President vetoing this bill because of this particular provision. This bill is a big bill. It is a good bill. Senator WARNER and Senator LEVIN have given the administration almost all they want and need in this bill. This is a significant Defense authorization bill. I cannot conceive of an administration upset that we scrapped the 2005 base-closing rounds and then decide that they should veto this bill. I simply do not think that will happen. They have every right, of course, to use that as a technique prior to our vote to say vote for this and we will veto the bill, but I do not think there is a ghost of a chance of them doing that.

I do think it is in the public interest, both for military and economic reasons, for the amendment that Senator LOTT and I are offering to be passed by this Senate and to go to conference in the Defense authorization bill with the House of Representatives.

I know my colleague from Mississippi wishes to speak. I thank him for his cosponsorship. He has worked on this issue for a long while, not just this year or just last year. Senator LOTT has felt very strongly about the process of BRAC and its consequences, and I am pleased to join with him to express these concerns today and hope that we will get a favorable vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate very much the generous effort put forward by the Senator from Virginia, Mr. WARNER, and his ranking member on the Armed Services Committee, Mr. LEVIN, to make sure we had an opportunity to offer this amendment. He could have been so disposed to try to block it or stiff us or in some other way undermine the effort to have a full debate and a vote on this issue but he chose not to do that. I do appreciate it very much. He is always generous and kind, and he has proven that is the way he is proceeding on this amendment and this bill also. So I thank him.

I have worked very closely on Defense authorization bills ever since I came to the Senate some 15 years ago. I served on the Armed Services Committee for a number of years, I think almost 7 years. I worked there with Senator WARNER, Senator MCCAIN, and others in a bipartisan way. I can remember struggling as leader to find the time to carve out for the Defense authorization bill to be passed so the appropriators did not have to just move forward without an authorization bill, which I think is not a good way to proceed. Quite often, it took a couple of weeks to get it done. This year, this bill, which is I think one of the best Defense authorization bills I have seen in a long time, got through in almost record time, at least in recent history.

We were told that it might actually get through in 2 days. Well, I did not believe that, but I think when all of it is added up it may be 5 days, which with a bill of this importance and this magnitude, it is still warp time, and it is because the committee did a good job. They have a good bill, and I commend them for that. So my support of this amendment in no way should be an indication that I do not appreciate the work that has been done and the considerations that have been given of the issues that I really do care about and that are in this bill.

I think the record will also show that I have been consistent on this BRAC idea. Just a little history that maybe I should offer today, going back to when I was in the House of Representatives and I was the Republican whip in the House and on the Rules Committee. One day I was ambling up the center aisle and I met up with this young Congressman, maybe on his first or second term, named Dick Armey from Texas. He had this brilliant idea called BRAC, the Base Realignment and Closure Act. He wanted to know how he could get that done. I look back on it and question my judgment, but I told him as a member of the Rules Committee and the Republican leadership, well, this is probably how you would need to do that and how you would need to proceed, and explained what happened in the Rules Committee.

At that point, I said I do not agree with what you are trying to do. I think this is an abdication of responsibility. We should not be doing this, and if you think this is going to take politics out of it or make it easier, you have not been around long enough.

Well, dang if he did not go out and do it. So I am partially to blame, I guess, for the process that was put in place by that young Congressman who went on, of course, to be the majority leader.

The reason why I think it is an abdication of responsibility is, look, we have closed bases before. We did it after World War II. We did it after the Korean war. We did it after the Vietnam war. How do I know? I know of bases all around my region of the country: Brookley Air Force Base in Mobile, AL, the Greenville base, the Grenada base, the Greenwood base in my own State, lots of bases. How was that done? The Pentagon, particularly the military service personnel, looked at these bases, at what the requirements were and where the redundancy was. They made recommendations to Congress of what bases needed to be closed. In many instances, I do not know exactly how it worked, they either had to affirmatively approve it or, if they did not disapprove it, they could be closed. We could work that process out but, no, no, we want a process where we can say, no, I do not see it; I do not hear it; I am not involved, do not tell me about it; I do not want it.

What is the responsibility of the executive branch and the legislative branch? That is to do our job. I think this process takes out the considerations that can be given by a Congressman or by a Senator who knows about a base in Virginia or Montana or wherever it may be. They know all the ramifications, what the needs are, what the problems would be if it is closed.

I have never liked this process. The process has not been that unfair to me or to my State. We fared pretty well but then we do not have a whole lot of bases as compared to other States. But we were on the lists. Oh, yes, we were on the lists. There were bases that really should not have even been on the list. It does affect the economy and it does affect the people.

The cities and the States go out and hire Washington people who used to work on the Hill or worked at the Pentagon to be lobbyists.

Millions of dollars will be spent across America in fearful anticipation of this next round of BRAC, even in places where they are not going to be closed.

I have urged those responsible, if you are going to do this, target it where there is redundancy and there needs to be closure; specify those areas, and do not say, well, it could be every base. If you don't, hundreds of bases will be on the list. If they have been on the list before, they may be again. Everyone will run out and start trying to deal with this problem.

Some say people are not really worried about it. Once a month, I do a satellite feed to television stations in my State. Almost every month I get a question: What is happening on BRAC? Are we going to be on the list? They are in fearful anticipation. One in particular I refer to probably will not be on the list, but they are scared to death.

I question it on that basis. If you think this takes politics out of the process, take a look at the last process during the 1990s. There was a lot of concern about some on the list or taken off the list. Human beings are involved. They will use every tool they can to affect it or protect themselves. We should not think this is some pure process. It is not.

Also, the timing. We have been through 2½ rounds. We still are dealing with some of the aftermath of that, the cleanup. Could we reacquire them? Have they been transferred to the cities and States? When will we know the full benefit or the detriment of that? Sometime later on. The timing now is what bothers me.

We have troops all over the world, thousands in Asia and Europe and Afghanistan and Iraq, fighting a war—not a battle, a war on terrorism. Then we will say, well, we are going to start closing bases. What about some bases in Europe? We have been talking about that for 20 years. Before I came to the Senate, we were talking how we needed to take a look at our basing requirements in Europe. The Soviet Union is gone. Didn't anybody notice? Yet we are still positioned in Europe as if we were going to go with tanks and heavy equipment into the Soviet Union. When are we going to get around to this?

In defense of the Pentagon, they are busy, they have a lot going on, and they have done a great job. They have not had the time, perhaps, to decide what we are going to do in Okinawa and South Korea and the rest of Asia and Europe and what the future will hold. That is my point. Why should we do this?

Before we start closing bases in America, we need a full assessment of what our needs are around the world. Will we bring the troops back? What will our efforts be to protect forces and be mobile? What do we need here?

I could have maybe gone along with a deal and said we will go forward with this once we have done the assessment and have identified what we will change in Europe.

I have learned around this place, never say never. I could conceive of a time and a circumstance where maybe this would need to be done. At this particular time, we have not properly assessed our needs. We are at war. It sends a terrible signal, and it is bad for the economy. We are trying to get the economy going, and it has a negative impact on the economy.

Colleagues, look at what has been identified here. The criteria for this round include military value. Does it have value as a military asset? Should it be eliminated or outsourced? Read that language carefully. Does it have value as a military asset? Is that a way of saying, Do we need the Corps of Engineers? Should it be eliminated or outsourced? Outsourced, is that what is behind all of this?

Jointness: Does the base possess multiservice functionability? What does that mean, we are going to combine Air Force and Navy pilot training? Have we thought that through?

Preservation of training areas: Does the base have unique training areas hindered by encroachment or environmental issues? That is a good thing to consider.

Homeland defense: Does it play a vital role in homeland defense? That is interesting. We should consider that. And cost and its economic impact.

One of the areas that worries me, my impression is a lot of attention will be given to health-related installations. Look down the list. We are talking about Army health clinics, a clinic in Alaska, talking about medical groups in Alabama. I am not sure that is the place we need to focus either. It will have an effect on military personnel and on our veterans at a time when we are making a commitment to them under TRICARE and telling our military personnel they will have good health care service. Are we going to be looking at closing the facilities around the country? Beware.

I urge my colleagues to vote for this amendment. This would knock it out of the 2005 round. Maybe 2006 would be considered. Maybe something could be worked out in conference. I invite my colleagues to pay attention to this. This will wind up being a huge problem is my prediction.

Mr. WARNER. It is always a challenge, Mr. President, to go toe to toe with my distinguished colleague from Mississippi. The citizens are blessed for having such a powerful and respected voice in the Senate. We have had a long and strong relationship. I am still proud to call you leader. And you exhibit that leadership and have done so magnificently, particularly here recently.

Quickly, I digress from what I intended to say by way of opening with a couple of points. That is, the BRAC process will not begin until Congress has received and reviewed an overseas basing master plan from both the administration and an independent commission to Congress authorized in the bill. Both of these reports should be available by August 2004. That is an important point raised. We have addressed it. That information will be before the Congress.

Second, under the law as written, the Senator brings out a series of points about what this law does to protect us. There is quite a litany of steps. Congress will have numerous opportunities during the process to affect BRAC actions.

First, Congress will review by joint resolution the proposed BRAC criteria submitted by the Department of Defense to Congress in February 2004.

Second, Congress will review the DOD proposed force structure in February 2004 and can pass legislation at any point in the process to terminate the authority.

Third, Congress can exercise ''advise and consent'' prerogatives on nominees to the BRAC commission.

Fourth, Congress has 45 days after receiving the commission's list of recommended base closures and realignments to pass a motion of disapproval.

The law has carefully been drawn to protect the interests of the several States and to give the tools to its elected representatives, Senate and House, to step into this situation at a series of junctures to protect the interests of their constituents as this process goes on.

I pick up on another phrase used by my distinguished leader. With respect to the BRAC process, he enumerated his long association. Indeed, I have had quite an association with it myself. I suppose I go back to 1969 to 1974 when I was in the Navy Secretariat and had the decision to close, for example, the Boston Naval Shipyard and the Newport, RI, destroyer base. I am reminded of that on the floor of the Senate with great frequency by the colleagues from those distinguished States.

Nevertheless, in those days we did not have a BRAC process. The Secretary of Defense, in consultation with his Service Secretaries—Navy, Army, and Air Force—moved unilaterally.

Congress came in. I remember going through days of hearings in the Senate caucus room. There must have been a dozen cameras focused on us while the various Members of the Congress berated this humble public servant, and the Chief of Naval Operations sitting next to me, with regard to the faulty process. Nevertheless, we had to move on.

At that point in time, we were overburdened with an infrastructure that simply no longer was needed to support the size of the forces we had. That is the very thing we are confronted with today.

For example, since the late 1980s, the Department has reduced force structure by 36 percent. That is the numbers of men and women in uniform, Guard and Reserve. But infrastructure—that is the barracks, the bases, the airfields, the training grounds that support that force—has been reduced only by 21 percent. That is showing the total disjunction between force level personnel and infrastructure to support and train those personnel.

A 1998 DOD BRAC report to Congress, validated by the Congressional Budget Office, indicated the Department of Defense had 23 percent excess capacity. That basically still remains. I ask my colleagues, what businessperson in your State does not evaluate their infrastructure and determine what is needed and what must be disposed of in order to maintain the basic profit line and viability and the ability to keep its employees? Of course, we accept that as a pattern of business.

I say most respectfully, the Department of Defense is a business, a very large business involved in a mission that is vital to the security, today, tomorrow, and in the indefinite future of this country. The management of that business—four Presidents in sequence and the Secretaries of Defense acting under those Presidents—has come before the Congress and asked for the authority to bring into alignment the base structure as this country is rapidly moving, under the leadership of the current Secretary of Defense, to a transition of the Armed Forces so we can keep apace with modernization; whether it is the smart bombs we saw that were used in the most recent conflicts, or the new ships that are on the drawing board, or, frankly, the lifestyles of the soldiers, sailors, and marines.

When I was privileged to serve—we mentioned that more than we should this morning—I remember I slept in a barracks with 50 people all in one room. I was only 17 or 18. We got quickly adjusted to the lifestyle. We shared all types of facilities in World War II.

Today, we try to give our men and women of the Armed Forces living compartments, once recruit training is completed, where they have a certain measure of privacy and personal dignity that I think is owing to these people who volunteer today.

We cannot retain much of this infrastructure which is outdated, which still requires that it be heated, painted, maintained, drawing down O&M funds vital to build new facilities for the men and women of the Armed Forces.

I could go on about the needs of the services, but I bring to the attention of the Senate the letters that have been forwarded to this body. As a matter of fact, the letter approved by the President of the United States has just been sent to me at this very moment.

I will ask unanimous consent, during the course of this debate, that I can have printed in the RECORD letters from the Administration. Indeed, one from the Secretary of Defense makes it very clear that:

> The authority to realign and close bases we no longer need is an essential element of ensuring the right mix of bases and forces within our warfighting strategy as we transform the Department to meet the security challenges of the 21st century.

Then the concluding paragraph—this particular letter went to the House of Representatives, but basically an identical one is being transmitted to the Senate:

> If the President is presented a bill to repeal or delay BRAC, then I [the Secretary of Defense] would join other senior advisers to the President in recommending that he veto any such legislation.

Also accompanying that letter is a letter to me of 3 June, by the Chairman of the Joint Chiefs of Staff, supporting this current posture of BRAC; namely, that it is law today and joining me in urging Senators not to vote for the present legislation. I will quote the Chairman, General Richard Myers:

> In an environment where resources are scarce, we must eliminate excess physical capacity to allow for increased defense capability focused on ''jointness.''

There we are. The two spokesmen who are entrusted by law—not the BRAC law but the overall framework of the law of the United States as it relates to our security structure—these two men state unequivocally their opposition to the amendment that is presently before this Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
Washington, DC, May 13, 2003.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I write to reiterate the importance we place on conducting a single round of base closures and realignments in 2005. We have just seen our troops demonstrate an unprecedented effort in fighting for freedom and against terror. But as I have expressed before, in the wake of September 11, the imperative to convert excess capacity into warfighting ability for potential conflict is enhanced, not diminished. The authority to realign and close bases we no longer need is an essential element of ensuring the right mix of bases and forces within our warfighting strategy as we transform the Department to meet the security challenges of the 21st century.

Through base realignment and closures (BRAC) we will reconfigure our current infrastructure into one in which operational capacity maximizes both warfighting capability and efficiency. BRAC 2005 will also help the Department eliminate excess physical capacity—the operation, sustainment, and recapitalization of which diverts scarce resources from defense capability. BRAC's ability to achieve significant savings has been thoroughly reviewed and validated by both the Congressional Budget Office and the General Accounting Office.

With the continuing demands of the global war on terrorism we must seek every efficiency to meet our national security needs. Now more than ever we have an imperative to convert excess capacity into warfighting ability.

If the President is presented a bill to repeal or delay BRAC, then I would join other senior advisors to the President in recommending that he veto any such legislation.

Sincerely,

DONALD RUMSFELD.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 3, 2003.

Hon. JOHN W. WARNER,
Chairman, Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: To ensure the security challenges of the 21st century are met, we must continue to transform the joint force. Capitalizing on the recent successes in Iraq and Afghanistan, BRAC 2005 provides us the opportunity to configure our infrastructure to maximize capability and efficiency.

In an environment where resources are scarce, we must eliminate excess physical capacity to allow for increased defense capability focused on ''jointness.''

I strongly support needed infrastructure reductions facilitated by BRAC 2005.

Sincerely,

RICHARD B. MYERS,
Chairman of the
Joint Chiefs of Staff.

Mr. WARNER. I want to return to Senator LOTT's comment when he said ''Never say never,'' which indicates maybe someday a BRAC procedure. Senator LOTT very accurately portrayed the turmoil in the States, the

cities, the towns, and the villages where military installations are located. It is a very painful procedure by which the Department has to evaluate each of those installations and make the determinations which are no longer needed for the viability of a modern military. Consequently, the mayors, the city councils, the Governors are working very hard—I know in my State—as they are in each of your States at this time to prepare themselves for the unknowns of BRAC. Considerable dollars in the local budgets, and in the State budgets, are expended to hire those individuals they believe are expert in how best to go before the BRAC Commission, should a base or a facility in that State be put on the DOD list. The Governors can address that Commission, and indeed the Members of Congress, to state the case for not closing a base.

All this is going on at great expense. As Senator LOTT said, ''Never say never.'' Congress has spoken. It has put a law on the books under which our President is currently operating. He has indicated he is not going to let that law be removed. So if we take action today and send a signal that the Senate is repealing the previous law, there is a long course of uncertainty as to whether or not that decision by the Senate will stand. This President, whom I have come to respect enormously, when he says he is going to do something, does it. These communities—as Senator LOTT says, ''Never say never''—will be in a great state of uncertainty for an indefinite period of time.

I do not say this by way of any threat. It is my own opinion. I believe the law that has been adopted by the President, that is in force, is going to stay in force. We better recognize that and get on with the business of this Nation to properly enable those of responsibility to realize the force and base structure of this country.

I yield the floor.

Mr. CARPER. Mr. President, an hour from now, we will have the opportunity to vote on an amendment pertaining to whether or not we go forward on the process called BRAC, the Base Realignment and Closure Act. For the last 20 years, we have debated in the House and the Senate, and around the country, whether or not we should take a look at our military bases—Army, Air Force, Navy, and Marine—to determine whether or not we have the right bases with the right mix of personnel with the appropriate aircraft, ships, and tanks, and decide whether the men, women, equipment, and materiel are where the bases are. We might have some bases that need to be closed, or perhaps we have some bases where we simply need to move men, women, equipment, and materiel to some other base where it makes more sense to maintain them.

Over the last month or two, we have debated our budget at some length. Today we find ourselves in a deplorable situation with respect to our budget deficit. Two or three years ago, we enjoyed the largest surplus in our Nation's history. This year we are looking at what might be the largest budget deficit that we will have ever had.

I, for one—and I know I have many colleagues who feel this way, too—do not worship at the altar of a balanced budget, but I sure care about getting closer to a more balanced budget. When I was Governor of Delaware, we cut taxes 7 out of 8 years. We also balanced the budget in 8 straight years.

One of the things I found troubling about the tax cuts Congress just passed is that we do not come close to balancing the budget this year, next year, or for the next 10 years. That is a problem for our country. But we have taken the action that we are going to take with respect to taxes, and now, over the next several months, we will be turning to the 13 appropriations bills.

About a year ago, when we were discussing military spending, we had the opportunity to decide whether or not we wanted to take another close look at our military base structure, largely in this country but also outside this country, to see if we have it right: if we have the bases, the personnel, the weaponry, and the military equipment where we need it in the 21st century. There is some reason to believe we do not. The wars we have just fought in Iraq and Afghanistan were different from the one in which I served in southeast Asia. Subsequently, the wars of the 21st century—I hope there are none, but history would suggest that there probably will be—those wars are going to be different from the ones we had in the last century.

Our military leadership tells us in this administration, just as they did in the last administration, and as they did during the Reagan and Bush 1 administrations, that from time to time we need to look at our base structure and determine whether or not it is appropriate for the threats we face. I, for one, believe it is time to take another look at where we have our bases, how they are structured, and how they are manned.

To the extent we find bases that ought to be closed, for they simply do not have the personnel to support or the missions to demand that kind of infrastructure, then we ought to have the political courage, as difficult as it is, to close them.

We have a whole lot at stake in my State. The largest employer in the central and southern part of my State is Dover Air Force Base. It is a great base, with a great reputation. We would like to think they are immune from the threat BRAC might pose, but I suppose one never knows. We have worked hard, and people on the base work hard, to make sure they will never be on a short list for BRAC.

I spent about 5 years on active duty and another 18 years in the Reserves as a naval flight officer. I have been stationed at any number of bases which, frankly, ought to be closed, if one looks at the people who were assigned to a particular base. Large bases with plenty of hangar space, plenty of space in the exchange and the other parts of the base, but not many people. I have been on other bases where they may have had the people who were stationed there but they did not have the support, whether it was the child development centers, schools, or other services for families.

This is not a bad time, as we face the threats of this century to our country, to look at the kind of military we are trying to shape.

Much is said of this administration's effort, led by Secretary Rumsfeld, to reshape and reform our military. Actually, a lot of the changes were undertaken in the last administration under the leadership of President Clinton and his Department of Defense Secretaries.

We want a military that is leaner in terms of personnel. We want a military that is better trained, better equipped, and better uses technology. We want a military that is able to deploy more quickly to trouble spots around the world. The threat we face, as we all know, is different today than it was 10 or 20 years ago. A lot different.

That also suggests to me this is a good time to slow down, to take stock, to assess where we have our men and women and materiels stationed around this country and the world and ask ourselves, does this allocation make sense? In many cases, it will; in some cases, it will not.

When we talk about budget deficits and bemoan the fact we have this huge budget deficit today, I don't want to hear from the administration, well, there is one thing we could have done to help whittle down that budget deficit a little bit without threatening our ability to defend ourselves or express our strength and extend our military strength around the world. I don't want it said that we undid what we agreed to do a year or two ago. I hope when we vote in less than an hour that we will support the position we took last year, we will let this commission be formed, we will let them do their work, and we will provide plenty of input to the commission as they do their work in our respective States, and in the end have an opportunity for an up-or-down vote on whether or not the status quo is just fine—I think it is not—or whether some changes are needed. Fair, reasonable, pragmatic changes are needed.

I yield the floor.

Mrs. CLINTON. Mr. President, today, I offer my support of the Dorgan amendment and oppose the base closing round scheduled for 2005. The world has changed since this legislation was voted on in 2001. I opposed it then and I oppose it now because we must complete an evaluation of our basing needs for the 21st century. And this argument carries more weight in this post-September 11 world.

Since we passed the base closing legislation in 2001, we have had the September 11 attacks, the war in Afghanistan, and the war in Iraq. Our men and women in uniform are operating under a tremendously demanding operations tempo. Until we are able to evaluate the lessons of these conflicts and how they should impact our base structure, it seems foolish to rush ahead to a base closing round that was conceived prior to September 11.

A number of New York installations have played a vital role in our homeland security as well as military action in Iraq and Afghanistan. As we know, troops from the 10th Mountain Division, Light Infantry, from Fort Drum fought in Operation Anaconda in Afghanistan and also contributed troops to Operation Iraqi Freedom. New York's Air National Guard units in Niagara Falls, Syracuse, Newburgh, Scotia, and Long Island have all contributed to homeland security or important missions abroad. And New York has numerous other installations that play an important role in our national defense and homeland security. Because our security needs have grown so much at home and abroad, we need to conduct a full evaluation of how our military bases fit into our homeland security structure before we push ahead with another base closing round.

Our troops need to know that we support them in their efforts. And standing by a bill that was passed in the months before September 11 does a disservice to them. It places communities under tremendous stress to have to prepare for a base closing round. As Senator DORGAN points out, it seems wasteful to ask communities in this economic climate to devote scarce resources to prepare for this round of base closures. And New York is no exception.

Until we can have a full debate on what form our post-9/11 military base structure should take, I will support the Dorgan amendment and oppose a 2005 base closing round.

Ms. SNOWE. Mr. President, I rise today as a cosponsor of the amendment offered by Senators DORGAN and LOTT to repeal the provisions in the fiscal year 2002 Defense authorization bill that authorize an additional base closure round in 2005.

Even before the horrific attacks of September 11, 2001, I along with many of my colleagues had serious questions about both the integrity of the base closing process itself as well as the actual benefits realized. Now, with acts of war committed against the United States, with Operation Enduring Freedom and Operation Iraqi Freedom ongoing, with our reservists having been calledup and our troops being deployed and the unpredictability of future missions, this is not the time to be considering the closure of additional bases. Indeed, now, more than at any time in recent history, I believe it is absolutely critical that this Nation not sacrifice valuable defense infrastructure.

In addition, as we proceed in the stand up of the Department of Homeland Defense, we are still trying to understand the domestic military requirements of our nation. Until there is a complete assessment of these needs, we simply can't afford to lose more bases. After all, during previous base closure rounds over the last decade, the Northeast alone lost 49 bases, roughly 50 percent of what we had prior to BRAC. Furthermore, 173, or just under 35 percent of the installations on the East Coast, were closed during the previous rounds. Although the Department of Homeland Security will not take the place of the Department of Defense, all of our military installations will no doubt play a critical and prominent role in homeland security.

Instead of chasing illusive savings, I believe the Department of Defense needs a comprehensive plan that identifies the operational and maintenance infrastructure required to support the services' national security requirements. Once property is relinquished and remediated, it is permanently lost as a military asset for all practical purposes.

The administration and proponents of additional base closure rounds point out that reducing infrastructure has not kept pace with our post Cold war military force reductions. They say that bases must be downsized proportionate to the reduction in total force strength. However, the fact of the matter is, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Keep in mind, that force levels may have to be revisited once again in light of the new anti-terror mission our military faces, and may well require an increase. So would we then go and buy back property that we have given up in future base closure rounds to build new bases - I think not.

The Department of Defense hopes to eliminate 23 percent of its base structure in the 2005 BRAC round. That would exceed the 21 percent closed in all four of the previous rounds. Before we legislate defense-wide policy that will reduce the size and number of training areas critical to our force readiness, the Department of Defense ought to be able to tell us, through a comprehensive plan, the level of operational and maintenance infrastructure required to support our shifting national security requirements.

Proponents argue that the administration's approach will be based upon military value and removes parochial and political factors from the process, but in reality, the administration's Efficient Facilities Initiative is more similar to past BRAC rounds than one might think. Much has been made of the de-politicization of the process by including ''military value,'' ''jointness,'' and the other criteria in the legislation. However, review of the last process reveals that these criteria are nearly identical to those used in the 1995 round. This is very disturbing, because in my view, the past BRAC rounds were not fair or equitable, and were not based solely on military value.

I have been through BRAC before. And I have to say, I know how the criteria can be twisted to the advantage or disadvantage of a given facility. In fact we had not one but two Air Force generals defending the former Loring Air Force Base before a past BRAC commission; yet the Air Force claimed its facilities were ''well below average''—and this despite the fact that $300 million had been spent there over a ten year period to replace or upgrade nearly everything on the base and it ended up being closed on so-called ''quality of life'' issues even though that was never supposed to be part of the criteria.

I strongly believe Congress must also consider the economic impact of base closures on communities in light of the uncertainty regarding the nation's economy and in those communities whose economy is tied to military installations, the threat of closure will provide a deterrent to any recovery.

In August 2001, GAO issued an overview on the status of economic recovery, land transfers, and environmental cleanup in communities that lost bases during previous BRAC rounds. GAO found that the short term impact of a base closure was traumatic for the surrounding community and that economic recovery was dependent on several factors including the strength of the national economy, federal assistance programs totaling more than $1.2 billion, and an area's natural resources and economic diversity.

Keep in mind, this assessment was done during a time of unprecedented economic growth and as GAO stated, the health of the national economy was critical to the ability of communities to adjust: ''Local officials have cited the strong national or regional economy as one explanation of why their communities have avoided economic harm and found new areas for growth.'' GAO also noted: ''Local officials from BRAC communities have stressed the importance of having a strong national economy and local industries that could soften the impact of job losses from a base closure.''

With the slow-down of the economy, communities may not be able to rebound to the extent they have in previous years. Indeed, it is vital to note that not every community affected by base closures has fared so well in the past—those in rural areas still experienced above average unemployment and below average per capita incomes.

Advocates of base closure allege that billions of dollars will be saved, despite the fact that there is no consensus on the numbers among different sources. These estimates vary because, as the Congressional Budget Office explains, BRAC savings are really ''avoided costs.'' Because these avoided costs are not actual expenditures and cannot be

recorded and tracked by the Defense Department accounting systems, they cannot be validated, which has led to inaccurate and overinflated estimates.

The General Accounting Office found that land sales from the first base closure round in 1988 were estimated by Pentagon officials to produce $2.4 billion in revenue; however, as of 1995, the actual revenue generated was only $65.7 million. That's about 25 percent of the expected value. This type of overly optimistic accounting establishes a very poor foundation for initiating a policy that will have a permanent impact on both the military and the civilian communities surrounding these bases.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submarines, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our nation and its interests. I want to protect the economic viability of communities in every state. And I want to make absolutely sure that this nation maintains the military infrastructure it will need in the years to come to support the war of terrorism. We must not degrade the readiness of our armed forces by closing more bases, certainly not at this time. Certainly not without information on our future defense needs that we do not have.

In closing, I reaffirm my opposition to legislation authorizing additional BRAC rounds and encourage my colleagues to join me in supporting the Dorgan/Lott amendment.

Mr. CHAMBLISS. Mr. President, I rise today to oppose the amendment in question. I don't think anyone in the U.S. Senate is looking forward to the upcoming BRAC round in 2005, including myself. BRAC will have a negative impact in Georgia should any of the bases or posts in my state be closed.

However, I am convinced fiscal realities and some over capacity issues exist which we absolutely need to address, and if we don't do it now we will have to do it later. Putting off the BRAC 2005 round now will only prolong the anxiety in our communities surrounding our military installations.

The Department of Defense has stated that they are as much as 25 percent over-capitalized in their installations across the country. I do not agree with that assessment but I believe that if we are serious about transforming the military for the 21st Century then we need to reduce capacity to more closely equal our force structure needs.

I personally have 13 major defense installations in my State of Georgia, and we are preparing now for the 2005 BRAC round. We have a tremendous amount to be proud of at every one of our Georgia installations and I never pass up an opportunity to say how proud I am of the soldiers, sailors, airmen, marines, Department of Defense (DoD) civilians—and their families—who serve at our bases. They have served our country well. And I believe our bases in Georgia are essential to the national security of the United States. All you have to do is look at the recent conflict in Iraq and see that Georgia's bases were all so strategically important. Georgia will prove that to the BRAC Commission when they come to visit us in the coming months.

Mrs. BOXER. Mr. President, I oppose the Pentagon's plan for a new round of military base closures in 2005. California has already endured more than its fair share of previous base closures. Of the 97 major military installations closed nationwide since 1988, 29 were in California. That's 30 percent of all major facilities closed.

Californians are all too familiar with the serious impact of closed military facilities on their communities. Jobs are lost, small businesses close down, and what is left is infrastructure that is difficult to reuse. In many cases, environmental contamination makes large tracts of land off limits until decades of cleanup are complete. By the Pentagon's own estimates, some closed California bases won't be fully cleaned up until 2069.

The former McClellan Air Force Base in Sacramento is a good example of the failure of the Department of Defense to clean-up bases that were closed through the BRAC process.

Rob Leonard, the former head of Sacramento's Military Base Conversion office, recently testified before the Senate Appropriations Committee about the status of McClellan. According to Mr. Leonard's testimony, 6 years ago the estimated cost to clean-up McClellan was $832 million and was projected to take 30 years. Today, the cost is estimated to be $1.3 billion and is anticipated to continue far beyond 2033.

At the same time, however, he goes on to say that ''over the past two years the Air Force appropriation requests for the McClellan environmental program have not been fully supported by the Department of Defense and Congress; and as a result, the clean-up schedule has been adversely affected.''

Another example is the former El Toro Marine Corps Air Station. This base, which was closed in the 1993 round of BRAC, will not be cleaned-up until 2034 at the earliest. The DOD's own estimates say that it will still take at least $77 million to complete the work. Contamination on the base, including a nine acre hazardous-waste dump, has led to delays in the reuse and redevelopment of the site.

These former California bases are not the exception—they are the norm. Consider the estimated clean-up completion dates for the following California bases: George Air Force Base—2031; Castle Air Force Base—2038; Tustin Marine Corps Air Station—2038; Moffett Field Naval Air Station—2032; and Fort Ord—2031.

It seems to me that the military should finish one job before it starts another. The DOD should concentrate on cleaning up what has already been closed so that these bases can be put to productive use by local communities.

Given that the Department of Defense continues to drag its feet on cleaning up BRAC sites while pushing for broad exemptions from environmental standards leads me to believe that it simply does not understand the importance of a safe and clean environment.

The Pentagon should focus its energy and resources on cleaning up the bases it has already closed rather than pursue another painful round of military base closures. I hope my colleagues share this view and I thank the Senator from North Dakota for his amendment.

Mr. LEVIN. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 45 seconds.

Mr. WARNER. I ask unanimous consent the Senator from Michigan be given 5 minutes—add an extra 5 minutes to both sides. As I understand, there is another Senator. Let's suggest we add another 10 minutes to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I yield myself 5 minutes.

Mr. President, I oppose the amendment. I believe the men and women in uniform and the taxpayers are served best by ensuring that this 2005 BRAC process go forward. Every day since September 11, they have been on the front lines of our daily fight against terrorism. They have been sent directly into battle in Afghanistan and most recently in Iraq. Every dollar wasted denies them the resources needed to ensure their success and their safety, and the success and safety of future men and women whom we place in harm's way.

The Department of Defense estimates that as much as 25 percent of their current base structure is excess to their needs. We are spending billions of dollars year after year maintaining infrastructure that we simply do not need. It is a waste of public resources to hold onto this infrastructure, and it is an impediment to our efforts to protect our national security.

Estimates of previous savings in previous BRAC rounds stand at $17 billion. Perhaps more significant for this debate are the annual savings we could expect from future base closings which are estimated at $6 billion a year. These savings have been documented countless times by the Department of Defense, by the GAO, and by the Congressional Budget Office in letter after letter saying the savings are significant. Our forces need resources for training, for technology, for weapons, and to maintain facilities in better condition.

How do we justify asking our forces to go into combat and into harm's way if we ourselves are unwilling to take the difficult steps to give them the resources that they need and deserve and

that we have the power to give to them?

One of the most important questions that has been raised is, Does September 11 change all of this? We answered that question 2 years ago when we adopted the 2005 round. We authorized it at that time, after September 11.

On November 16, 2001, GEN Richard Myers, Chairman of the Joint Chiefs, wrote us the following:

We estimate that 23 percent of our facilities are underutilized. The Services cannot afford the costs associated with this excess infrastructure. The Department of Defense must have the ability to restructure the installations to better meet the current national security needs. The sustained campaign against international terrorism will require wise use of our resources and the aggressive elimination of waste.

A letter written on October 15, 2001—a month after September 11—signed by I think every former Secretary of Defense, says:

We are concerned that the reluctance to close unneeded facilities is a drag on our military forces, particularly in an era when homeland security is being discussed as never before. The forces needed to defend bases that would perhaps otherwise be closed are forces unavailable for the campaign on terrorism. Further, money spent on a redundant facility is money not spent on the latest technology we'll need to win this campaign.

I ask unanimous consent that those two letters I have identified be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, November 16, 2001.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services,
U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: As the Conferees deliberate the FY 2002 Defense Authorization Bill, allow me to emphasize how critical it is that Congress authorize another round of base closures and realignments.

Installations contribute to overall force readiness; however, excess infrastructure detracts from military readiness by diverting limited resources from personnel, training, equipment modernization, and transformation. We estimate that 23% of our facilities are underutilized. The Services cannot afford the costs associated with this excess infrastructure. The Department of Defense must have the ability to restructure its installations to better meet the current national security needs. The sustained campaign against international terrorism will require wise use of our resources and the aggressive elimination of waste.

Therefore, I strongly endorse pending legislation to provide the Department the required tools to reduce our excess infrastructure. This authority is necessary for our forces to become more efficient and thus serve as better custodians of taxpayer money.

Finally, on behalf of our magnificent men and women in uniform, thank you for your strong and dedicated support.

Sincerely,

RICHARD B. MYERS,
Chairman of the Joint Chiefs of Staff.

OCTOBER 15, 2001.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter underscores the need for the Congress to approve an additional round of base realignment and closure. While we understand the sensitivity of this effort, our support for another round is unequivocal in light of the terrorist attacks of September 11, 2001. The Defense Department must be allowed to review its existing infrastructure to ensure it is positioned to support our current and evolving force structure and our war fighting plans.

We are concerned that the reluctance to close unneeded facilities is a drag on our military forces, particularly in an era when homeland security is being discussed as never before. The forces needed to defend bases that would perhaps otherwise be closed are forces unavailable for the campaign on terrorism. Further, money spent on a redundant facility is money not spent on the latest technology we'll need to win this campaign.

We thank you for all you have done to provide for our military forces, the finest in the world. We know closing or realigning bases will be difficult, but we expect you will face many difficult decisions in the coming weeks and months. With the support of Secretary Rumsfeld, together we stand ready to assist in any way we can.

Sincerely,

FORMER SECRETARIES OF DEFENSE.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, September 25, 2001.

Hon. CARL LEVIN,
Chairman, Senate Armed Services Committee,
U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: As the full Senate deliberates the FY 2002 Defense Authorization Bill I would like to reiterate how critically important it is the Congress authorize another round of base closures and realignments.

Last Thursday the President outlined a sustained campaign to combat international terrorism. The efficient and effective use of the resources devoted to this effort will be the responsibility of the Services and the Combatant Commanders. The authority to eliminate excess infrastructure will be an important tool our forces will need to become more efficient and serve as better custodians of the taxpayers money. As I mentioned before, there is an estimated 23 percent under-utilization of our facilities. We can not afford the cost associated with carrying this excess infrastructure. The Department of Defense must have the ability to restructure its installations to meet our current national security needs.

I know you share my concerns that additional base closures are necessary. The Department is committed to accomplishing the required reshaping and restructuring in a single round of base closures and realignments. I hope the Congress will support this effort.

Sincerely,

HENRY H. SHELTON,
Chairman of the Joint Chiefs of Staff.

Mr. LEVIN. Mr. President, there is another issue which has been raised, and that is the future of our overseas bases. The question was asked, How do we consider the base structure in the United States before we determine the overseas base structure and what the requirements will be? There are three ongoing efforts in determining what our overseas presence will be for the future.

First, the BRAC law itself requires an infrastructure facility review on a worldwide basis before the 2005 round can proceed.

Second, in March, Secretary Rumsfeld requested input from the various combatant commanders in developing a comprehensive overseas presence in basing strategy looking out for the next 10 years. The results of that review are expected this July.

Finally, there is a provision in the bill before us that establishes an independent overseas basing commission that will provide recommendations on our overseas presence and a basic strategy to Congress that is due in August of 2004.

Senator DORGAN asked, How are we going to know what our needs are in 2005? That is when the recommendations are made to the Base Closing Commission—in May of 2005.

This isn't something being done now or this year; these recommendations are due in May of 2005.

I thank our colleagues who have maintained the difficult course here, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, you know there are issues that never go away. I have only been here since 1987. But we have revisited this issue—I think my colleagues from Michigan and Virginia would agree—probably more often than any other issue affecting our Nation's security. Issues come and go. This one keeps coming back.

Every expert on military national security who doesn't have any particular bias will tell you we have too many bases. We have too many military bases. I am happy to say we are already in the process in Europe of making some significant changes which will result in significant savings.

Why do we have the BRAC process? We have the BRAC process because we proved to anyone's satisfaction that we cannot close an individual base. Yes, we abrogated our responsibilities, but we didn't completely abrogate our responsibilities because it will still come back to the findings of the commission, and we will vote yes or no.

The issue that continues to intrigue me is this argument that it will cost more to close bases. If that logic were true, we never should have closed the bases following World War II when we had thousands of bases all over America. But we closed bases following World War II because we had a decrease in the requirements to meet our national security needs.

In 1991, we had approximately 3 million men and women in the military. We now have 1.4 million men and women in the military. And those reductions in the size of our military were made with the full knowledge, support, and legislative action of the Congress of the United States. The President didn't reduce the size of the military by Executive order. Every year, a part of our bill is the authorization of the numbers of people and appropriations to pay them. We are now

down to 1.4 million Americans. Maybe we need some more. But there clearly is not the need for the number of bases we had in 1991.

The Secretary of Defense—obviously a strong leader, obviously a highly respected individual, as his predecessors have said—will recommend a veto of the entire legislation if this BRAC process is taken out of it and not allowed to proceed. Here we are placing at risk all of the hard work that has been done by the committee in hearings and coming up with our authorization. The bill is now at risk if we destroy the BRAC process.

I remind my colleagues that the BRAC process has worked. Yes, it has caused some pain. Yes, it has caused some dislocation. But over time in the vast majority of bases that are closed, revenue increases to the community rather than decreases.

That is not to say there isn't severe dislocation in the short term and severe economic difficulties because communities are dependent upon the military presence. But I urge my colleagues to do what is best for our Nation's security, as articulated by the Chairman of the Joint Chiefs of Staff, by our Secretary of Defense, and literally every other expert on national security: that we need to reduce the number of bases so we can spend the money on the men and women in the military, for their pay, their benefits, their health care, and their housing.

One of the reasons why we have dilapidated barracks in some bases in America is because we have too many of them. We cannot afford to maintain all of them at the level we would like for this magnificent All-Volunteer Force.

I urge my colleagues to reject this amendment. Let's move forward and have this bill enacted and signed into law by the President of the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield time to myself.

I thank my colleague from Arizona. He, with a great sense of humility, can refer to his own long association with the Active and, indeed, Reserve and Guard Forces throughout this country. He knows full well that the purpose of the BRAC is to enable the men and women of the Armed Forces to have a better lifestyle together with their families—that coupled with the desperate need to continue with the modernization and transformation of these Armed Forces. I thank my colleague for his participation and strong support to maintain what is law today, and which law gives Congress adequate opportunity, as I have said, to protect the interests of our States.

I enumerated there are several parts of the bill which provide that. I enumerated very clearly they were going through quite a process with regard to the evaluation of overseas bases prior to final decisions on the BRAC. I believe Members have a role of participation to come in the days, months, and whatever period it takes.

Mr. President, I now have in hand the letter from the Secretary of Defense as authorized by the President. I have referred in part to an earlier communication from the Secretary of Defense to the House. It is parallel to the one received by the Senate, strongly stating the essential nature of this and concluding:

> If the President is presented a bill that amends the BRAC authority passed by Congress two years ago . . . then I would join other senior advisors to the President recommending that he veto any such legislation.

That is a perilous route to put the Senate in with regard to this important piece of legislation. In my years here, I have witnessed our legislation contested to the very last minute and how the Appropriations Committee then had the distasteful task of trying to pick out those portions of our bill which had to become law. So much of the work—of all the Members, not just the committee members—in that bill is lost in that process of dissembling our bill and putting portions on the Appropriations bill as it goes forward.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. WARNER. I strongly urge that this amendment be rejected by the Senate. As I understand, Mr. President, the vote takes place at 2:50 today.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Now, Mr. President, all time has expired but I see the presence of a very valued member of our committee, the Senator from Oklahoma, so I ask unanimous consent that he be given 5 minutes to speak to this matter. Regrettably, he is not aligned with the chairman, but occasionally that occurs. I ask that his remarks be included as if stated within the time limitation.

The PRESIDING OFFICER. Ten minutes remain for the proponents of the amendment.

Mr. WARNER. Then he is within the bounds of his right to exercise such time as he wishes under the 10 minutes.

Mr. INHOFE. I thank the distinguished chairman.

Mr. President, first, I thank the distinguished chairman of the Senate Armed Services Committee for his remarks, and also the distinguished Senator from Arizona.

I would like to start off by saying, I was elected to the other body in 1986. In 1987, a very distinguished Congressman, Dick Armey, came up with the whole idea of how to get rid of excess infrastructure, using this system that should be free of political influence, or as free as possible. I supported it and voted for it. I went through four BRAC rounds. The first one was in 1988, the second one was in 1991, the third in 1993, and the fourth was in 1995.

During that period of time, it worked very well. We closed or realigned some 300 installations but 97 specific major installations were closed. There was a lot of pain that went with that. There were probably a few people who were defeated on the basis of that. But, nonetheless, the idea he had worked.

I made the statement during that time that with regard to the installations we have in my State of Oklahoma, if they came out through this process and said they, in fact, wanted to do something, and it was necessary to close a classified, excess infrastructure in one of my installations, I would support that statement. As it turned out, it did not happen.

There are three major reasons, that even though what my colleagues have said sounds very good—and I believe most of it is true and factual; and I know they believe it—but three things are different today than were in those four BRAC rounds.

No. 1, I look across the Chamber and I can see a chart that makes reference to the fact that the threat is different since September 11. Well, I will not belabor that point because I was not on the floor and I assume that point has been made.

When you talk about the threat that is out there, you are talking about a threat that could not have been foreseen 10 years ago or even 5 years ago or even 3 years ago. It is a totally different threat.

I can remember sitting in a hearing when we had expert testimony by individuals who were saying at that time that we will no longer need ground forces in 10 years. That was 10 years ago, and we have had two major victories—primarily on the ground—in the last year. So these things were not foreseen at that time. The change in the threat is going to cause us to make other adjustments.

The second thing that I have strong feelings about is this: I was listening to the distinguished Senator from Michigan talk about the amount of money that has been saved. I would question that. There are a lot of cleanups that have not been concluded yet. We hear glowing figures about how much is going to be saved by each installation that is closed. Some installation closings have resulted in no savings whatsoever. But there is one thing that is a certainty; and that is, when you close an installation, for the first 2 or 3 or 4 years, it is going to cost a lot of money. For that reason, and that reason alone, I would want to adopt this amendment so we do not have a 2005 BRAC round because we do not have any idea how many installations will be closed and how much money that will cost us.

Right now we are in a crisis in our defense system. I know a lot of people do not like to say this. A lot of people do not believe it. But we went through the last administration, when the proper attention was not given to defending America, and a lot of people had this great euphoria that the cold war was over and thinking there was no longer

a threat out there and that we could cut down the size of our military; and, as the Senator from Arizona said, we did cut it down from some 3 million troops to 1.4 million. I am certain a mistake was made.

Now we look at the problems we have in our military and they go all the way across the board. No. 1, we have inadequate troop strength. We know that. That is a fact. We can't do what has to be done in Iraq and other places and have enough reserve for a contingency that might happen in North Korea, Syria, or any other place. This is something that has concerned us.

No. 2, force strength deficiency is resulting in a crisis in our reserve component. Our Guard and Reserves are all overworked. They are unable to carry on the responsibilities they have. We can't expect the employers to continue with all these deployments and pay these people, hold these jobs, particularly in an economy that is not robust. This problem is serious.

A third problem that took place over the last administration was a slowing down of our modernization program. I have said in the Senate that we are sending our troops out to fight on the ground with artillery that is World War II technology. The best thing we have in artillery right now operating is called Paladin. Paladin technology came about in the 1950s. When you tell people you have to get out and swab the breach after every shot, they don't believe you until they see that is the case. There are four countries, including South Africa, making artillery pieces better than that which we have.

Then with all of these problems out there, we find out that the threats are greater today than they were during the cold war. People don't like to hear that, but back in the cold war, we had one great threat. That was the Soviet Union. We were the two superpowers. They were predictable. We knew what each other had. We developed a program under a Republican administration that I did not agree with. That was a program of mutual assured destruction. That is, I will make you a deal: You don't defend yourself against us and an incoming missile; We will not defend ourselves. So if you fire on us, we will fire on you. Everybody dies and everybody is happy.

That seemed fairly reasonable at that time. Now we have a little sense of the changing threat out there and recognize it is not coming from one place. We have some 20 countries that have weapons of mass destruction or that are developing them. It is not something we can quantify now as to what kind of force structure we need.

That brings me to my second point one more time. While we don't know how much savings will be effected, we do know it is going to cost millions and millions of dollars for every installation that is closed. We cannot afford it now. We cannot afford to leave our force structure where it is, our modernization program where it is. We cannot allow the Russians, who are selling on the open market their S.U. series that are better than our F–15s and F–16s—we want to give our troops, the most capable troops in the world, the resources and modern resources to make sure they have something that is better than the enemy has.

The third reason it is very significant is, we are going to rebuild. We have been asking the administration to give us as much detail as to what our future force structure should look like. I am not criticizing them for not being able to come back with it because this is a moving target. We have threats that are out there we didn't have before. We have to learn how to accommodate these threats and how to combat them. Until such time as we know what the force structure is going to look like, I don't believe we should be closing any infrastructure. If we have an inadequate force structure right now that is down to here and we have perhaps more infrastructure, it does not make sense to bring the infrastructure down to an inadequate force structure and then build that up and wonder, wait a minute, why do we have something that can't be used.

So for that reason, until we find out what our force structure is going to look like, we don't know what remaining installations will be needed. Let's stop and remember, we had 97 major installations that have been closed. That is behind us. We supported that. Those were the four BRAC rounds. We are now to a point where we do not know what the threat is going to be. We don't know how we will have to rebuild our force structure and our system. So we don't know what kind of infrastructure it is going to take to accommodate that.

These three reasons were not present in 1989. They were not present in 1991, 1993, and 1995. But they are present today. So we have to face this crisis, which we will, and rebuild our military. And when we get to the point where we know what it is going to look like and how to adequately defend against this new threat, we had no idea it would be out there as recently as 3 or 4 years ago, then it is time to maybe look and reevaluate where we might be. It would be premature to do it at this time.

I support the amendment. These are three very good reasons that were not present in the future rounds.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business until 2:50 today with time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 1174

Mr. WARNER. Mr. President, I understand that S. 1174 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The bill clerk read as follows:

A bill (S. 1174) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. WARNER. Mr. President, I ask that the Senate proceed to the measure and I object to further proceeding.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

Mr. INHOFE. I suggest the absence of a quorum and ask unanimous consent that time consumed during the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

The Senator from Illinois.

OUR OCEANS AT RISK

Mr. DURBIN. Mr. President, I am a Midwesterner by birth. I come from the flatlands of Illinois, cornfields and prairies. Frankly, it has meant I see things differently than others. I can still recall as a young boy the first time I saw an ocean. I was off to my brother's wedding in California, all of about 9 or 10 years old, and I got to see the Pacific Ocean. It was an amazing spectacle to me. I had never seen anything like it. The closest I had come to that was the Mississippi River. I developed a special attachment and passion of taking my family, as they grew up, to oceans on a regular basis, to beaches, and the great time you have together.

I never reflected on the fact that the great, vast, mighty body of water, that ocean, might some day be vulnerable; it seemed so impenetrable, so vast, so diverse, so huge.

This week in Washington, the Pew Oceans Commission will release its report. The chairman of that commission is an old friend of mine, a great public servant, Leon Panetta of California. I commend this report to everyone in the country, whether you live near an ocean, as most Americans do, or you are from the Midwest and a flatlander, as I am. It talks about a great resource of America and a great resource of the

world which is in crisis, the great resource of the world which is in peril.

The area of the ocean under United States jurisdiction spans 4.5 million square miles, more than any other single country. According to Jane Lubchenco, professor of Oregon State University, our ocean property as a nation is 23 percent larger than our Nation's land area, making our ocean the country's largest public domain.

I met Professor Lubchenco last week in Italy at a seminar that focused on international global environmental issues. She spoke at length and in stark terms about what is happening to the oceans. Our ocean ecosystems are unique treasures, places where we can discover the mystery of life, work and vacation, and pursue scientific study. Losing the quality of our oceans and marine life that thrives in them would be a tremendous loss.

In addition, damage to ocean ecosystems can cause significant damage to our economy, public health, and even our national security.

As the Pew Commission reports, our oceans face a crisis due to contamination and failure to address problems over the years. Take, for example, this statistic. The National Academy of Sciences estimates that oil running off of our streets and driveways in America ultimately flows into the ocean, creating an Exxon-Valdez-size spill every 8 months. I was at Prince William Sound in Alaska after the Exxon Valdez spill, something I will never forget, going to tiny remote islands, seeing them literally covered with crude oil, seeing the wildlife that had been rescued, some of it perished almost immediately, and with others, valiant attempts were made to save them; 10.9 million gallons of crude oil dumped in Prince William Sound. That is how much oil we dump as a nation into the ocean every 8 months with the runoff from driveways and parking lots finding its way to streams and rivers and our oceans.

These problems have tragic consequences. Many of our public beaches have been closed over the years due to high levels of harmful contamination. The United States Environmental Protection Agency about 8 or 9 years ago created a Web site which reported on ozone and the impact it would have on public health. It became increasingly popular as more and more parents with children facing asthma attacks went to this Web site to see if it was safe to send their kids to school. What was the ozone reading? Then, almost coincidentally, the EPA released information about beaches around America that had been closed because of contamination. That, too, became an extremely popular Web site. Families planning vacations and weekends would go to this Web site and find out whether the beach they wanted to visit would be open to the public or safe for bathing in.

It is an interesting comment, is it not, in the world we live in, the Nation we live in, with all of our progress, that one of the sources of information we turn to most frequently is whether we can breathe the air or can expose our children to a beach or lake shore that might be contaminated.

There is also a problem related to the fishing industry and its impact, the impact of the ocean contamination. There was a paper published in the May 15 issue of Scientific Journal, Nature, that reported 90 percent of all large fish—tuna, marlin, swordfish, shark, cod, and halibut—90 percent of those species are gone. Do you remember the fish orange roughy? I bet you do. In the last few years it was a pretty popular fish. Almost everywhere in America you would go to a restaurant and orange roughy was on the menu. Try to find it today. It has been fished to near extinction. They discovered where to fish for orange roughy on the coast of New Zealand and went to depths they had never been able to fish at before and successfully found the species. It was fished out. It turned out to be popular and no efforts were made to conserve it. As a consequence, you will be able to tell your children you once had a fish called orange roughy. It is not likely they will ever taste one.

An article in the Washington Post also reports the significant fish shortages and how the fishing industry is close to collapsing in many parts of the United States and around the world. This week's U.S. News & World Report devotes its cover story to the problem of empty oceans.

I will address one part of this problem, something we can do about it in a hurry. It relates to cruise ships.

One of the major contributors to ocean pollution is the cruise ship industry, which in 2001 carried 8.4 million passengers in North America. I do not have anything against cruise ships—they provide many Americans ample opportunities to relax and learn about oceans and marine wildlife. However, they are exempt from critical regulations that would help protect the beautiful and inspiring oceans and marine wildlife that many cruise ships aim to present to travelers.

I am going to give some data here that I think is incredibly shocking.

According to EPA and industry data, a typical 3,000 passenger cruise ship each week generates 210,000 gallons of black water, which is raw sewage; 1 million gallons of gray water, included runoff from showers, sinks and dishwashers; 37,000 gallons of oily bilge water, which collects in the bottom of ships and contains oil and chemicals from engine maintenance that are toxic to marine life; more than eight tons of solid waste; millions of gallons of ballast water, which is brought into ships to facilitate balance and then released back into the ocean, containing potential invasive species; and toxic wastes including dry cleaning chemicals such as PERC and photoprocessing chemicals.

These wastes are damaging to our oceans. Interestingly enough, any city in America which generated that kind of waste would never be allowed to dump it on the land or in an adjoining river. But if you happen to be a cruise ship that is traveling in the waters of America, you are virtually exempt from the Clean Water Act and you can dump, in certain locations within the oceans off the coasts of America, with virtual impunity, with one notable exception. The State of Alaska—thank goodness for them—has established much stricter standards than the Clean Water Act imposes on the cruise ship industry that does its business outside States around America.

According to the organization Oceana, raw sewage can sicken and kill marine life, including corals, and contributes to algae blooms that cloud the water, reduce oxygen levels and kill fish. Furthermore, invasive species, those that are not native to the area where they are released in ballast water, can colonize new areas, and, in so doing, replace and harm local species. We have become painfully familiar with invasive species in the Great Lakes, and the government and industry are making efforts to address it. I am proud to be representing a state that adjoins that great Lake Michigan, but we know about Zebra Mussels and forms of eels that have been dumped in ballast water and invaded what was a sound marine life in the Great Lakes.

Wastes from cruise ships can also affect human health. According to Oceana, the recent outbreaks of the Norwalk virus on cruise ships have sickened more than 3,000 passengers and crew, forcing many people to abandon their vacations early. The Norwalk virus is found in human waste and on hands and surfaces that may have had contact with it. It can be spread by shellfish contaminated by sewage from boats. In addition, wastes can wash up on our beaches and near our shoes, threatening people who work or vacation there.

Despite the fact that cruise ships generate all of this waste, and are an identifiable source of pollution, they are exempted from the regulations that implement the Clean Water Act's point source permitting system. Indeed, cruise ships can dump raw, untreated sewage into the water once the ship is more than three miles off U.S. shores. They can also dump gray water and ballast water without a permit, even when they are docked at ports that are in U.S. waters. Finally, they are permitted to dump solid garbage into the ocean when they are at least 12 miles from the shore.

This problem is not confined to our domestic cruise ship industry. According to a February 2000 GAO report, foreign-flagged cruise ships were involved in 87 confirmed illegal discharge cases in U.S. waters from 1993 to 1998.

In August 2000, EPA issued a ''Cruise ship White Paper,'' providing a blueprint for strengthening the laws regulating cruise ships. However, Congress has failed to act on this issue.

We cannot delay any longer. that is why I will introduce legislation to strengthen the Clean Water Act and other relevant laws regarding the cruise ship industry.

Specifically,the legislation I am preparing is based on ideas and recommendations generated by the EPA, GAO, and interest groups. Here is what it would do:

Remove the exemption of cruise ships from existing Clean Water Act requirements;

Ban the release of raw sewage anywhere in the ocean, and require treatment standards similar to Alaska's strict standards;

Ban release of so-called ''treated'' wastes within a certain distance of our shores;

Provide for adequate measures to prevent ballast waters from spreading invasive species;

Provide for monitoring of compliance with these requirements and the availability of data for public review;

Enable citizens to bring lawsuits against cruise ships, as provided under the Clean Water Act; and

Increase resources for inspections and strengthen the inspection requirements.

This is truly an international issue, but the United States must not only do its part, it must lead the way. I urge my colleagues to join me. First, read this Pew Oceans Commission report. It is an eye opener. It is a revelation. Wherever you live in the United States, you will value our oceans and you will come to understand the dangers they face.

I also encourage my colleagues to join me by cosponsoring the legislation I am crafting. The oceans, that cover nearly 70 percent of our planet, cannot wait any longer.

I yield the floor.

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.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR pertaining to the submission of S. Res. 121 are located in today's RECORD under ''Submitted Resolutions.'')

Mr. PRYOR. 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—Continued

Mr. DORGAN. Mr. President, what is the pending business?

VOTE ON AMENDMENT NO. 849

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—42

Baucus	Dodd	Lott
Bayh	Domenici	Mikulski
Bennett	Dorgan	Murkowski
Bingaman	Durbin	Murray
Bond	Edwards	Nelson (FL)
Boxer	Enzi	Nelson (NE)
Breaux	Feinstein	Sarbanes
Burns	Gregg	Schumer
Campbell	Hatch	Shelby
Clinton	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Inouye	Stevens
Conrad	Johnson	Sununu
Daschle	Kennedy	Thomas

NAYS—53

Akaka	Dole	Lugar
Alexander	Ensign	McCain
Allard	Feingold	McConnell
Allen	Fitzgerald	Miller
Biden	Frist	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Byrd	Hagel	Reid
Cantwell	Harkin	Roberts
Carper	Hollings	Rockefeller
Chafee	Jeffords	Santorum
Chambliss	Kohl	Sessions
Coleman	Kyl	Smith
Cornyn	Landrieu	Stabenow
Corzine	Lautenberg	Talent
Craig	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lincoln	

NOT VOTING—5

Crapo	Kerry	Voinovich
Graham (FL)	Lieberman	

The amendment (No. 849) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The only remaining amendments authorized are of the chairman.

Mr. WARNER. Those amendments will not be forthcoming.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 1588), as amended, was passed, as follows:

(Note: S. 1047 is Division A; S. 1048 is Division B; S. 1049 is Division C.)

Resolved, That the bill from the House of Representatives (H.R. 1588) entitled ''An Act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Defense Authorization Act for Fiscal Year 2004''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical agents and munitions destruction, Defense.
Sec. 107. Defense health programs.
Sec. 108. Reduction in authorization.

Subtitle B—Army Programs

Sec. 111. CH–47 helicopter program.
Sec. 112. Rapid infusion pumps.

Subtitle C—Navy Programs

Sec. 121. Multiyear procurement authority for Navy programs.
Sec. 122. Pilot program for flexible funding of naval vessel conversions and overhauls.

Subtitle D—Air Force Programs

Sec. 131. Elimination of quantity limitations on multiyear procurement. authority for C–130J aircraft.
Sec. 132. B–1B Bomber aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for science and technology.
Sec. 203. Defense Inspector General.
Sec. 204. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Prohibition on transfer of certain programs outside the Office of the Secretary of Defense.
Sec. 212. Objective force indirect fires program.
Sec. 213. Amount for Joint Engineering Data Management Information and Control System
Sec. 214. Human tissue engineering.
Sec. 215. Non-thermal imaging systems.
Sec. 216. Magnetic levitation.
Sec. 217. Composite sail test articles.
Sec. 218. Portable Mobile Emergency Broadband Systems.
Sec. 219. Boron energy cell technology.
Sec. 220. Modification of program element of short range air defense radar program of the Army.
Sec. 221. Amount for network centric operations.

Subtitle C—Ballistic Missile Defense

Sec. 221. Fielding of ballistic missile defense capabilities.
Sec. 222. Repeal of requirement for certain program elements for Missile Defense Agency activities.
Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.
Sec. 224. Renewal of authority to assist local communities impacted by ballistic missile defense system test bed.
Sec. 225. Requirement for specific authorization of Congress for design, development, or deployment of hit-to-kill ballistic missile interceptors.
Sec. 226. Prohibition on use of funds for nuclear armed interceptors in missile defense systems.

Subtitle D—Other Matters

Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.
Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.
Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.
Sec. 234. Department of Defense high-speed network-centric and bandwidth expansion program.
Sec. 235. Department of Defense strategy for management of electromagnetic spectrum.
Sec. 236. Amount for Collaborative Information Warfare Network.
Sec. 237. Coproduction of Arrow ballistic missile defense system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 311. Emergency and morale communications programs.
Sec. 312. Commercial imagery industrial base.
Sec. 313. Information operations sustainment for land forces readiness of Army Reserve.
Sec. 314. Submittal of survey on perchlorate contamination at Department of Defense sites.

Subtitle C—Environmental Provisions

Sec. 321. General definitions applicable to facilities and operations.
Sec. 322. Military readiness and conservation of protected species.
Sec. 323. Arctic and Western Pacific Environmental Technology Cooperation Program.
Sec. 324. Participation in wetland mitigation banks in connection with military construction projects.
Sec. 325. Extension of authority to use environmental restoration account funds for relocation of a contaminated facility.
Sec. 326. Applicability of certain procedural and administrative requirements to restoration advisory boards.
Sec. 327. Expansion of authorities on use of vessels stricken from the Naval Vessel Register for experimental purposes.
Sec. 328. Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs.
Sec. 329. Salvage facilities.
Sec. 330. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.
Sec. 331. Public health assessment of exposure to perchlorate.

Subtitle D—Reimbursement Authorities

Sec. 341. Reimbursement of reserve component military personnel accounts for personnel costs of special operations reserve component personnel engaged in landmines clearance.
Sec. 342. Reimbursement of reserve component accounts for costs of intelligence activities support provided by reserve component personnel.
Sec. 343. Reimbursement rate for services provided to the Department of State.

Subtitle E—Defense Dependents Education

Sec. 351. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 352. Impact aid for children with severe disabilities.

Subtitle F—Other Matters

Sec. 361. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.
Sec. 362. Use of the Defense Modernization Account for life cycle cost reduction initiatives.
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SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR NAVY PROGRAMS.

For purposes of this Act, the term ''congressional defense committees'' means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Army as follows:

(1) For aircraft, $2,158,485,000.

(2) For missiles, $1,553,462,000.

(3) For weapons and tracked combat vehicles, $1,658,504,000.

(4) For ammunition, $1,363,305,000.

(5) For other procurement, $4,266,027,000.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Navy as follows:

(1) For aircraft, $8,996,948,000.

(2) For weapons, including missiles and torpedoes, $2,046,821,000.

(3) For shipbuilding and conversion, $11,707,984,000.

(4) For other procurement, $4,744,443,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Marine Corps in the amount of $1,089,599,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement of ammunition for the Navy and the Marine Corps in the amount of $924,355,000.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Air Force as follows:

(1) For aircraft, $12,082,760,000.

(2) For ammunition, $1,284,725,000.

(3) For missiles, $4,394,439,000.

(4) For other procurement, $11,630,659,000.

Funds are hereby authorized to be appropriated for fiscal year 2004 for Defense-wide procurement in the amount of $3,884,106,000.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Inspector General of the Department of Defense in the amount of $2,100,000.

There is hereby authorized to be appropriated for the Office of the Secretary of Defense for fiscal year 2004 the amount of $1,530,261,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $327,826,000.

The total amount authorized to be appropriated under section 104 is hereby reduced by $3,300,000, with $2,100,000 of the reduction to be allocated to Special Operations Forces rotary upgrades and $1,200,000 to be allocated to Special Operations Forces operational enhancements.

(a) REQUIREMENT FOR STUDY.—The Secretary of the Army shall study the feasibility and the costs and benefits of providing for the participation of a second source in the production of gears for the helicopter transmissions incorporated into CH–47 helicopters being procured by the Army with funds authorized to be appropriated by this Act.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to Congress.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 101(5) for other procurement, Army, $2,000,000 may be available for medical equipment for the procurement of rapid infusion (IV) pumps.

(2) The total amount authorized to be appropriated under section 101(5) is hereby increased by $2,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance, Army, the amount available is hereby reduced by $2,000,000.

(a) AUTHORITY.—Beginning with the fiscal year 2004 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement for the following programs:

(1) The F/A–18 aircraft program.

(2) The E–2C aircraft program.

(3) The Tactical Tomahawk Cruise Missile program, subject to subsection (b).

(4) The Virginia class submarine, subject to subsection (c).

(5) The Phalanx Close In Weapon System program, Block 1B.

(b) TACTICAL TOMAHAWK CRUISE MISSILES.—The Secretary may not enter into a multiyear contract for the procurement of Tactical Tomahawk Cruise Missiles under subsection (a)(3) until the Secretary determines on the basis of operational testing that the Tactical Tomahawk Cruise Missile is effective for fleet use.

(c) VIRGINIA CLASS SUBMARINES.—Paragraphs (2)(A), (3), and (4) of section 121(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1648) shall apply in the exercise of authority to enter into a multiyear contract for the procurement of

Virginia class submarines under subsection (a)(4).

SEC. 122. PILOT PROGRAM FOR FLEXIBLE FUNDING OF NAVAL VESSEL CONVERSIONS AND OVERHAULS.

(a) ESTABLISHMENT.—The Secretary of the Navy may carry out a pilot program of flexible funding of conversions and overhauls of cruisers of the Navy in accordance with this section.

(b) AUTHORITY.—Under the pilot program the Secretary of the Navy may, subject to subsection (d), transfer appropriated funds described in subsection (c) to the appropriation for the Navy for procurement for shipbuilding and conversion for any fiscal year to continue to fund any conversion or overhaul of a cruiser of the Navy that was initially funded with the appropriation to which transferred.

(c) FUNDS AVAILABLE FOR TRANSFER.—The appropriations available for transfer under this section are the appropriations to the Navy for any fiscal year after fiscal year 2003 and before fiscal year 2013 for the following purposes:

(1) For procurement, as follows:

(A) For shipbuilding and conversion.

(B) For weapons procurement.

(C) For other procurement.

(2) For operation and maintenance.

(d) LIMITATIONS.—(1) A transfer may be made with respect to a cruiser under this section only to meet the following requirements:

(A) Any increase in the size of the workload for conversion or overhaul to meet existing requirements for the cruiser.

(B) Any new conversion or overhaul requirement resulting from a revision of the original baseline conversion or overhaul program for the cruiser.

(2) A transfer may not be made under this section before the date that is 30 days after the date on which the Secretary of the Navy transmits to the congressional defense committees a written notification of the intended transfer. The notification shall include the following matters:

(A) The purpose of the transfer.

(B) The amounts to be transferred.

(C) Each account from which the funds are to be transferred.

(D) Each program, project, or activity from which the funds are to be transferred.

(E) Each account to which the funds are to be transferred.

(F) A discussion of the implications of the transfer for the total cost of the cruiser conversion or overhaul program for which the transfer is to be made.

(e) MERGER OF FUNDS.—Amounts transferred to an appropriation with respect to the conversion or overhaul of a cruiser under this section shall be credited to and merged with other funds in the appropriation to which transferred and shall be available for the conversion or overhaul of such cruiser for the same period as the appropriation with which merged.

(f) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The authority to transfer funds under this section is in addition to any other authority provided by law to transfer appropriated funds and is not subject to any restriction, limitation, or procedure that is applicable to the exercise of any such other authority.

(g) FINAL REPORT.—Not later than October 1, 2011, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's evaluation of the efficacy of the authority provided under this section.

(h) TERMINATION OF PROGRAM.—No transfer may be made under this section after September 30, 2012.

Subtitle D—Air Force Programs

SEC. 131. ELIMINATION OF QUANTITY LIMITATIONS ON MULTIYEAR PROCUREMENT AUTHORITY FOR C–130J AIRCRAFT.

Section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2475) is amended by striking ''up to 40 C-130J aircraft in the CC–130J configuration and up to 24 C–130J aircraft in the KC–130J configuration'' and inserting ''C–130J aircraft in the CC–130J and KC–130J configurations''.

SEC. 132. B–1B BOMBER AIRCRAFT.

(a) AMOUNT FOR AIRCRAFT.—(1) Of the amount authorized to be appropriated under section 103(1), $20,300,000 may be available to reconstitute the fleet of B–1B bomber aircraft through modifications of 23 B–1B bomber aircraft otherwise scheduled to be retired in fiscal year 2003 that extend the service life of such aircraft and maintain or, as necessary, improve the capabilities of such aircraft for mission performance.

(2) The Secretary of the Air Force shall submit to the congressional defense committees a report that specifies the amounts necessary to be included in the future-years defense program to reconstitute the B–1B bomber aircraft fleet of the Air Force.

(b) ADJUSTMENT.—(1) The total amount authorized to be appropriated under section 103(1) is hereby increased by $20,300,000.

(2) The total amount authorized to be appropriated under section 104 is hereby reduced by $20,300,000, with the amount of the reduction to be allocated to Special Operations Forces operational enhancements.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,012,500,000.

(2) For the Navy, $14,590,284,000.

(3) For the Air Force, $20,382,407,000.

(4) For Defense-wide activities, $19,135,679,000, of which $286,661,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR SCIENCE AND TECHNOLOGY.

(a) AMOUNT FOR PROJECTS.—Of the total amount authorized to be appropriated by section 201, $10,705,561,000 shall be available for science and technology projects.

(b) SCIENCE AND TECHNOLOGY DEFINED.—In this section, the term ''science and technology project'' means work funded in program elements for defense research, development, test, and evaluation under Department of Defense budget activities 1, 2, or 3.

SEC. 203. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2004 for research, development, test, and evaluation for the Inspector General of the Department of Defense in the amount of $300,000.

SEC. 204. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the Department of Defense for research, development, test, and evaluation for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $65,796,000.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. PROHIBITION ON TRANSFER OF CERTAIN PROGRAMS OUTSIDE THE OFFICE OF THE SECRETARY OF DEFENSE.

The Secretary of Defense may not designate any official outside the Office of the Secretary of Defense to exercise authority for programming or budgeting for any of the following programs:

(1) Explosive demilitarization technology (program element 0603104D8Z).

(2) High energy laser research initiative (program element 0601108D8Z).

(3) High energy laser research (program element 0602890D8Z).

(4) High energy laser advanced development (program element 0603924D8Z).

(5) University research initiative (program element 0601103D8Z).

SEC. 212. OBJECTIVE FORCE INDIRECT FIRES PROGRAM.

(a) DISTINCT PROGRAM ELEMENT.—The Secretary of Defense shall ensure that, not later than October 1, 2003, the Objective Force Indirect Fires Program is being planned, programmed, and budgeted for as a distinct program element and that funds available for such program are being administered consistent with the budgetary status of the program as a distinct program element.

(b) PROHIBITION.—Effective on October 1, 2003, the Objective Force Indirect Fires Program may not be planned, programmed, and budgeted for, and funds available for such program may not be administered, in one program element in combination with the Armored Systems Modernization program.

(c) CERTIFICATION REQUIREMENT.—At the same time that the President submits the budget for fiscal year 2005 to Congress under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written certification that the Objective Force Indirect Fires Program is being planned, programmed, and budgeted for, and funds available for such program are being administered, in accordance with the requirement in subsection (a) and the prohibition in subsection (b).

SEC. 213. AMOUNT FOR JOINT ENGINEERING DATA MANAGEMENT INFORMATION AND CONTROL SYSTEM.

(a) NAVY RDT&E.—The amount authorized to be appropriated under section 201(2) is hereby increased by $2,500,000. Such amount may be available for the Joint Engineering Data Management Information and Control System (JEDMICS).

(b) NAVY PROCUREMENT.—The amount authorized to be appropriated under section 102(a)(4) is hereby reduced by $2,500,000, to be derived from the amount provided for the Joint Engineering Data Management Information and Control System (JEDMICS).

SEC. 214. HUMAN TISSUE ENGINEERING.

(a) AMOUNT.—Of the amount authorized to be appropriated under section 201(1), $1,700,000 may be available in PE 0602787 for human tissue engineering. The total amount authorized to be appropriated under section 201(1) is hereby increased by $1,700,000.

(b) OFFSETS.—Of the amount authorized to be appropriated under section 301(4) for Operations and Maintenance, Air Force is hereby reduced by $1,700,000.

SEC. 215. NON-THERMAL IMAGING SYSTEMS.

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Power Projection Applied Research (PE 602114N), $2,000,000 may be available for research and development of non-thermal imaging systems. The total amount authorized to be appropriated under section 201(2) is hereby increased by $2,000,000

(b) OFFSETS.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance, Air Force is hereby reduced by $1,000,000 and the amount authorized to be appropriated by section 104 for Defense-wide activities, is hereby reduced by $1,000,000 for Special Operations Forces rotary wing upgrades.

SEC. 216. MAGNETIC LEVITATION.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,100,000, with the amount of the increase to be allocated to Major Test and Evaluation Investment (PE 0604759F).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force and available for Major Test and Evaluation Investment, as increased by subsection (a), $2,100,000 may be available for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance, Air Force, is hereby reduced by $2,100,000.

SEC. 217. COMPOSITE SAIL TEST ARTICLES.

(a) AVAILABILITY OF FUNDS.—The total amount authorized to be appropriated under section 201(2) for Virginia-class submarine development, may be increased by $2,000,000 for the development and fabrication of composite sail test articles for incorporation into designs for future submarines.

(b) OFFSET.—The amount authorized to be appropriated under section 104 may be reduced by $2,000,000, to be derived from the amount provided for Special Operations Forces operational enhancements.

SEC. 218. PORTABLE MOBILE EMERGENCY BROADBAND SYSTEMS.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $2,000,000 may be available for the development of Portable Mobile Emergency Broadband Systems (MEBS).

(2) The total amount authorized to be appropriated under section 201(1) is hereby increased by $2,000,000.

(b) OFFSET.—The amount authorized to be appropriated by section 104 for procurement, Defense-wide activities, Special Operations Forces operational enhancements is hereby reduced by $2,000,000.

SEC. 219. BORON ENERGY CELL TECHNOLOGY.

(a) INCREASE IN RDT&E, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000.

(b) AVAILABILITY FOR BORON ENERGY CELL TECHNOLOGY.—(1) of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $5,000,000 may be available for research, development, test, and evaluation on boron energy cell technology.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET FROM OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1), for operation and maintenance for the Army is hereby reduced by $5,000,000.

SEC. 220. MODIFICATION OF PROGRAM ELEMENT OF SHORT RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.

The program element of the short range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).

SEC. 221. AMOUNT FOR NETWORK CENTRIC OPERATIONS.

Of the amount authorized to be appropriated under section 201(1) for historically Black colleges and universities, $1,000,000 may be used for funding the initiation of a capability in such institutions to support the network centric operations of the Department of Defense.

Subtitle C—Ballistic Missile Defense

SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Funds authorized to be appropriated under section 201(4) for the Missile Defense Agency may be used for the development and fielding of an initial set of ballistic missile defense capabilities.

SEC. 222. REPEAL OF REQUIREMENT FOR CERTAIN PROGRAM ELEMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES.

Section 223 of title 10, United States Code is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by striking ''specified in subsection (a)''.

SEC. 223. OVERSIGHT OF PROCUREMENT, PERFORMANCE CRITERIA, AND OPERATIONAL TEST PLANS FOR BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) PROCUREMENT.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 223 the following new section:

''§223a. Ballistic missile defense programs: procurement

''(a) BUDGET JUSTIFICATION MATERIALS.—(1) In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element, the following information:

''(A) For each ballistic missile defense element for which the Missile Defense Agency in engaged in planning for production and initial fielding, the following information:

''(i) The production rate capabilities of the production facilities planned to be used.

''(ii) The potential date of availability of the element for initial fielding.

''(iii) The expected costs of the initial production and fielding planned for the element.

''(iv) The estimated date on which the administration of the acquisition of the element is to be transferred to the Secretary of a military department.

''(B) The performance criteria prescribed under subsection (b).

''(2) The information provided under paragraph (1) shall be submitted in an unclassified form, but may include a classified annex as necessary.

''(b) PERFORMANCE CRITERIA.—(1) The Director of the Missile Defense Agency shall prescribe measurable performance criteria for all planned development phases (known as ''blocks'') of the ballistic missile defense system and each of its elements. The performance criteria may be updated as necessary while the program and any follow-on program remain in development.

''(2) The performance criteria prescribed for a block under paragraph (1) shall include one or more criteria that specifically describe, in relation to that block, the intended effectiveness against foreign adversary capabilities, including a description of countermeasures, for which the system is being designed as a defense.

''(c) OPERATIONAL TEST PLANS.—The Director of Operational Test and Evaluation, in consultation with the Director of the Missile Defense Agency, shall establish and approve for each ballistic missile defense system element appropriate plans and schedules for operational testing. The test plans shall include an estimate of when successful performance of the element in accordance with each performance criterion is to be verified by operational testing. The test plans for a program may be updated as necessary while the program and any follow-on program remain in development.

''(d) ANNUAL TESTING PROGRESS.— The annual report of the Director of Operational Test and Evaluation required under section 232(h) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) shall include the following:

''(1) The test plans established under subsection (c); and

''(2) An assessment of the progress being made toward verifying through operational testing the performance of the system under a missile defense system program as measured by the performance criteria prescribed for the program under subsection (b).

''(e) FUTURE-YEARS DEFENSE PROGRAM.—The future-years defense program submitted to Congress each year under section 221 of this title shall include an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.''.

(2) The table of contents at the beginning of such chapter 9 is amended by inserting after the item relating to section 223 the following new item:

''223a. Ballistic missile defense programs: procurement.''.

(b) EXCEPTION FOR FIRST ASSESSMENT.—The first assessment required under subsection (d) of section 223a of title 10, United States Code (as added by subsection (a)), shall be an interim assessment submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than July 31, 2004.

SEC. 224. RENEWAL OF AUTHORITY TO ASSIST LOCAL COMMUNITIES IMPACTED BY BALLISTIC MISSILE DEFENSE SYSTEM TEST BED.

Section 235(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1041) is amended—

(1) in paragraph (1), by inserting '', 2004, 2005, or 2006'' after ''for fiscal year 2002''; and

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

''(3) In the budget justification materials for the Department of Defense that the Secretary of Defense submits to Congress in connection with the submission of the budget for fiscal year 2004, the budget for fiscal year 2005, and the budget for fiscal year 2006 under section 1105(a) of title 31, United States Code, the Secretary shall include a description of the community assistance projects that are to be supported in such fiscal year under this subsection and an estimate of the total cost of each such project.''.

SEC. 225. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR DESIGN, DEVELOPMENT, OR DEPLOYMENT OF HIT-TO-KILL BALLISTIC MISSILE INTERCEPTORS.

(a) No amount authorized to be appropriated by this Act for research, development, test, and evaluation, Defense-wide, and available for Ballistic Missile Defense System Interceptors (PE 060886C), may be obligated or expended to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space unless specifically authorized by Congress.

(b) Of the amounts authorized to be appropriated for fiscal year 2004 for Ballistic Missile Defense System Interceptors, $14,000,000 is available for research and concept definition for the space based test bed.

SEC. 226. PROHIBITION ON USE OF FUNDS FOR NUCLEAR ARMED INTERCEPTORS IN MISSILE DEFENSE SYSTEMS.

No funds authorized to be appropriated for the Department of Defense by this Act may be obligated or expended for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system.

Subtitle D—Other Matters

SEC. 231. GLOBAL RESEARCH WATCH PROGRAM IN THE OFFICE OF THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

Section 139a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) The Director shall carry out a Global Research Watch program.

''(2) The goals of the program are as follows:

''(A) To monitor and analyze the basic and applied research activities and capabilities of foreign nations in areas of military interest, including allies and competitors.

''(B) To provide standards for comparison and comparative analysis of research capabilities of foreign nations in relation to the research capabilities of the United States.

''(C) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

''(D) To identify areas where significant opportunities for cooperative research may exist.

''(E) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

''(F) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

''(3) The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.

''(4) The Director shall coordinate the program with the international cooperation and analysis activities of the military departments and Defense Agencies.

''(5) Information in electronic databases of the Global Research Watch program shall be maintained in unclassified form and, as determined necessary by the Director, in classified form in such databases.''.

SEC. 232. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY BIENNIAL STRATEGIC PLAN.

(a) REQUIREMENT FOR PLAN.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by inserting after section 201 the following new section:

''§ 202. Defense Advanced Research Projects Agency: biennial strategic plan

''(a) REQUIREMENT FOR STRATEGIC PLAN.—(1) Every other year, and in time for submission to Congress under subsection (b), the Director of the Defense Advanced Research Projects Agency shall prepare a strategic plan for the activities of the agency.

''(2) The strategic plan shall include the following matters:

''(A) The long-term strategic goals of the agency.

''(B) Identification of the research programs that support—

''(i) achievement of the strategic goals; and

''(ii) exploitation of opportunities that hold the potential for yielding significant military benefits.

''(C) The connection of agency activities and programs to activities and missions of the armed forces.

''(D) A technology transition strategy for agency programs.

''(E) An assessment of agency policies on the management, organization, and personnel of the agency.

''(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit the latest biennial strategic plan of the Defense Advanced Research Projects Agency to Congress at the same time that the President submits the budget for an even-numbered year to Congress under section 1105(a) of title 31.

''(c) REVIEW PANEL.—(1) The Secretary of Defense shall establish a panel to advise the Director of the Defense Research Projects Agency on the preparation, content, and execution of the biennial strategic plan.

''(2) The panel shall be composed of members appointed by the Secretary of Defense from among persons who are experienced and knowledgeable in research activities of potential military value, as follows:

''(A) The principal staff assistant to the Director of the Defense Advanced Research Projects Agency, who shall serve as chairman of the panel.

''(B) Three senior officers of the armed forces.

''(C) Three persons who are representative of—

''(i) private industry;

''(ii) academia; and

''(iii) federally funded research and development centers or similar nongovernmental organizations.

''(3) The members appointed under subparagraphs (B) and (C) of paragraph (2) shall be appointed for a term of two years. The members may be reappointed, except that every two years the Secretary of Defense shall appoint a replacement for at least one of the members appointed under such subparagraph (B) and a replacement for at least one of the members appointed under such subparagraph (C). Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

''(4) The panel shall meet at the call of the Chairman.

''(5) The panel shall provide the Director of the Defense Advanced Research Projects Agency with the following support:

''(A) Objective advice on—

''(i) the strategic plan; and

''(ii) the appropriate mix of agency supported research activities in technologies, including system-level technologies, to address new and evolving national security requirements and interests, and to fulfill the technology development mission of the agency.

''(B) An assessment of the extent to which the agency is successful in—

''(i) supporting missions of the armed forces; and

''(ii) achieving the transition of technologies into acquisition programs of the military departments.

''(C) An assessment of agency policies on the management, organization, and personnel of the agency, together with recommended modifications of such policies that could improve the mission performance of the agency.

''(D) Final approval of the biennial strategic plan.

''(6) Members of the panel who are not officers or employees of the United States shall serve without pay by reason of their work on the panel, and their services as members may be accepted without regard to section 1342 of title 31. However, such members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the panel.

''(7) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.''.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 201 the following new item:

''202. Defense Advanced Research Projects Agency: biennial strategic plan.''.

(b) INITIAL APPOINTMENTS TO REVIEW PANEL.—The Secretary of Defense shall appoint the panel under subsection (c) of section 202 of title 10, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

SEC. 233. ENHANCEMENT OF AUTHORITY OF SECRETARY OF DEFENSE TO SUPPORT SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION.

Section 2192 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

''(b)(1) In furtherance of the authority of the Secretary of Defense under this chapter or any other provision of law to support educational programs in science, mathematics, engineering, and technology, the Secretary of Defense may—

''(A) enter into contracts and cooperative agreements with eligible persons;

''(B) make grants of financial assistance to eligible persons;

''(C) provide cash awards and other items to eligible persons; and

''(D) accept voluntary services from eligible persons.

''(2) In this subsection:

''(A) The term 'eligible person' includes a department or agency of the Federal Government, a State, a political subdivision of a State, an individual, and a not-for-profit or other organization in the private sector.

''(B) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.''.

SEC. 234. DEPARTMENT OF DEFENSE HIGH-SPEED NETWORK-CENTRIC AND BANDWIDTH EXPANSION PROGRAM.

(a) IN GENERAL.—The Secretary of Defense shall carry out a program of research and development to promote greater bandwidth capability with high-speed network-centric communications.

(b) PURPOSES OF ACTIVITIES.—The purposes of activities required by subsection (a) are as follows:

(1) To facilitate the acceleration of the network-centric operational capabilities of the Armed Forces, including more extensive utilization of unmanned vehicles, satellite communications, and sensors, through the promotion of research and development, and the focused coordination of programs, to fully achieve high-bandwidth connectivity to military assets.

(2) To provide for the development of equipment and technologies for military high-bandwidth network-centric communications facilities.

(c) RESEARCH AND DEVELOPMENT PROGRAM.—(1) In carrying out the program of research and development required by subsection (a)(1), the Secretary shall—

(A) identify areas of advanced wireless communications in which research and development, or the leveraging of emerging technologies, has significant potential to improve the performance, efficiency, cost, and flexibility of advanced network-centric communications systems;

(B) develop a coordinated plan for research and development on—

(i) improved spectrum access through spectrum-efficient network-centric communications systems;

(ii) networks, including complex ad hoc adaptive network structures;

(iii) end user devices, including efficient receivers and transmitter devices;

(iv) applications, including robust security and encryption; and

(v) any other matters that the Secretary considers appropriate for purposes of this section;

(C) ensure joint research and development, and promote joint systems acquisition and deployment, among the various services and Defense Agencies, including the development of common cross-service technology requirements and doctrines, so as to enhance interoperability among the various services and Defense Agencies;

(D) conduct joint experimentation among the various Armed Forces, and coordinate with the Joint Forces Command, on experimentation to support network-centric warfare capabilities to small units of the Armed Forces; and

(E) develop, to the extent practicable and in consultation with other Federal entities and private industry, cooperative research and development efforts.

(2) The Secretary shall carry out the program of research and development through the Director of Defense Research and Engineering, in full coordination with the Secretaries of the military departments, the heads of appropriate Defense Agencies, and the heads of other appropriate elements of the Department of Defense.

(d) REPORT.—(1) The Secretary shall, acting through the Director of Defense Research and Engineering, submit to the congressional defense committees a report on the activities undertaken under this section as of the date of such report. The report shall be submitted together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).

(2) The report under paragraph (1) shall include—

(A) a description of the research and development activities carried out under subsection (a), including particular activities under subsection (c)(1)(B);

(B) an assessment of current and proposed funding for the activities set forth in each of clauses (i) through (v) of subsection (c)(1)(B), including the adequacy of such funding to support such activities;

(C) an assessment of the extent and success of any joint research and development activities under subsection (c)(1)(C);

(D) a description of any joint experimentation activities under subsection (c)(1)(D);

(E) an assessment of the effects of limited communications bandwidth, and of limited access to electromagnetic spectrum, on recent military operations; and

(F) such recommendations for additional activities under this section as the Secretary considers appropriate to meet the purposes of this section.

SEC. 235. DEPARTMENT OF DEFENSE STRATEGY FOR MANAGEMENT OF ELECTROMAGNETIC SPECTRUM.

(a) IN GENERAL.—The Secretary of Defense shall—

(1) in accordance with subsection (b), develop a strategy for the Department of Defense for the management of the electromagnetic spectrum to improve spectrum access and high-bandwidth connectivity to military assets; and

(2) in accordance with subsection (c), communicate with civilian departments and agencies of the Federal Government in the development of the strategy identified in paragraph (1).

(b) STRATEGY FOR DEPARTMENT OF DEFENSE SPECTRUM MANAGEMENT.—(1) Not later than September 1, 2004, the Board shall develop a strategy for the Department of Defense for the management of the electromagnetic spectrum in order to ensure the development and use of spectrum-efficient technologies to facilitate the availability of adequate spectrum for network-centric warfare. The strategy shall include specific timelines, metrics, plans for implementation, including the implementation of technologies for the efficient use of spectrum, and proposals for program funding.

(2) In developing the strategy, the Board shall consider and take into account the research and development program carried out under section 234.

(3) The Board shall assist in updating the strategy developed under paragraph (1) on a biennial basis to address changes in circumstances.

(4) The Board shall communicate with other departments and agencies of the Federal Government in the development of the strategy described in subsection (a)(1), including representatives of the military departments, the Federal Communications Commission, the National Telecommunications and Information Administration, the Department of Homeland Security, the Federal Aviation Administration, and other appropriate departments and agencies of the Federal Government.

(c) BOARD DEFINED.—In this section, the term ''Board'' means the board of senior acquisition officials as defined in section 822.

SEC. 236. AMOUNT FOR COLLABORATIVE INFORMATION WARFARE NETWORK.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(2), for research and development, Navy, $8,000,000 may be available for the Collaborative Information Warfare Network.

(2) The total amount authorized to be appropriated under section 201(2) is hereby increased by $8,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force, the amount is hereby reduced by $8,000,000.

SEC. 237. COPRODUCTION OF ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the total amount authorized to be appropriated under section 201 for ballistic missile defense, $115,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,668,004,000.

(2) For the Navy, $28,051,390,000.

(3) For the Marine Corps, $3,416,356,000.

(4) For the Air Force, $26,975,231,000.

(5) For Defense-wide activities, $15,739,047,000.

(6) For the Army Reserve, $1,952,009,000.

(7) For the Naval Reserve, $1,170,421,000.

(8) For the Marine Corps Reserve, $173,452,000.

(9) For the Air Force Reserve, $2,178,688,000.

(10) For the Army National Guard, $4,227,331,000.

(11) For the Air National Guard, $4,405,646,000.

(12) For the Defense Inspector General, $160,049,000.

(13) For the United States Court of Appeals for the Armed Forces, $10,333,000.

(14) For Environmental Restoration, Army, $396,018,000.

(15) For Environmental Restoration, Navy, $256,153,000.

(16) For Environmental Restoration, Air Force, $384,307,000.

(17) For Environmental Restoration, Defense-wide, $24,081,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $252,619,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $817,371,000.

(21) For Defense Health Program, $14,862,900,000.

(22) For Cooperative Threat Reduction programs, $450,800,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,661,307,000.

(2) For the National Defense Sealift Fund, $1,062,762,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2004 from the Armed Forces Retirement Home Trust Fund the sum of $65,279,000 for the operation of the Armed Forces Retirement Home, including the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 311. EMERGENCY AND MORALE COMMUNICATIONS PROGRAMS.

(a) ARMED FORCES EMERGENCY SERVICES.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be made available to the American Red Cross to fund the Armed Forces Emergency Services.

(b) DEPARTMENT OF DEFENSE MORALE TELECOMMUNICATIONS PROGRAM.—(1) As soon as possible after the date of enactment of this Act, the Secretary of Defense shall establish and carry out a program to provide, wherever practicable, prepaid phone cards, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who are directly supporting military operations in Iraq or Afghanistan (as determined by the Secretary) to enable them to make telephone calls to family and friends in the United States without cost to the member.

(2) The value of the benefit provided by paragraph (1) shall not exceed $40 per month per person.

(3) The program established by paragraph (1) shall terminate on September 30, 2004.

(4) In carrying out the program under this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private entities free or reduced-cost services, and programs to enhance morale and welfare. In addition, and notwithstanding any limitation on the expenditure or obligation of appropriated amounts, the Secretary may use available funds appropriated to or for the use of the Department of Defense that are not otherwise obligated or expended to carry out the program.

(5) The Secretary may accept gifts and donations in order to defray the costs of the program. Such gifts and donations may be accepted from foreign governments; foundations or other charitable organizations, including those organized or operating under the laws of a foreign country; and any source in the private sector of the United States or a foreign country.

(6) The Secretary shall work with telecommunications providers to facilitate the deployment of additional telephones for use in calling the United States under the program as quickly as practicable, consistent with the timely provision of telecommunications benefits of the program, the Secretary should carry out this subsection in a manner that allows for competition in the provision of such benefits.

(7) The Secretary shall not take any action under this subsection that would compromise the military objectives or mission of the Department of Defense.

SEC. 312. COMMERCIAL IMAGERY INDUSTRIAL BASE.

(a) LIMITATION.—Not less than ninety percent of the total amount authorized to be appropriated under this title for the acquisition, processing, and licensing of commercial imagery, including amounts authorized to be appropriated under this title for experimentation related to commercial imagery, shall be used for the following purposes:

(1) To acquire space-based imagery from commercial sources.

(2) To support the development of next-generation commercial imagery satellites.

(b) REPORT.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and

the House of Representatives a report on the actions taken and to be taken by the Secretary to implement the President's commercial remote sensing policy. The Secretary shall consult with the Director of Central Intelligence in preparing the report.

(2) The report under paragraph (1) shall include an assessment of the following matters:

(A) The sufficiency of the policy, the funding for fiscal year 2004 for the procurement of imagery from commercial sources, and the funding planned in the future-years defense program for the procurement of imagery from commercial sources to sustain a viable commercial imagery industrial base in the United States.

(B) The extent to which the United States policy and programs relating to the procurement of imagery from commercial sources are sufficient to ensure that imagery is available to the Department of Defense from United States commercial firms to timely meet the needs of the Department of Defense for the imagery.

SEC. 313. INFORMATION OPERATIONS SUSTAINMENT FOR LAND FORCES READINESS OF ARMY RESERVE.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY RESERVE.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $3,000,000.

(b) AVAILABILITY FOR INFORMATION OPERATIONS SUSTAINMENT.—(1) Of the amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve, as increased by subsection (a), $3,000,000 may be available for Information Operations (Account #19640) for Land Forces Readiness–Information Operations Sustainment.

(2) The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.

SEC. 314. SUBMITTAL OF SURVEY ON PERCHLORATE CONTAMINATION AT DEPARTMENT OF DEFENSE SITES.

(a) SUBMITTAL OF PERCHLORATE SURVEY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress the 2001 survey to identify the potential for perchlorate contamination at all active and closed Department of Defense sites that was prepared by the United States Air Force Research Laboratory, Aerospace Expeditionary Force Technologies Division, Tyndall Air Force Base and Applied Research Associates.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

Subtitle C—Environmental Provisions

SEC. 321. GENERAL DEFINITIONS APPLICABLE TO FACILITIES AND OPERATIONS.

(a) GENERAL DEFINITIONS APPLICABLE TO FACILITIES AND OPERATIONS.—Section 101 of title 10, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) FACILITIES AND OPERATIONS.—The following definitions relating to facilities and operations shall apply in this title:

''(1)(A) The term 'military munitions' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

''(B) The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, except that the term does include non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

''(2) The term 'operational range' means a range under the jurisdiction, custody, or control of the Secretary concerned that—

''(A) is used for range activities; or

''(B) is not currently used for range activities, but is still considered by the Secretary concerned to be a range and has not been put to a new use that is incompatible with range activities.

''(3) The term 'range' means a designated land or water area that is set aside, managed, and used for range activities. The term includes firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, and buffer zones with restricted access and exclusionary areas. The term also includes airspace areas designated for military use according to regulations and procedures established by the Federal Aviation Administration such as special use airspace areas, military training routes, and other associated airspace.

''(4) The term 'range activities' means—

''(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and

''(B) the training of military personnel in the use and handling of military munitions, other ordnance, and weapons systems.

''(5) The term 'unexploded ordnance' means military munitions that—

''(A) have been primed, fused, armed, or otherwise prepared for action;

''(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

''(C) remain unexploded either by malfunction, design, or any other cause.''.

(b) CONFORMING AMENDMENTS.—Section 2710(e) of such title is amended by striking paragraphs (3), (5), and (9) and redesignating paragraphs (4), (6), (7), (8), and (10) as paragraphs (3), (4), (5), (6), and (7), respectively.

SEC. 322. MILITARY READINESS AND CONSERVATION OF PROTECTED SPECIES.

(a) IN GENERAL.—Part III of subtitle A of title 10, United States Code, is amended by inserting after chapter 101 the following new chapter:

''CHAPTER 101A—READINESS AND RANGE PRESERVATION

''Sec.
''2020. Military readiness and conservation of protected species.

''§ 2020. Military readiness and conservation of protected species

''(a) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—The Secretary of the Interior may not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines in writing that—

''(1) the management activities identified in the plan will effectively conserve the threatened species and endangered species within the lands or areas covered by the plan; and

''(2) the plan provides assurances that adequate funding will be provided for such management activities.

''(b) CONSTRUCTION WITH CONSULTATION REQUIREMENT.—Nothing in subsection (a) may be construed to affect the requirement to consult under section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1536(a)(2)) with respect to an agency action (as that term is defined in that section).''.

(b) CLERICAL AMENDMENTS.—The table of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle, are each amended by inserting after the item relating to chapter 101 the following new item:

''101A. Readiness and Range Preservation ..... 2020''.

SEC. 323. ARCTIC AND WESTERN PACIFIC ENVIRONMENTAL TECHNOLOGY COOPERATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2350m. Arctic and Western Pacific Environmental Technology Cooperation Program

''(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary of Defense may, with the concurrence of the Secretary of State, conduct on a cooperative basis with countries located in the Arctic and Western Pacific regions a program of environmental activities provided for in subsection (b) in such regions. The program shall be known as the 'Arctic and Western Pacific Environmental Technology Cooperation Program'.

''(b) PROGRAM ACTIVITIES.—(1) Except as provided in paragraph (3), activities under the program under subsection (a) may include cooperation and assistance among elements of the Department of Defense and military departments or relevant agencies of other countries on activities that contribute to the demonstration of environmental technology.

''(2) Activities under the program shall be consistent with the requirements of the Cooperative Threat Reduction program.

''(3) Activities under the program may not include activities for purposes prohibited under section 1403 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).

''(c) LIMITATION ON FUNDING FOR PROJECTS OTHER THAN RADIOLOGICAL PROJECTS.—Not more than 10 percent of the amount made available for the program under subsection (a) in any fiscal year may be available for projects under the program other than projects on radiological matters.

''(d) ANNUAL REPORT.—(1) Not later than March 1, 2004, and each year thereafter, the Secretary of Defense shall submit to Congress a report on activities under the program under subsection (a) during the preceding fiscal year.

''(2) The report on the program for a fiscal year under paragraph (1) shall include the following:

''(A) A description of the activities carried out under the program during that fiscal year, including a separate description of each project under the program.

''(B) A statement of the amounts obligated and expended for the program during that fiscal year, set forth in aggregate and by project.

''(C) A statement of the life cycle costs of each project, including the life cycle costs of such project as of the end of that fiscal year and an estimate of the total life cycle costs of such project upon completion of such project.

''(D) A statement of the participants in the activities carried out under the program during that fiscal year, including the elements of the Department of Defense and the military departments or agencies of other countries.

''(E) A description of the contributions of the military departments and agencies of other countries to the activities carried out under the program during that fiscal year, including any financial or other contributions to such activities.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that subchapter is amended by adding at the end the following new item:

''2350m. Arctic and Western Pacific Environmental Technology Cooperation Program.''.

SEC. 324. PARTICIPATION IN WETLAND MITIGATION BANKS IN CONNECTION WITH MILITARY CONSTRUCTION PROJECTS.

(a) AUTHORITY TO PARTICIPATE.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2697. Participation in wetland mitigation banks

''(a) AUTHORITY TO PARTICIPATE.—In the case of a military construction project that results, or may result, in the destruction of or impacts to wetlands, the Secretary concerned may make one or more payments to a wetland mitigation banking program or consolidated user site (also referred to as an 'in-lieu-fee' program) meeting the requirement of subsection (b) in lieu of creating a wetland on Federal property as mitigation for the project.

''(b) APPROVAL OF PROGRAM OR SITE REQUIRED.—The Secretary concerned may make a payment to a program or site under subsection (a) only if the program or site is approved in accordance with the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks or the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 10 of the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403).

''(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated for a military construction project for which a payment is authorized by subsection (a) may be utilized for purposes of making the payment.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2697. Participation in wetland mitigation banks.''.

SEC. 325. EXTENSION OF AUTHORITY TO USE ENVIRONMENTAL RESTORATION ACCOUNT FUNDS FOR RELOCATION OF A CONTAMINATED FACILITY.

Section 2703(c)(2) of title 10, United States Code, is amended by striking ''September 30, 2003'' and inserting ''September 30, 2006''.

SEC. 326. APPLICABILITY OF CERTAIN PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS TO RESTORATION ADVISORY BOARDS.

Section 2705(d)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

''(C)(i) Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), relating to publication in the Federal Register of notices of meetings of advisory committees, shall not apply to any meeting of a restoration advisory board under this subsection, but a restoration advisory board shall publish timely notice of each meeting of the restoration advisory board in a local newspaper of general circulation.

''(ii) No limitation under any provision of law or regulations on the total number of advisory committees (as that term is defined in section 3(2) of the Federal Advisory Committee Act) in existence at any one time shall operate to limit the number of restoration advisory boards in existence under this subsection at any one time.''.

SEC. 327. EXPANSION OF AUTHORITIES ON USE OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR EXPERIMENTAL PURPOSES.

(a) EXPANSION OF AUTHORITIES.—Subsection (b) of section 7306a of title 10, United States Code, is amended to read as follows:

''(b) STRIPPING AND ENVIRONMENTAL REMEDIATION OF VESSELS.—(1) Before using a vessel for experimental purposes pursuant to subsection (a), the Secretary shall carry out such stripping of the vessel as is practicable and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes.

''(2) Material and equipment stripped from a vessel under paragraph (1) may be sold by the contractor or by a sales agent approved by the Secretary.

''(3) Amounts received as proceeds from the stripping of a vessel pursuant to this subsection shall be credited to funds available for stripping and environmental remediation of other vessels for use for experimental purposes.''.

(b) INCLUSION OF CERTAIN PURPOSES IN USE FOR EXPERIMENTAL PURPOSES.—That section is further amended by adding at the end the following new subsection:

''(c) USE FOR EXPERIMENTAL PURPOSES.—For purposes of this section, the term 'use for experimental purposes', in the case of a vessel, includes use of the vessel by the Navy in sink exercises and as a target.''.

SEC. 328. TRANSFER OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.

(a) AUTHORITY TO MAKE TRANSFER.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:

''§ 7306b. Vessels stricken from Naval Vessel Register; transfer by gift or otherwise for use as artificial reefs

''(a) AUTHORITY TO MAKE TRANSFER.—Subject to subsection (b), the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof.

''(b) INAPPLICABILITY TO CERTAIN VESSELS.—The authority in subsection (a) shall not apply to vessels transferable to the Maritime Administration for disposal under section 548 of title 40.

''(c) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

''(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (title II of Public Law 98–623; 33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if such use does not have an adverse effect on fishery resources (as that term is defined in section 2(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and

''(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.

''(d) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF.—The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with—

''(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 16 U.S.C. 1220 note); and

''(2) any applicable environmental laws.

''(e) COST SHARING.—The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (d).

''(f) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT.—A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).

''(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.

''(h) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306a the following new item:

''7306b. Vessels stricken from Naval Vessel Register; transfer by gift or otherwise for use as artificial reefs.''.

SEC. 329. SALVAGE FACILITIES.

(a) FACILITIES TO INCLUDE ENVIRONMENTAL PROTECTION EQUIPMENT.—Section 7361(a) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''The Secretary''; and

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

''(2) For purposes of this section, salvage facilities shall include equipment and gear utilized to prevent, abate, or minimize damage to the environment arising from salvage activities.''.

(b) CLAIMS TO INCLUDE COMPENSATION FOR ENVIRONMENTAL PROTECTION.—Section 7363 of such title is amended—

(1) by inserting ''(a) AUTHORITY TO SETTLE CLAIMS.—'' before ''The Secretary''; and

(2) by adding at the end the following new subsection:

''(b) ENVIRONMENTAL PROTECTION SERVICES.—A claim for salvage services covered by subsection (a) may include, in addition to a claim for such salvage services, a claim for compensation for services to prevent, abate, or minimize damage to the environment arising from such salvage services.''.

SEC. 330. TASK FORCE ON RESOLUTION OF CONFLICT BETWEEN MILITARY TRAINING AND ENDANGERED SPECIES PROTECTION AT BARRY M. GOLDWATER RANGE, ARIZONA.

(a) PURPOSE.—The purpose of this section is to facilitate the determination of effective means of resolving the current conflict between the dual objectives at Barry M. Goldwater Range, Arizona, of the full utilization of live ordnance delivery areas for military training and the protection of endangered species.

(b) TASK FORCE.—The Secretary of Defense shall establish a task force to determine and assess various means of enabling full use of the live ordnance delivery areas at Barry M. Goldwater Range while also protecting endangered species that are present at Barry M. Goldwater Range.

(c) COMPOSITION.—(1) The task force established under subsection (b) shall be composed of the following:

(A) The Air Force range officer, who shall serve as chair of the task force.

(B) The range officer at Barry M. Goldwater Range.

(C) The commander of Luke Air Force Base, Arizona.

(D) The commander of Marine Corps Air Station, Yuma, Arizona.

(E) The Director of the United States Fish and Wildlife Service.

(F) The manager of the Cabeza Prieta National Wildlife Refuge, Arizona.

(G) A representative of the Department of Game and Fish of the State of Arizona, as selected by the Secretary in consultation with the Governor of the State of Arizona.

(H) A representative of a wildlife interest group in the State of Arizona, as selected by the Secretary in consultation with wildlife interest groups in the State of Arizona.

(I) A representative of an environmental interest group (other than a wildlife interest group) in the State of Arizona, as selected by the Secretary in consultation with environmental interest groups in the State of Arizona.

(2) The chair of the task force may secure for the task force the services of such experts with respect to the duties of the task force under subsection (d) as the chair considers advisable to carry out such duties.

(d) DUTIES.—The task force established under subsection (b) shall—

(1) assess the effects of the presence of endangered species on military training activities in the live ordnance delivery areas at Barry M. Goldwater Range and in any other areas of the range that are adversely effected by the presence of endangered species;

(2) determine various means of addressing any significant adverse effects on military training activities on Barry M. Goldwater Range that are identified pursuant to paragraph (1); and

(3) determine the benefits and costs associated with the implementation of each means identified under paragraph (2).

(e) REPORT.—Not later than February 28, 2005, the task force under subsection (b) shall submit to Congress a report on its activities under this section. The report shall include—

(1) a description of the assessments and determinations made under subsection (d);

(2) such recommendations for legislative and administrative action as the task force considers appropriate; and

(3) an evaluation of the utility of task force proceedings as a means of resolving conflicts between military training objectives and protection of endangered species at other military training and testing ranges.

SEC. 331. PUBLIC HEALTH ASSESSMENT OF EXPOSURE TO PERCHLORATE.

(a) EPIDEMIOLOGICAL STUDY OF EXPOSURE TO PERCHLORATE.—

(1) IN GENERAL.—The Secretary of Defense shall provide for an independent epidemiological study of exposure to perchlorate in drinking water.

(2) PERFORMANCE OF STUDY.—The Secretary shall provide for the performance of the study under this subsection through the Centers for Disease Control, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary for purposes of the study.

(3) MATTERS TO BE INCLUDED IN STUDY.—In providing for the study under this subsection, the Secretary shall require the Federal entity conducting the study—

(A) to assess the incidence of thyroid disease and measurable effects of thyroid function in relation to exposure to perchlorate;

(B) to ensure that the study is of sufficient scope and scale to permit the making of meaningful conclusions of the measurable public health threat associated with exposure to perchlorate, especially the threat to sensitive subpopulations; and

(C) to study thyroid function, including measurements of urinary iodine and thyroid hormone levels, in a sufficient number of pregnant women, neonates, and infants exposed to perchlorate in drinking water and match measurements of perchlorate levels in the drinking water of each study participant in order to permit the development of meaningful conclusions on the public health threat to individuals exposed to perchlorate.

(4) REPORT ON STUDY.—The Secretary shall require the Federal entity conducting the study under this subsection to submit to the Secretary a report on the study not later than June 1, 2005.

(b) REVIEW OF EFFECTS OF PERCHLORATE ON ENDOCRINE SYSTEM.—

(1) IN GENERAL.—The Secretary shall provide for an independent review of the effects of perchlorate on the human endocrine system.

(2) PERFORMANCE OF REVIEW.—The Secretary shall provide for the performance of the review under this subsection through the Centers for Disease Control, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary for purposes of the review. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.

(3) MATTERS TO BE INCLUDED IN REVIEW.—In providing for the review under this subsection, the Secretary shall require the Federal entity conducting the review to assess—

(A) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and

(B) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.

(4) REPORT ON REVIEW.—The Secretary shall require the Federal entity conducting the review under this subsection to submit to the Secretary a report on the review not later than June 1, 2005.

Subtitle D—Reimbursement Authorities

SEC. 341. REIMBURSEMENT OF RESERVE COMPONENT MILITARY PERSONNEL ACCOUNTS FOR PERSONNEL COSTS OF SPECIAL OPERATIONS RESERVE COMPONENT PERSONNEL ENGAGED IN LANDMINES CLEARANCE.

(a) REIMBURSEMENT.—Funds authorized to be appropriated under section 301 for Overseas Humanitarian, Disaster, and Civic Aid programs shall be available for transfer to reserve component military personnel accounts in reimbursement of such accounts for the pay and allowances paid to reserve component personnel under the United States Special Operations Command for duty performed by such personnel in connection with training and other activities relating to the clearing of landmines for humanitarian purposes.

(b) MAXIMUM AMOUNT.—Not more than $5,000,000 may be transferred under subsection (a).

(c) MERGER OF TRANSFERRED FUNDS.—Funds transferred to an account under this section shall be merged with other sums in the account and shall be available for the same period and purposes as the sums with which merged.

(d) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority under this section is in addition to the transfer authority provided under section 1001.

SEC. 342. REIMBURSEMENT OF RESERVE COMPONENT ACCOUNTS FOR COSTS OF INTELLIGENCE ACTIVITIES SUPPORT PROVIDED BY RESERVE COMPONENT PERSONNEL.

(a) IN GENERAL.—Chapter 1805 of title 10, United States Code, is amended by inserting after section 18502 the following new section:

''§ 18503. Reserve components: reimbursement for costs of intelligence support provided by reserve component personnel

''(a) REIMBURSEMENT REQUIREMENT.—The Secretary of Defense or the Secretary concerned shall transfer to the appropriate reserve component military personnel account or operation and maintenance account the amount necessary to reimburse such account for the costs charged that account for military pay and allowances or operation and maintenance associated with the performance of duty described in subsection (b) by reserve component personnel.

''(b) REIMBURSABLE COSTS.—The transfer requirement under subsection (a) applies with respect to the performance of duty in providing intelligence support, counterintelligence support, or intelligence and counterintelligence support to a combatant command, Defense Agency, or joint intelligence activity, including any activity or program within the National Foreign Intelligence Program, the Joint Military Intelligence Program, or the Tactical Intelligence and Related Activities Program.

''(c) SOURCES OF REIMBURSEMENTS.—Funds available for operation and maintenance for the Army, Navy, Air Force, or Marine Corps, for a combatant command, or for a Defense Agency shall be available for transfer under this section to military personnel accounts and operation and maintenance accounts of the reserve components.

''(d) DISTRIBUTION TO UNITS.—Amounts reimbursed to an account for duty performed by reserve component personnel shall be distributed to the lowest level unit or other organization of such personnel that administers and is accountable for the appropriated funds charged the costs that are being reimbursed.

''(e) MERGER OF TRANSFERRED FUNDS.—Funds transferred to an account under this section shall be merged with other sums in the account and shall be available for the same period and purposes as the sums with which merged.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended inserting after the item relating to section 18502 the following new item:

''18503. Reserve components: reimbursement for costs of intelligence support provided by reserve component personnel.''.

SEC. 343. REIMBURSEMENT RATE FOR SERVICES PROVIDED TO THE DEPARTMENT OF STATE.

(a) AUTHORITY.—Subsection (a) of section 2642 of title 10, United States Code, is amended—

(1) by striking ''(a) AUTHORITY'' and all that follows through ''the Department of Defense'' and inserting the following:

''(a) AUTHORITY.—The Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military airlift services provided by a component of the Department of Defense as follows:

''(1) Military airlift services provided''; and

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

''(2) Military airlift services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet unfulfilled requirements of the Department of State for armored motor vehicles in such foreign country.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

''§ 2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State''.

(2) The item relating to such section in the table of sections at the beginning of chapter 157 of such title is amended to read as follows:

''2642. Reimbursement rate for airlift services provided to Central Intelligence Agency or Department of State.''.

(c) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—For any fee charged to the Department of Defense by the Department of State during any year for the maintenance, upgrade, or construction of United States diplomatic facilities, the Secretary of Defense may remit to the Department of State only that portion, if any, of the total amount of the fee charged for such year that exceeds the total amount of the costs incurred by the Department of Defense for providing goods and services to the Department of State during such year.

Subtitle E—Defense Dependents Education

SEC. 351. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2004.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2004, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2004 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) AVAILABILITY OF FUNDS FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY THE BROOKS AIR FORCE BASE DEMONSTRATION PROJECT.—(1) Up to $500,000 of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.

(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term ''basic support payment'' means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

SEC. 352. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

Subtitle F—Other Matters

SEC. 361. SALE OF DEFENSE INFORMATION SYSTEMS AGENCY SERVICES TO CONTRACTORS PERFORMING THE NAVY-MARINE CORPS INTRANET CONTRACT.

(a) AUTHORITY.—The Secretary of Defense may sell working-capital funded services of the Defense Information Systems Agency to a person outside the Department of Defense for use by that person in the performance of the Navy-Marine Corps Intranet contract.

(b) REIMBURSEMENT.—The Secretary shall require reimbursement of each working-capital fund for the costs of services sold under subsection (a) that were paid for out of such fund. The sources of the reimbursement shall be the appropriation or appropriations funding the Navy-Marine Corps Intranet contract or any cash payments received by the Secretary for the services.

(c) NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—In this section, the term ''Navy-Marine Corps Intranet contract'' has the meaning given such term in section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–217)).

SEC. 362. USE OF THE DEFENSE MODERNIZATION ACCOUNT FOR LIFE CYCLE COST REDUCTION INITIATIVES.

(a) FUNDS AVAILABLE FOR DEFENSE MODERNIZATION ACCOUNT.—Section 2216 of title 10, United States Code is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:

''(1) Amounts appropriated to the Defense Modernization Account for the costs of commencing projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsections (c)(1)(B)(iii) out of savings derived from such projects.

''(2) Amounts transferred to the Defense Modernization Account under subsection (c).''.

(b) START-UP FUNDING.—Subsection (d) of such section is amended—

(1) by striking ''available from the Defense Modernization Account pursuant to subsection (f) or (g)'' and inserting ''in the Defense Modernization Account'';

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after ''purposes:'' the following new paragraph (1):

''(1) For paying the costs of commencing any project that, in accordance with criteria prescribed by the Secretary of Defense, is undertaken by the Secretary of a military department or the head of a Defense Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.''.

(c) REIMBURSEMENT OF ACCOUNT OUT OF SAVINGS.—(1) Paragraph (1)(B) of subsection (c) of such section, as redesignated by subsection (a)(2), is amended by adding at the end the following new clause:

''(iii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).''.

(2) Paragraph (2) of such subsection is amended by inserting '', other than funds referred to in paragraph subparagraph (B)(iii) of such paragraph,'' after ''Funds referred to in paragraph (1)''.

(d) REGULATIONS.—Subsection (h) of such section is amended—

(1) by inserting ''(1)'' after ''COMPTROLLER.—''; and

(2) by adding at the end the following new paragraph (2):

''(2) The regulations prescribed under paragraph (1) shall, at a minimum, provide for—

''(A) the submission of proposals by the Secretaries concerned or heads of Defense Agencies or other elements of the Department of Defense to the Comptroller for the use of Defense Modernization Account funds for purposes set forth in subsection (d);

''(B) the use of a competitive process for the evaluation of such proposals and the selection of programs, projects, and activities to be funded out of the Defense Modernization Account from among those proposed for such funding; and

''(C) the calculation of—

''(i) the savings to be derived from projects described in subsection (d)(1) that are to be funded out of the Defense Modernization Account; and

''(ii) the amounts to be reimbursed to the Defense Modernization Account out of such savings pursuant to subsection (c)(1)(B)(iii).''.

(e) ANNUAL REPORT.—Subsection (i) of such section is amended—

(1) by striking ''(i) QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter,'' and inserting ''(i) ANNUAL REPORT.—(1) Not later than 15 days after the end of each fiscal year,''; and

(2) in paragraph (1), by striking ''quarter'' in subparagraphs (A), (B), and (C), and inserting ''fiscal year''.

(f) EXTENSION OF AUTHORITY.—Section 912(c)(1) of the National Defense Authorization Act for Fiscal Year 1996 is amended—

(1) by striking ''section 2216(b)'' and inserting ''section 2216(c)''; and

(2) by striking ''September 30, 2003'' and inserting ''September 30, 2006''.

SEC. 363. EXEMPTION OF CERTAIN FIREFIGHTING SERVICE CONTRACTS FROM PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING FUNCTIONS.

Section 2465(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period and inserting ''; or''; and

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

''(4) to a contract for the performance for firefighting functions if the contract is—

''(A) for a period of one year or less; and

''(B) for the performance of firefighting functions that would otherwise be performed by military firefighters who are otherwise deployed.''.

SEC. 364. TECHNICAL AMENDMENT RELATING TO TERMINATION OF SACRAMENTO ARMY DEPOT, SACRAMENTO, CALIFORNIA.

Section 2466 of title 10, United States Code, is amended by striking subsection (d).

SEC. 365. EXCEPTION TO COMPETITION REQUIREMENT FOR WORKLOADS PREVIOUSLY PERFORMED BY DEPOT-LEVEL ACTIVITIES.

Section 2469 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting '', except as provided in subsection (c)'' before the period at the end;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

''(c) EXCEPTION.—Subsection (a) does not apply to any depot-level maintenance and repair workload that is performed by a public-private partnership under section 2474(b) of this title consisting of a depot-level activity and a private entity.''.

SEC. 366. SUPPORT FOR TRANSFERS OF DECOMMISSIONED VESSELS AND SHIPBOARD EQUIPMENT.

(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 7316. Support for transfers of decommissioned vessels and shipboard equipment

''(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Navy may provide an entity described in subsection (b) with assistance in support of a transfer of a vessel or shipboard equipment described in such subsection that is being executed under section 2572, 7306, 7307, or 7545 of this title, or under any other authority.

''(b) COVERED VESSELS AND EQUIPMENT.—The authority under this section applies—

''(1) in the case of a decommissioned vessel that—

''(A) is owned and maintained by the Navy, is located at a Navy facility, and is not in active use; and

''(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the vessel; and

''(2) in the case of any shipboard equipment that—

''(A) is on a vessel described in paragraph (1)(A); and

''(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the equipment.

''(c) REIMBURSEMENT.—The Secretary may require a recipient of assistance under subsection (a) to reimburse the Navy for amounts expended by the Navy in providing the assistance.

''(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in a fiscal year under subsection (c) shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''7316. Support for transfers of decommissioned vessels and shipboard equipment.''.

SEC. 367. AIRCRAFT FOR PERFORMANCE OF AERIAL REFUELING MISSION.

(a) RESTRICTION ON RETIREMENT OF KC–135E AIRCRAFT.—The Secretary of the Air Force shall ensure that the number of KC–135E aircraft of the Air Force that are retired in fiscal year 2004, if any, does not exceed 12 such aircraft.

(b) REQUIRED ANALYSIS.—Not later than March 1, 2004, the Secretary of the Air Force shall submit to the congressional defense committees an analysis of alternatives for meeting the aerial refueling requirements that the Air Force has the mission to meet. The Secretary shall provide for the analysis to be performed by a federally funded research and development center or another entity independent of the Department of Defense.

SEC. 368. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT.—The Randolph-Sheppard Act does not apply to any contract described in subsection (b) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(b) JAVITS-WAGNER-O'DAY CONTRACTS.—Subsection (a) applies to any contract for the operation of a Department of Defense facility described in subsection (c) that was entered into before the date of the enactment of this Act with a nonprofit agency for the blind or an agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48) and is in effect on such date.

(c) COVERED FACILITIES.—The Department of Defense facilities referred to in subsection (b) are as follows:

(1) A military troop dining facility.

(2) A military mess hall.

(3) Any similar dining facility operated for the purpose of providing meals to members of the Armed Forces.

(d) ENACTMENT OF POPULAR NAME AS SHORT TITLE.—The Act entitled ''An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes'', approved June 20, 1936 (commonly known as the ''Randolph-Sheppard Act'') (20 U.S.C. 107 et seq.), is amended by adding at the end the following new section:

''SEC. 11. This Act may be cited as the 'Randolph-Sheppard Act'.''.

(e) DEMONSTRATION PROJECTS FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES.—(1) The Secretary of Defense may carry out two demonstration projects for the purpose of providing opportunities for participation by severely disabled individuals in the industries of manufacturing and information technology.

(2) Under each demonstration project, the Secretary may enter into one or more contracts with an eligible contractor for each of fiscal years 2004 and 2005 for the acquisition of—

(A) aerospace end items or components; or

(B) information technology products or services.

(3) The items, components, products, or services authorized to be procured under paragraph (2) include—

(A) computer numerically-controlled machining and metal fabrication;

(B) computer application development, testing, and support in document management, microfilming, and imaging; and

(C) any other items, components, products, or services described in paragraph (2) that are not described in subparagraph (A) or (B).

(4) In this subsection:

(A) The term ''eligible contractor'' means a business entity operated on a for-profit or nonprofit basis that—

(i) employs not more than 500 individuals;

(ii) employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over a period prescribed by the Secretary;

(iii) employs each severely disabled individual in its workforce generally on the basis of 40 hours per week;

(iv) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) to the employees who are severely disabled individuals;

(v) provides for its employees health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region; and

(vi) has or can acquire a security clearance as necessary.

(B) The term ''severely disabled individual'' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a severe physical or mental impairment that seriously limits one or more functional capacities.

SEC. 369. REPEAL OF CALENDAR YEAR LIMITATIONS ON USE OF COMMISSARY STORES BY CERTAIN RESERVES AND OTHERS.

(a) MEMBERS OF THE READY RESERVE.—Section 1063(a) of title 10, United States Code, is amended by striking the period at the end of the first sentence and all that follows and inserting ''in that calendar year.''.

(b) CERTAIN OTHER PERSONS.—Section 1064 of such title is amended by striking ''for 24 days each calendar year''.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2004, as follows:

(1) The Army, 480,000.

(2) The Navy, 373,800.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,300.

SEC. 402. INCREASED MAXIMUM PERCENTAGE OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AUTHORIZED TO BE SERVING IN GRADES ABOVE BRIGADIER GENERAL AND REAR ADMIRAL (LOWER HALF).

Section 525(a) of title 10, United States Code, is amended by striking ''50 percent'' both places it appears and inserting ''55 percent''.

SEC. 403. EXTENSION OF CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF NUMBERS OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

(a) SENIOR JOINT OFFICER POSITIONS.—Section 604(c) of title 10, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525(b)(5)(C) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(b)(3) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2004, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 85,900.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 107,030.

(6) The Air Force Reserve, 75,800.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2004, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,599.

(2) The Army Reserve, 14,374.

(3) The Naval Reserve, 14,384.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,191.

(6) The Air Force Reserve, 1,660.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2004 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 6,699.

(2) For the Army National Guard of the United States, 24,589.

(3) For the Air Force Reserve, 9,991.

(4) For the Air National Guard of the United States, 22,806.

SEC. 414. FISCAL YEAR 2004 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2004, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2004, may not exceed 895.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2004, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term ''non-dual status technician'' has the meaning given the term in section 10217(a) of title 10, United States Code.

Subtitle C—Other Matters Relating to Personnel Strengths

SEC. 421. REVISION OF PERSONNEL STRENGTH AUTHORIZATION AND ACCOUNTING PROCESS.

(a) ANNUAL AUTHORIZATION OF STRENGTHS.—Subsection (a) of section 115 of title 10, United States Code, is amended to read as follows:

''(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:

''(1) The average strength for each of the armed forces (other than the Coast Guard) for active-duty personnel who are to be paid from funds appropriated for active-duty personnel.

''(2) The average strength for each of the armed forces (other than the Coast Guard) for active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel.

''(3) The average strength for the Selected Reserve of each reserve component of the armed forces.''.

(b) LIMITATION ON USE OF FUNDS.—Subsection (b) of such section is amended by striking ''end strength'' in paragraphs (1) and (2) and inserting ''strength''.

(c) AUTHORITY OF SECRETARY OF DEFENSE TO VARY STRENGTHS.—Subsection (c) of such section is amended—

(1) by striking ''end strength'' each place it appears and inserting ''strength'';

(2) in paragraph (1), by striking ''subsection (a)(1)(A)'' and inserting ''subsection (a)(1)'';

(3) in paragraph (2), by striking ''subsection (a)(1)(B)'' and inserting ''subsection (a)(2)''; and

(4) in paragraph (3), by striking ''subsection (a)(2)'' and inserting ''subsection (a)(3)''.

(d) COUNTING PERSONNEL.—Subsection (d) of such section is amended—

(1) by striking ''end-strengths authorized pursuant to subsection (a)(1)'' and inserting ''strengths authorized pursuant to paragraphs (1) and (2) of subsection (a)''; and

(2) in paragraph (9)(B), by striking ''subsection (a)(1)(A)'' and inserting ''subsection (a)(1)''.

(e) NAVY STRENGTH WHEN AUGMENTED BY COAST GUARD.—Subsection (e) of such section is amended by striking ''subsection (a)(1)'' and inserting ''paragraphs (1) and (2) of subsection (a)''.

(f) AUTHORITY OF SECRETARIES OF MILITARY DEPARTMENTS TO VARY STRENGTHS.—Subsection (f) of such section is amended—

(1) by striking ''end strength'' both places it appears and inserting ''strength''; and

(2) by striking ''subsection (a)(1)(A)'' in the first sentence and inserting ''subsection (a)(1)''.

(g) AUTHORIZATION OF STRENGTHS FOR DUAL STATUS MILITARY TECHNICIANS.—Subsection (g) of such section is amended by striking ''end strength'' both places it appears and inserting ''strength''.

(h) CONFORMING AMENDMENTS.—(1) Section 168(f)(1)(A) of title 10, United States Code, is amended by striking ''end strength for active-duty personnel authorized pursuant to section 115(a)(1)'' and inserting ''strengths for active-duty personnel authorized pursuant to paragraphs (1) and (2) of section 115(a)''.

(2) Section 691(f) of such title is amended by striking ''section 115(a)(1)'' and inserting ''paragraphs (1) and (2) of section 115(a)''.

(3) Section 3201(b) of such title is amended by striking ''section 115(a)(1)'' and inserting ''paragraphs (1) and (2) of section 115(a)''.

(4)(A) Section 10216 of such title is amended—

(i) by striking ''end strengths'' in subsections (b)(1) and (c)(1) and inserting ''strengths''; and

(ii) by striking ''end strength'' each place it appears in subsection (c)(2)(A) and inserting ''strength''.

(B) The heading for subsection (c) is amended by striking ''END''.

(5) Section 12310(c)(4) of such title is amended by striking ''end strength authorizations required by section 115(a)(1)(B) and 115(a)(2)'' and inserting ''strength authorizations required by paragraphs (2) and (3) of section 115(a)''.

(6) Section 16132(d) of such title is amended by striking ''end strength required to be authorized each year by section 115(a)(1)(B)'' in the second sentence and inserting ''strength required to be authorized each year by section 115(a)(2)''.

(7) Section 112 of title 32, United States Code, is amended—

(A) in subsection (e)—

(i) in the heading, by striking ''END-STRENGTH'' and inserting ''STRENGTH''; and

(ii) by striking ''end strength'' and inserting ''strength'';

(B) in subsection (f)—

(i) in the heading, by striking ''END STRENGTH'' and inserting ''STRENGTH''; and

(ii) in paragraph (2), by striking ''end strength'' and inserting ''strength''; and

(C) in subsection (g)(1), by striking ''end strengths'' and inserting ''strengths''.

SEC. 422. EXCLUSION OF RECALLED RETIRED MEMBERS FROM CERTAIN STRENGTH LIMITATIONS DURING PERIOD OF WAR OR NATIONAL EMERGENCY.

(a) ANNUAL AUTHORIZED END STRENGTHS.—Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(12) Members of the armed forces ordered to active duty under section 688 of this title during any period of war declared by Congress or any period of national emergency declared by Congress or the President in which members of a reserve component are serving on active duty pursuant to an order to active duty under section 12301 or 12302 of this title, for so long as the members ordered to active duty under such section 688 continue to serve on active duty during the period of the war or national emergency and the one-year period beginning on the date of the termination of the war or national emergency, as the case may be.''

(b) STRENGTH LIMITATIONS FOR OFFICERS IN PAY GRADES O–4 THROUGH O–6.—Section 523(b) of such title is amended by adding at the end the following new paragraph:

''(8) Officers ordered to active duty under section 688 of this title during any period of war declared by Congress or any period of national emergency declared by Congress or the President in which members of a reserve component are serving on active duty pursuant to an order to active duty under section 12301 or 12302 of this title, for so long as the members ordered to active duty under such section 688 continue to serve on active duty during the period of the war or national emergency and the one-year period beginning on the date of the termination of the war or national emergency, as the case may be.''.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2004 a total of $99,194,206,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2004.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. RETENTION OF HEALTH PROFESSIONS OFFICERS TO FULFILL ACTIVE DUTY SERVICE OBLIGATIONS FOLLOWING FAILURE OF SELECTION FOR PROMOTION.

(a) IN GENERAL.—Subsection (a) of section 632 of title 10, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

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

''(4) if the officer is a health professions officer described in subsection (c) who, as of the date of discharge determined for the officer under paragraph (1), has not completed an active duty service obligation incurred by the officer under section 2005, 2114, 2123, or 2603 of this title, be retained on active duty until the officer completes the active duty service for which obligated, unless the Secretary concerned determines that the completion of the service obligation by the officer is not in the best interest of the Army, Navy, Air Force, or Marine Corps, as the case may be.''.

(b) COVERED HEALTH PROFESSIONS OFFICERS.—Section 632 of such title is amended by adding at the end the following new subsection:

''(c) HEALTH PROFESSIONS OFFICERS.—Subsection (a)(4) applies to the following officers:

''(1) A medical officer.

''(2) A dental officer.

''(3) Any other officer appointed in a medical skill (as defined in regulations prescribed by the Secretary of Defense).''.

(c) TECHNICAL AMENDMENT.—Subsection (a)(3) of such section is amended by striking ''clause (1)'' and inserting ''paragraph (1)''.

SEC. 502. ELIGIBILITY FOR APPOINTMENT AS CHIEF OF ARMY VETERINARY CORPS.

(a) APPOINTMENT FROM AMONG MEMBERS OF THE CORPS.—Section 3084 of title 10, United States Code, is amended by inserting after ''The Chief of the Veterinary Corps of the Army'' the following: ''shall be appointed from among officers of the Veterinary Corps. The Chief of the Veterinary Corps''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to appointments of the Chief of the Veterinary Corps of the Army that are made on or after the date of the enactment of this Act.

Subtitle B—Reserve Component Personnel Policy

SEC. 511. EXPANDED AUTHORITY FOR USE OF READY RESERVE IN RESPONSE TO TERRORISM.

Section 12304(b)(2) of title 10, United States Code, is amended by striking ''catastrophic''.

SEC. 512. STREAMLINED PROCESS FOR CONTINUING OFFICERS ON THE RESERVE ACTIVE-STATUS LIST.

(a) CONTINUATION.—Section 14701 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''by a selection board convened under section 14101(b) of this title'' and inserting ''under regulations prescribed under subsection (b)'';

(B) in paragraph (6), by striking ''as a result of the convening of a selection board under section 14101(b) of this title'';

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 14101 of such title is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 513. NATIONAL GUARD OFFICERS ON ACTIVE DUTY IN COMMAND OF NATIONAL GUARD UNITS.

(a) CONTINUATION IN STATE STATUS.—Subsection (a) of section 325 of title 32, United States Code, is amended—

(1) by striking ''(a) Each'' and inserting ''(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each''; and

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

''(2) An officer of the Army National Guard of the United States or the Air National Guard of the United States is not relieved from duty in the National Guard of his State or Territory, or of Puerto Rico or the District of Columbia, under paragraph (1) while serving on active duty in command of a National Guard unit if—

''(A) the President authorizes such service in both duty statuses; and

''(B) the Governor of his State or Territory or Puerto Rico, or the Commanding General of the District of Columbia National Guard, as the case may be, consents to such service in both duty statuses.''.

(b) FORMAT AMENDMENT.—Subsection (b) of such section is amended by inserting ''RETURN TO STATE STATUS.—'' after ''(b)''.

Subtitle C—Revision of Retirement Authorities

SEC. 521. PERMANENT AUTHORITY TO REDUCE THREE-YEAR TIME-IN-GRADE REQUIREMENT FOR RETIREMENT IN GRADE FOR OFFICERS IN GRADES ABOVE MAJOR AND LIEUTENANT COMMANDER.

Section 1370(a)(2)(A) of title 10, United States Code, is amended by striking ''during the period beginning on October 1, 2002, and ending on December 31, 2003'' and inserting ''after September 30, 2002''.

Subtitle D—Education and Training

SEC. 531. INCREASED FLEXIBILITY FOR MANAGEMENT OF SENIOR LEVEL EDUCATION AND POST-EDUCATION ASSIGNMENTS.

(a) REPEAL OF POST-EDUCATION JOINT DUTY ASSIGNMENTS REQUIREMENT.—Subsection (d) of section 663 of title 10, United States Code, is repealed.

(b) REPEAL OF MINIMUM DURATION REQUIREMENT FOR PRINCIPAL COURSE OF INSTRUCTION AT THE JOINT FORCES STAFF COLLEGE.—Subsection (e) of such section is repealed.

SEC. 532. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR CADETS AND MIDSHIPMEN RECEIVING ROTC SCHOLARSHIPS.

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''The Secretary concerned may provide financial assistance described in paragraph (3) for a student appointed as a cadet or midshipman by the Secretary under subsection (a).'';

(2) in paragraph (2), by striking ''as described in paragraph (1)'' and inserting ''as described in paragraph (3)''; and

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

''(3)(A) The financial assistance provided for a student under this subsection shall be the payment of one of the two sets of expenses selected by the Secretary, as follows:

''(i) Tuition, fees, books, and laboratory expenses.

''(ii) Expenses for room and board and any other necessary expenses imposed by the student's educational institution for the academic program in which the student is enrolled, which may include any of the expenses described in clause (i).

''(B) The total amount of the financial assistance provided for a student for an academic year under clause (ii) of subparagraph (A) may not exceed the total amount of the financial assistance that would otherwise have been provided for the student for that academic year under clause (i) of such subparagraph.

''(4) The Secretary of the military department concerned may provide for the payment of all expenses in the Secretary's department of administering the financial assistance program under this section, including the payment of expenses described in paragraph (3).''.

(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended to read as follows:

''(c)(1) The Secretary of the Army may provide financial assistance described in paragraph (2) for a student appointed as a cadet by the Secretary under subsection (a).

''(2)(A) The financial assistance provided for a student under this subsection shall be the payment of one of the two sets of expenses selected by the Secretary concerned, as follows:

''(i) Tuition, fees, books, and laboratory expenses.

''(ii) Expenses for room and board and any other necessary expenses imposed by the student's educational institution for the academic program in which the student is enrolled, which may include any of the expenses described in clause (i).

''(B) The total amount of the financial assistance provided for a student for an academic year under clause (ii) of subparagraph (A) may not exceed the total amount of the financial assistance that would otherwise have been provided for the student for that academic year under clause (i) of such subparagraph.

''(3) The Secretary may provide for the payment of all expenses in the Department of the Army for administering the financial assistance program under this section, including the payment of expenses described in paragraph (2).''.

SEC. 533. ELIGIBILITY AND COST REIMBURSEMENT REQUIREMENTS FOR PERSONNEL TO RECEIVE INSTRUCTION AT THE NAVAL POSTGRADUATE SCHOOL.

(a) EXPANDED ELIGIBILITY FOR ENLISTED PERSONNEL.—Subsection (a)(2) of section 7045 of title 10, United States Code, is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''this paragraph'' in the second sentence and inserting ''this subparagraph''; and

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

''(B) The Secretary may permit an enlisted member of the armed forces to receive instruction in an executive level seminar at the Naval Postgraduate School.

''(C) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction in connection with pursuit of a program of education in information assurance as a participant in the Information Security Scholarship program under chapter 112 of this title. To be eligible for instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.''.

(b) PAYMENT OF COSTS FOR PARTICIPANTS IN INFORMATION SECURITY SCHOLARSHIP PROGRAM.—Subsection (b) of such section is amended—

(1) by inserting ''(1)'' after ''(b)''; and

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

''(2) The requirements for payment of costs and fees under paragraph (1) shall be subject to such exceptions as the Secretary of Defense may prescribe for members of the armed forces who receive instruction at the Postgraduate School in connection with pursuit of a degree or certification as participants in the Information Security Scholarship program under chapter 112 of this title.''.

(3) The Department of the Army, the Department of the Navy, and the Department of Transportation shall bear the cost of the instruction at the Air Force Institute of Technology that is received by officers detailed for that instruction by the Secretaries of the Army, Navy, and Transportation, respectively. In the case of an enlisted member permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).

(c) CONFORMING AMENDMENTS.—Paragraph (1) of such subsection (b), as redesignated by subsection (b)(1) of this section, is amended—

(A) in the first sentence, by striking ''officers'' and inserting ''members of the armed forces who are''; and

(B) in the second sentence—

(i) by inserting ''under subsection (a)(2)(A)'' after ''at the Postgraduate School''; and

(ii) by striking ''(taking into consideration the admission of enlisted members on a space-available basis)''.

SEC. 534. ACTIONS TO ADDRESS SEXUAL MISCONDUCT AT THE SERVICE ACADEMIES.

(a) POLICY ON SEXUAL MISCONDUCT.—(1) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall, under guidance prescribed by the Secretary of Defense, direct the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, and the Superintendent of the United States Air Force Academy, respectively, to prescribe a policy on sexual misconduct applicable to the personnel of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, respectively.

(2) The policy on sexual misconduct prescribed for an academy shall specify the following:

(A) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve academy personnel.

(B) Procedures that a cadet or midshipman, as the case may be, should follow in the case of an occurrence of sexual misconduct, including—

(i) a specification of the person or persons to whom the alleged offense should be reported;

(ii) a specification of any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(C) Procedures for disciplinary action in cases of alleged criminal sexual assault involving academy personnel.

(D) Any other sanctions authorized to be imposed in a substantiated case of misconduct involving academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(E) Required training on the policy for all academy personnel, including the specific training required for personnel who process allegations of sexual misconduct involving academy personnel.

(b) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretaries of the military departments, shall direct each Superintendent to conduct at the academy under the jurisdiction of the Superintendent an assessment in each academy program year to determine the effectiveness of the academy's policies, training,

and procedures on sexual misconduct to prevent criminal sexual misconduct involving academy personnel.

(2) For the assessment for each of the 2004, 2005, 2006, 2007, and 2008 academy program years, the Superintendent of the academy shall conduct a survey of all academy personnel—

(A) to measure—

(i) the incidence, in such program year, of sexual misconduct events, on or off the academy reservation, that have been reported to officials of the academy; and

(ii) the incidence, in such program year, of sexual misconduct events, on or off the academy reservation, that have not been reported to officials of the academy; and

(B) to assess the perceptions of academy personnel on—

(i) the policies, training, and procedures on sexual misconduct involving academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual misconduct involving academy personnel in such program year; and

(iv) any other issues relating to sexual misconduct involving academy personnel.

(c) ANNUAL REPORT.—(1) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall direct the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, and the Superintendent of the United States Air Force Academy, respectively, to submit to the Secretary a report on sexual misconduct involving academy personnel for each of the 2004, 2005, 2006, 2007, and 2008 academy program years.

(2) The annual report for an academy under paragraph (1) shall contain, for the academy program year covered by the report, the following matters:

(A) The number of sexual assaults, rapes, and other sexual offenses involving academy personnel that have been reported to academy officials during the program year, and the number of the reported cases that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the military department concerned and the leadership of the academy in response to sexual misconduct involving academy personnel during the program year.

(C) In the report for the 2004 academy program year, a discussion of the survey conducted under subsection (b), together with an analysis of the results of the survey and a discussion of any initiatives undertaken on the basis of such results and analysis.

(D) In the report for each of the subsequent academy program years, the results of the annual survey conducted in such program year under subsection (b).

(E) A plan for the actions that are to be taken in the following academy program year regarding prevention of and response to sexual misconduct involving academy personnel.

(3) The Secretary of a military department shall transmit the annual report on an academy under this subsection, together with the Secretary's comments on the report, to the Secretary of Defense and the Board of Visitors of the academy.

(4) The Secretary of Defense shall transmit the annual report on each academy under this subsection, together with the Secretary's comments on the report to, the Committees on Armed Services of the Senate and the House of Representatives.

(5) The report for the 2004 academy program year for an academy shall be submitted to the Secretary of the military department concerned not later than one year after the date of the enactment of this Act.

(6) In this subsection, the term ''academy program year'' with respect to a year, means the academy program year that ends in that year.

SEC. 535. FUNDING OF EDUCATION ASSISTANCE ENLISTMENT INCENTIVES TO FACILITATE NATIONAL SERVICE THROUGH DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.

(a) IN GENERAL.—Subsection (j) of section 510 of title 10, United States Code, is amended to read as follows:

''(j) FUNDING.—(1) Amounts for the payment of incentives under paragraphs (1) and (2) of subsection (e) shall be derived from amounts available to the Secretary of the military department concerned for the payment of pay, allowances and other expenses of the members of the armed force concerned.

''(2) Amounts for the payment of incentives under paragraphs (3) and (4) of subsection (e) shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.''.

(b) CONFORMING AMENDMENTS.—Section 2006(b) of such title is amended—

(1) in paragraph (1), by inserting ''paragraphs (3) and (4) of section 510(e) and'' after ''Department of Defense benefits under''; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

''(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.''.

Subtitle E—Military Justice

SEC. 551. EXTENDED LIMITATION PERIOD FOR PROSECUTION OF CHILD ABUSE CASES IN COURTS-MARTIAL.

Section 843(b) of title 10, United States Code (article 43 of the Uniform Code of Military Justice) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received before the child reaches the age of 25 years by an officer exercising summary court-martial jurisdiction with respect to that person.

''(B) In subparagraph (A), the term 'child abuse offense' means an act that involves sexual or physical abuse of a person under 16 years of age and constitutes any of the following offenses:

''(i) Rape or carnal knowledge in violation of section 920 of this title (article 120).

''(ii) Maiming in violation of section 924 of this title (article 124).

''(iii) Sodomy in violation of section 925 of this title (article 126).

''(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

''(v) Indecent assault, assault with intent to commit murder, voluntary manslaughter, rape, or sodomy, or indecent acts or liberties with a child in violation of section 934 of this title (article 134).''.

SEC. 552. CLARIFICATION OF BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(2), by striking ''is in excess of'' and inserting ''is equal to or exceeds''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the lesser of—

''(i) the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State; or

''(ii) the blood alcohol content limit specified in paragraph (3).''; and

(B) by striking ''maximum'' in paragraphs (1)(B) and (3).

Subtitle F—Other Matters

SEC. 561. HIGH-TEMPO PERSONNEL MANAGEMENT AND ALLOWANCE.

(a) DEPLOYMENT MANAGEMENT.—Section 991(a) of title 10, United States Code, is amended to read as follows:

''(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed out of the preceding 365 days would exceed the maximum number of deployment days prescribed for the purposes of this section by the Under Secretary of Defense for Personnel and Readiness. The maximum number of deployment days so prescribed may not exceed 220 days.

''(2) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if such deployment, or continued deployment, is approved by—

''(A) a member of the Senior Executive Service designated by the Secretary of Defense to do so; or

''(B) the first officer in the member's chain of command who is—

''(i) a general officer or, in the case of the Navy, an officer in a grade above captain; or

''(ii) a colonel or, in the case of the Navy, a captain who is recommended for promotion to brigadier general or rear admiral, respectively, in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President.''.

(b) HIGH-TEMPO ALLOWANCE.—(1) Subsection (a) of section 436 of title 37, United States Code, is amended to read as follows:

''(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-tempo allowance to a member of the armed forces under the Secretary's jurisdiction for the following months:

''(1) Each month during which the member is deployed and has, as of any day during that month, been deployed—

''(A) for at least the number of days out of the preceding 730 days that is prescribed for the purpose of this subparagraph by the Under Secretary of Defense for Personnel and Readiness, except that the number of days so prescribed may not be more than 401 days; or

''(B) at least the number of consecutive days that is prescribed for the purpose of this subparagraph by the Under Secretary of Defense for Personnel and Readiness, except that the number of days so prescribed may not be more than 191 days.

''(2) Each month that includes a day on which the member serves on active duty pursuant to a call or order to active duty for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.''.

(2) Subsection (c) of such section is amended to read as follows:

''(c) MONTHLY AMOUNT.—The Secretary of Defense shall prescribe the amount of the monthly allowance payable to a member under this section. The amount may not exceed $1,000.''.

(3) Such section is further amended by adding at the end the following new subsection:

''(g) SERVICE IN EXEMPTED DUTY POSITIONS.—(1) Except as provided in paragraph (2), a member is not eligible for the high-tempo allowance

under this section while serving in a duty position designated as exempt for the purpose of this subsection by the Secretary concerned with the approval of the Under Secretary of Defense for Personnel and Readiness.

''(2) A designation of a duty position as exempt under paragraph (1) does not terminate the eligibility for the high-tempo allowance under this section of a member serving in the duty position at the time the designation is made.

''(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.''.

(4) Such section is further amended—

(A) in subsections (d) and (e), by striking ''high-deployment per diem'' and inserting ''high-tempo allowance''; and

(B) in subsection (f)—

(i) by striking ''per diem'' and inserting ''allowance''; and

(ii) by striking ''day on which'' and inserting ''month during which''.

(5)(A) The heading of such section is amended to read as follows:

''§ 436. High-tempo allowance: lengthy or numerous deployments; frequent mobilizations''.

(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

''436. High-tempo allowance: lengthy or numerous deployments; frequent mobilizations.''.

(c) MODIFIED REPORTING REQUIREMENT.—Section 487(b)(5) of title 10, United States Code, is amended to read as follows:

''(5) For each of the armed forces, the description shall indicate the number of members who received the high-tempo allowance under section 436 of title 37, the total number of months for which the allowance was paid to members, and the total amount spent on the allowance.''.

SEC. 562. ALTERNATE INITIAL MILITARY SERVICE OBLIGATION FOR PERSONS ACCESSED UNDER DIRECT ENTRY PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall carry out a direct entry program for persons with critical military skills who enter the Armed Forces for an initial period of service in the Armed Forces.

(b) ELIGIBLE PERSONS.—The Secretary shall prescribe the eligibility requirements for entering the Armed Forces under the direct entry program carried out under this section. The Secretary may limit eligibility as the Secretary determines appropriate to meet the needs of the Armed Forces.

(c) CRITICAL MILITARY SKILLS.—The Secretary shall designate the military skills that are critical military skills for the purposes of this section.

(d) INITIAL SERVICE OBLIGATION.—(1) The Secretary shall prescribe the period of initial service in the Armed Forces that is to be required of a person entering the Armed Forces under the direct entry program. The period may not be less than three years.

(2) Section 651(a) of title 10, United States Code, shall not apply to a person who enters the Armed Forces under the direct entry program.

(e) REPORTS.—(1) Not later than 30 days after the direct entry program commences under this section, the Secretary shall submit a report on the establishment of the program to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) A list of the military skills designated as critical military skills for the purposes of this section.

(B) The eligibility requirements for entering the Armed Forces under the program.

(C) A detailed discussion of the other features of the program.

(2) Whenever the list of critical military skills is revised, the Secretary shall promptly submit the revised list to the committees referred to in paragraph (1).

(3) The Secretary shall submit a final report on the program to Congress not later than 180 days after the date on which the direct entry program terminates under subsection (f). The report shall include the Secretary's assessment of the effectiveness of the direct entry program for recruiting personnel with critical military skills for the Armed Forces.

(f) PERIOD OF PROGRAM.—The direct entry program under this section shall commence on October 1, 2003, and shall terminate on September 30, 2005.

SEC. 563. POLICY ON CONCURRENT DEPLOYMENT TO COMBAT ZONES OF BOTH MILITARY SPOUSES OF MILITARY FAMILIES WITH MINOR CHILDREN.

(a) PUBLICATION OF POLICY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) prescribe the policy of the Department of Defense on concurrent deployment to a combat zone of both spouses of a dual-military family with one or more minor children; and

(2) transmit the policy to the Committees on Armed Services of the Senate and the House of Representatives.

(b) DUAL-MILITARY FAMILY DEFINED.—In this section, the term ''dual-military family'' means a family in which both spouses are members of the Armed Forces.

SEC. 564. ENHANCEMENT OF VOTING RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.

(a) STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.—.(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection (c):

''(c) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

''(A) solely on the grounds that the ballot lacked—

''(i) a notarized witness signature;

''(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

''(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

''(iv) an overseas postmark; or

''(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

''(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(2) The amendments made by paragraph (1) shall apply with respect to ballots described in section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by paragraph (1), that are submitted with respect to elections that occur after the date of the enactment of this Act.

(b) MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.—(1) Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(6) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

''(7) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

''(A) has registered to vote under this section; and

''(B) is eligible to vote in that election under State law.''.

(2) The amendments made by paragraph (1) shall apply with respect to elections for Federal office that occur after the date of the enactment of this Act.

(c) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (11), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

''(7) 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

''(A) presents to the election official Department of Defense form 214 evidencing the individual's former status as such a voter, or any other official proof of such status;

''(B) is no longer such a voter; and

''(C) is otherwise qualified to vote in that election;''; and

(3) by inserting after paragraph (9), as so redesignated, the following new paragraph:

''(10) 'uniformed services voter' means—

''(A) a member of a uniformed service in active service;

''(B) a member of the merchant marine; and

''(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote; and''.

SEC. 565. CERTAIN TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO HAVE COMMITTED DEPENDENT ABUSE.

Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) If the Secretary concerned makes a determination described in subparagraph (B) with respect to the spouse or a dependent of a member described in that subparagraph and a request described in subparagraph (C) has been by the spouse or on behalf of such dependent, the Secretary may provide any benefit authorized for a member under paragraph (1) or (3) to the spouse or such dependent in lieu of providing such benefit to the member.

''(B) A determination described in this subparagraph is a determination by the commanding officer of a member that—

''(i) the member has committed a dependent-abuse offense against the spouse or a dependent of the member;

''(ii) a safety plan and counseling have been provided to the spouse or such dependent;

''(iii) the safety of the spouse or such dependent is at risk; and

''(iv) the relocation of the spouse or such dependent is advisable.

''(C) A request described in this subparagraph is a request by the spouse of a member, or by the parent of a dependent child in the case of a dependent child of a member, for relocation.

''(D) Transportation may be provided under this paragraph for household effects or a motor vehicle only if a written agreement of the member, or an order of a court of competent jurisdiction, gives possession of the effects or vehicle to

the spouse or dependent of the member concerned.

''(E) In this paragraph, the term 'dependent-abuse offense' means an offense described in section 1059(c) of title 10.''.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2004.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2004 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2004, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,751.10	8,004.90	8,173.20	8,220.60	8,430.30
O–7	6,440.70	6,739.80	6,878.40	6,988.50	7,187.40
O–6	4,773.60	5,244.30	5,588.40	5,588.40	5,609.70
O–5	3,979.50	4,482.90	4,793.40	4,851.60	5,044.80
O–4	3,433.50	3,974.70	4,239.90	4,299.00	4,545.30
O–3[3]	3,018.90	3,422.40	3,693.90	4,027.20	4,220.10
O–2[3]	2,608.20	2,970.60	3,421.50	3,537.00	3,609.90
O–1[3]	2,264.40	2,356.50	2,848.50	2,848.50	2,848.50
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	8,781.90	8,863.50	9,197.10	9,292.80	9,579.90
O–7	7,384.20	7,611.90	7,839.00	8,066.70	8,781.90
O–6	5,850.00	5,882.10	5,882.10	6,216.30	6,807.30
O–5	5,161.20	5,415.90	5,602.80	5,844.00	6,213.60
O–4	4,809.30	5,137.80	5,394.00	5,571.60	5,673.60
O–3[3]	4,431.60	4,568.70	4,794.30	4,911.30	4,911.30
O–2[3]	3,609.90	3,609.90	3,609.90	3,609.90	3,609.90
O–1[3]	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$12,524.70	$12,586.20	$12,847.80	$13,303.80
O–9	0.00	10,954.50	11,112.30	11,340.30	11,738.40
O–8	9,995.70	10,379.10	10,635.30	10,635.30	10,635.30
O–7	9,386.10	9,386.10	9,386.10	9,386.10	9,433.50
O–6	7,154.10	7,500.90	7,698.30	7,897.80	8,285.40
O–5	6,389.70	6,563.40	6,760.80	6,760.80	6,760.80
O–4	5,733.00	5,733.00	5,733.00	5,733.00	5,733.00
O–3[3]	4,911.30	4,911.30	4,911.30	4,911.30	4,911.30
O–2[3]	3,609.50	3,609.50	3,609.50	3,609.50	3,609.50
O–1[3]	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code) is $14,634.20, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$4,027.20	$4,220.10
O–2E	0.00	0.00	0.00	3,537.00	3,609.90
O–1E	0.00	0.00	0.00	2,848.50	3,042.30
	Over 8	Over 10	Over 12	Over 14	Over 16
O–3E	$4,431.60	$4,568.70	$4,794.30	$4,984.20	$5,092.80
O–2E	3,724.80	3,918.60	4,068.60	4,180.20	4,180.20
O–1E	3,154.50	3,269.40	3,382.20	3,537.00	3,537.00
	Over 18	Over 20	Over 22	Over 24	Over 26
O–3E	$5,241.30	$5,241.30	$5,241.30	$5,241.30	$5,241.30
O–2E	4,180.20	4,180.20	4,180.20	4,180.20	4,180.20
O–1E	3,537.00	3,537.00	3,537.00	3,537.00	3,537.00

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,119.40	3,355.80	3,452.40	3,547.20	3,710.40
W–3	2,848.80	2,967.90	3,089.40	3,129.30	3,257.10
W–2	2,505.90	2,649.00	2,774.10	2,865.30	2,943.30
W–1	2,212.80	2,394.00	2,515.20	2,593.50	2,802.30
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,871.50	4,035.00	4,194.30	4,359.00	4,617.30

WARRANT OFFICERS[1]—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–3	3,403.20	3,595.80	3,786.30	3,988.80	4,140.60
W–2	3,157.80	3,321.60	3,443.40	3,562.20	3,643.80
W–1	2,928.30	3,039.90	3,164.70	3,247.20	3,321.90
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$5,360.70	$5,544.30	$5,728.80	$5,914.20
W–4	4,782.60	4,944.30	5,112.00	5,277.00	5,445.90
W–3	4,291.80	4,356.90	4,424.10	4,570.20	4,716.30
W–2	3,712.50	3,843.00	3,972.60	4,103.70	4,103.70
W–1	3,443.70	3,535.80	3,535.80	3,535.80	3,535.80

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9[2]	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	2,145.00	2,341.20	2,430.60	2,549.70	2,642.10
E–6	1,855.50	2,041.20	2,131.20	2,218.80	2,310.00
E–5	1,700.10	1,813.50	1,901.10	1,991.10	2,130.60
E–4	1,558.20	1,638.30	1,726.80	1,814.10	1,891.50
E–3	1,407.00	1,495.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3]	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9[2]	$0.00	$3,769.20	$3,854.70	$3,962.40	$4,089.30
E–8	3,085.50	3,222.00	3,306.30	3,407.70	3,517.50
E–7	2,801.40	2,891.10	2,980.20	3,139.80	3,219.60
E–6	2,516.10	2,596.20	2,685.30	2,763.30	2,790.90
E–5	2,250.90	2,339.70	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3]	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2]	$4,216.50	$4,421.10	$4,594.20	$4,776.60	$5,054.70
E–8	3,715.50	3,815.70	3,986.40	4,081.20	4,314.30
E–7	3,295.50	3,341.70	3,498.00	3,599.10	3,855.00
E–6	2,809.80	2,809.80	2,809.80	2,809.80	2,809.80
E–5	2,367.90	2,367.90	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3]	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, is $6,090.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,104.00.

SEC. 602. REVISED ANNUAL PAY ADJUSTMENT PROCESS.

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Subsection (a) of section 1009 of title 37, United States Code, is amended to read as follows:

''(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.''.

(b) EFFECTIVENESS OF ADJUSTMENT.—Subsection (b) of such section is amended by striking ''shall—'' and all that follows and inserting ''shall have the force and effect of law.''.

(c) PERCENTAGE OF ADJUSTMENT.—Subsection (c) of such section is amended to read as follow:

''(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) An adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of 1 percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

''(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of 1 percentage point higher than the percentage that would otherwise be applicable under such paragraph.''.

(d) REPEAL OF ALLOCATION AUTHORITY.—Such section is further amended—

(1) by striking subsections (d), (e), and (g); and

(2) redesignating subsection (f) as subsection (d).

(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—Such section, as amended by subsection (d), is further amended adding at the end the following new subsection:

''(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

''(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

''(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government's ability to recruit and retain well-qualified persons for the uniformed services.''.

(f) DEFINITIONS.—Such section, as amended by subsection (e), is further amended by adding at the end the following:

''(f) DEFINITIONS.—In this section:

''(1) The term 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

''(2) The term 'base quarter' for any year is the 3-month period ending on September 30 of such year.''.

SEC. 603. COMPUTATION OF BASIC PAY RATE FOR COMMISSIONED OFFICERS WITH PRIOR ENLISTED OR WARRANT OFFICER SERVICE.

Section 203(d)(2) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking ''enlisted member,'' and all that follows through the period and inserting ''enlisted member.''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.''.

SEC. 604. PILOT PROGRAM OF MONTHLY SUBSISTENCE ALLOWANCE FOR NON-SCHOLARSHIP SENIOR ROTC MEMBERS COMMITTING TO CONTINUE ROTC PARTICIPATION AS SOPHOMORES.

(a) AUTHORITY.—Section 209 of title 37, United States Code, is amended by adding at the end the following new subsection:

''(e) NON-SCHOLARSHIP SENIOR ROTC MEMBERS NOT IN ADVANCED TRAINING.—(1) A member of the Senior Reserve Officers' Training Corps described in subsection (b) is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a).

''(2) To be entitled to receive a subsistence allowance under this subsection, a member must—

''(A) be a citizen of the United States;

''(B) enlist in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary;

''(C) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program;

''(D) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that he will serve in the armed forces for the period prescribed by the Secretary;

''(E) successfully complete the first year of a four-year Senior Reserve Officers' Training Corps course;

''(F) not be eligible for advanced training under section 2104 of title 10;

''(G) not be appointed under section 2107 of title 10; and

''(H) execute a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

''(3) The first month for which a monthly subsistence allowance is payable to a member under this subsection shall be a month designated by the Secretary of the military department concerned that begins after the member satisfies the condition in subparagraph (E) of paragraph (2). Payment of the subsistence allowance shall continue for as long as the member continues to meet the conditions in such paragraph and the member's obligations under the enlistment, contract, and agreement entered into as described in such paragraph. In no event, however, may a member receive the monthly subsistence allowance for more than 20 months.

''(4) In this subsection, the term 'program' means the Senior Reserve Officers' Training Corps of an armed force.

''(5) No subsistence allowance may be paid under this subsection with respect to a contract that is entered into as described in paragraph (2)(C) after December 31, 2006.''.

(b) EFFECTIVE DATE.—Subsection (e) of section 209 of title 37, United States Code (as added by subsection (a)), shall take effect on January 1, 2004.

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR EACH MEMBER MARRIED TO ANOTHER MEMBER WITHOUT DEPENDENTS WHEN BOTH SPOUSES ARE ON SEA DUTY.

(a) ENTITLEMENT.—Section 403(f)(2)(C) of title 37, United States Code, is amended—

(1) in the first sentence, by striking ''are jointly entitled to one basic allowance for housing'' and inserting ''are each entitled to a basic allowance for housing''; and

(2) by striking ''The amount of the allowance'' and all that follows and inserting ''The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003.

SEC. 606. INCREASED RATE OF FAMILY SEPARATION ALLOWANCE.

(a) RATE.—Section 427(a)(1) of title 37, United States Code, is amended by striking ''$100'' and inserting ''$250''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 615. SPECIAL PAY FOR RESERVE OFFICERS HOLDING POSITIONS OF UNUSUAL RESPONSIBILITY AND OF CRITICAL NATURE.

(a) ELIGIBILITY.—Section 306 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting ''under section 201 of this title, or the compensation under section 206 of this title,'' after ''is entitled to the basic pay'';

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) In the case of an officer who is a member of a reserve component, special pay under subsection (a) shall be paid at the rate of 1/30 of the monthly rate authorized by that subsection for each day of the performance of duties described in that subsection.''.

(b) LIMITATION.—Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

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

''(2) Of the number of officers in the Selected Reserve of the Ready Reserve of an armed force who are not on active duty (other than for training), not more than 5 percent of the number of such officers in each of the pay grades O–3 and below, and not more than 10 percent of the number of such officers in pay grade O–4, O–5, or O–6, may be paid special pay under subsection (b).''.

SEC. 616. ASSIGNMENT INCENTIVE PAY FOR SERVICE IN KOREA.

(a) AUTHORITY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 307a the following new section:

''§ 307b. Special pay: Korea service incentive pay

''(a) AUTHORITY.—The Secretary concerned shall pay monthly incentive pay under this section to a member of a uniformed service for the period that the member performs service in Korea while entitled to basic pay.

''(b) RATE.—The monthly rate of incentive pay payable to a member under this section is $100.

''(c) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

''(d) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in

the assignment by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

''(e) TERMINATION OF AUTHORITY.—Special pay may not be paid under this section for months beginning after December 31, 2005.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 307a the following new item:

''307b. Special pay: Korea service incentive pay.''.

(b) EFFECTIVE DATE.—Section 307(b) of title 37, United States Code (as added by subsection (a)), shall take effect on October 1, 2003.

SEC. 617. INCREASED MAXIMUM AMOUNT OF REENLISTMENT BONUS FOR ACTIVE MEMBERS.

(a) MAXIMUM AMOUNT.—Section 308(a)(2)(B) of title 37, United States Code, is amended by striking ''$60,000'' and inserting ''$70,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, and shall apply with respect to reenlistments and extensions of enlistments that take effect on or after that date.

SEC. 618. PAYMENT OF SELECTED RESERVE REENLISTMENT BONUS TO MEMBERS OF SELECTED RESERVE WHO ARE MOBILIZED.

Section 308b of title 37, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) PAYMENT TO MOBILIZED MEMBERS.—In the case of a member entitled to a bonus under this section who is called or ordered to active duty, any amount of such bonus that is payable to the member during the period of active duty of the member shall be paid the member during that period of active duty without regard to the fact that the member is serving on active duty pursuant to such call or order to active duty.''.

SEC. 619. INCREASED RATE OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY.

(a) RATE.—Section 310(a) of title 37, United States Code, is amended by striking ''$150'' and inserting ''$225''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

SEC. 620. AVAILABILITY OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY FOR RESERVE COMPONENT MEMBERS ON INACTIVE DUTY.

(a) EXPANSION AND CLARIFICATION OF CURRENT LAW.—Section 310 of title 37, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following new subsections:

''(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $150 for any month in which—

''(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and

''(2) the member—

''(A) was subject to hostile fire or explosion of hostile mines;

''(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

''(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

''(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

''(b) CONTINUATION DURING HOSPITALIZATION.—A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound may be paid special pay under this section for not more than three additional months during which the member is so hospitalized.''.

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (c), as redesignated by subsection (a)(1), by inserting ''LIMITATIONS AND ADMINISTRATION.—'' before ''(1)''; and

(2) in subsection (d), as redesignated by subsection (a)(1), by inserting ''DETERMINATIONS OF FACT.—'' before ''Any''.

(c) EFFECTIVE DATE.—Subsections (a) and (b) of section 310 of title 37, United States Code, as added by subsection (a)(2), shall take effect as of September 11, 2001.

SEC. 621. EXPANSION OF OVERSEAS TOUR EXTENSION INCENTIVE PROGRAM TO OFFICERS.

(a) SPECIAL PAY OR BONUS FOR EXTENDING OVERSEAS TOUR OF DUTY.—(1) Subsections (a) and (b) of section 314 of title 37, United States Code, are amended by striking ''an enlisted member'' and inserting ''a member''.

(2)(A) The heading of such section is amended to read as follows:

''§ 314. Special pay or bonus: qualified members extending duty at designated locations overseas''.

(B) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

''314. Special pay or bonus: qualified members extending duty at designated locations overseas.''.

(b) REST AND RECUPERATIVE ABSENCE IN LIEU OF PAY OR BONUS.—(1) Subsection (a) of section 705 of title 10, United States Code, is amended by striking ''an enlisted member'' and inserting ''a member''.

(2)(A) The heading of such section is amended to read as follows:

''§ 705. Rest and recuperation absence: qualified members extending duty at designated locations overseas''.

(B) The item relating to such section in the table of sections at the beginning of chapter 40 of such title is amended to read as follows:

''705. Rest and recuperation absence: qualified members extending duty at designated locations overseas.''.

SEC. 622. ELIGIBILITY OF WARRANT OFFICERS FOR ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.

(a) ELIGIBILITY.—Section 324 of title 37, United States Code, is amended in subsections (a) and (f)(1) by inserting ''or an appointment'' after ''commission''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

SEC. 623. INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage

''(a) INCENTIVE BONUS AUTHORIZED.—The Secretary concerned may pay a bonus under this section to an eligible member of the armed forces who executes a written agreement to convert to, and serve for a period of not less than four years in, a military occupational specialty for which there is a shortage of trained and qualified personnel.

''(b) ELIGIBLE MEMBERS.—A member is eligible for a bonus under this section if—

''(1) the member is entitled to basic pay; and

''(2) at the time the agreement under subsection (a) is executed, the member is serving in—

''(A) pay grade E–6 with not more than 10 years of service computed under section 205 of this title; or

''(B) pay grade E–5 or below, regardless of years of service.

''(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $4,000.

''(2) A bonus payable under this section shall be disbursed in one lump sum when the member's conversion to the military occupational specialty is approved by the chief personnel officer of the member's armed force.

''(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

''(e) REPAYMENT OF BONUS.—(1) A member who receives a bonus for conversion to a military occupational specialty under this section and who, voluntarily or because of misconduct, fails to serve in such military occupational specialty for the period specified in the agreement shall refund to the United States an amount that bears the same ratio to the bonus amount paid to the member as the unserved part of such period bears to the total period agreed to be served.

''(2) An obligation to reimburse the United States imposed under paragraph (1) is, for all purposes, a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1).

''(4) Under regulations prescribed pursuant to subsection (f), the Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(f) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

''(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.''.

Subtitle C—Travel and Transportation Allowances

SEC. 631. SHIPMENT OF PRIVATELY OWNED MOTOR VEHICLE WITHIN CONTINENTAL UNITED STATES.

(a) AUTHORITY TO PROCURE CONTRACT FOR TRANSPORTATION OF MOTOR VEHICLE.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

''(h) In the case of a member's change of permanent station described in subparagraph (A) or (B) of subsection (i)(1), the Secretary concerned may authorize the member to arrange for the shipment of the motor vehicle in lieu of transportation at the expense of the United States under this section. The Secretary concerned may pay the member a monetary allowance in lieu of transportation, as established under section 404(d)(1) of title 37, and the member shall be responsible for any transportation costs in excess of such allowance.''.

(b) ALLOWANCE FOR SELF-PROCUREMENT OF TRANSPORTATION OF MOTOR VEHICLE.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following new sentence: ''In the case of the transportation of a motor vehicle arranged by the member under section 2634(h) of title 10, the Secretary concerned may pay the member, upon presentation of proof of shipment, a monetary allowance in lieu of transportation, as established under section 404(d)(1) of this title.''.

SEC. 632. PAYMENT OR REIMBURSEMENT OF STUDENT BAGGAGE STORAGE COSTS FOR DEPENDENT CHILDREN OF MEMBERS STATIONED OVERSEAS.

Section 430(b)(2) of title 37, United States Code, is amended in the first sentence by inserting before the period at the end the following: ''or during a different period in the same fiscal year selected by the member''.

SEC. 633. CONTRACTS FOR FULL REPLACEMENT VALUE FOR LOSS OR DAMAGE TO PERSONAL PROPERTY TRANSPORTED AT GOVERNMENT EXPENSE.

(a) AUTHORITY.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2636 the following new section:

''§ 2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers

''(a) PROCUREMENT OF COVERAGE.—The Secretary of Defense may include in a contract for the transportation of baggage and household effects for members of the armed forces at Government expense a clause that requires the carrier under the contract to pay the full replacement value for loss or damage to the baggage or household effects transported under the contract.

''(b) DEDUCTION UPON FAILURE OF CARRIER TO SETTLE.—In the case of a loss or damage of baggage or household effects transported under a contract with a carrier that includes a clause described in subsection (a), the amount equal to the full replacement value for the baggage or household effects may be deducted from the amount owed by the United States to the carrier under the contract upon a failure of the carrier to settle a claim for such loss or total damage within a reasonable time. The amount so deducted shall be remitted to the claimant, notwithstanding section 2636 of this title.

''(c) INAPPLICABILITY OF RELATED LIMITS.—The limitations on amounts of claims that may be settled under section 3721(b) of title 31 do not apply to a carrier's contractual obligation to pay full replacement value under this section.

''(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for administering this section. The regulations shall include policies and procedures for validating and evaluating claims, validating proper claimants, and determining reasonable time for settlement.

''(e) TRANSPORTATION DEFINED.—In this section, the terms 'transportation' and 'transport', with respect to baggage or household effects, includes packing, crating, drayage, temporary storage, and unpacking of the baggage or household effects.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2636 the following new item:

''2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers.''.

SEC 634. TRANSPORTATION OF DEPENDENTS TO PRESENCE OF MEMBERS OF THE ARMED FORCES WHO ARE RETIRED FOR ILLNESS OR INJURY INCURRED IN ACTIVE DUTY.

Section 411h(a) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) Under the regulations prescribed under paragraph (1), transportation described in subsection (c) may be provided for not more than two family members of a member otherwise described in paragraph (3) who is retired for an illness or injury described in that paragraph if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine that the presence of the family member would be in the best interests of the family member.''; and

(4) in paragraph (3), as so redesignated, by striking ''paragraph (1)'' and inserting ''paragraph (1) or (2)''.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. SPECIAL RULE FOR COMPUTATION OF RETIRED PAY BASE FOR COMMANDERS OF COMBATANT COMMANDS.

(a) TREATMENT EQUIVALENT TO CHIEFS OF SERVICE.—Subsection (i) of section 1406 of title 10, United States Code, is amended by inserting ''as a commander of a unified or specified combatant command (as defined in section 161(c) of this title),'' after ''Chief of Service,''.

(b) CONFORMING AMENDMENT.—The heading for such subsection is amended by inserting ''COMMANDERS OF COMBATANT COMMANDS,'' after ''CHIEFS OF SERVICE,''.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to officers who first become entitled to retired pay under title 10, United States Code, on or after such date.

SEC. 642. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVING SPOUSES OF RESERVES NOT ELIGIBLE FOR RETIREMENT WHO DIE FROM A CAUSE INCURRED OR AGGRAVATED WHILE ON INACTIVE-DUTY TRAINING.

(a) SURVIVING SPOUSE ANNUITY.—Paragraph (1) of section 1448(f) of title 10, United States Code, is amended to read as follows:

''(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

''(A) a person who is eligible to provide a reserve-component annuity and who dies—

''(i) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

''(ii) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan; or

''(B) a member of a reserve component not described in subparagraph (A) who dies from an injury or illness incurred or aggravated in the line of duty during inactive-duty training.''.

(b) CONFORMING AMENDMENT.—The heading for subsection (f) of section 1448 of such title is amended by inserting ''OR BEFORE'' after ''DYING WHEN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 10, 2001, and shall apply with respect to performance of inactive-duty training (as defined in section 101(d) of title 10, United States Code) on or after that date.

SEC. 643. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking ''$6,000'' and inserting ''$12,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

(c) DEATH BENEFITS STUDY.—(1) It is the sense of Congress that—

(A) the sacrifices made by the members of the United States Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in cases of sacrifice through loss of life;

(B) the tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant disparity between the financial benefits for survivors of deceased members of the Armed Forces and the financial benefits for survivors of civilian victims of terrorism;

(C) the death benefits system composed of the death gratuity paid by the Department of Defense to survivors of members of the Armed Forces, the subsequently established Servicemembers' Group Life Insurance (SGLI) program, and other benefits for survivors of deceased members has evolved over time, but there are increasing indications that the evolution of such benefits has failed to keep pace with the expansion of indemnity and compensation available to segments of United States society outside the Armed Forces, a failure that is especially apparent in a comparison of the benefits for survivors of deceased members with the compensation provided to families of civilian victims of terrorism; and

(D) while Servicemembers' Group Life Insurance (SGLI) provides an assured source of life insurance for members of the Armed Forces that benefits the survivors of such members upon death, the SGLI program requires the members to pay for that life insurance coverage and does not provide an assured minimum benefit.

(2) The Secretary of Defense shall carry out a study of the totality of all current and projected death benefits for survivors of deceased members of the Armed Forces to determine the adequacy of such benefits. In carrying out the study, the Secretary shall—

(A) compare the Federal Government death benefits for survivors of deceased members of the Armed Forces with commercial and other private sector death benefits plans for segments of United States society outside the Armed Forces, and also with the benefits available under Public Law 107–37 (115 Stat. 219) (commonly known as the ''Public Safety Officer Benefits Bill'');

(B) assess the personnel policy effects that would result from a revision of the death gratuity benefit to provide a stratified schedule of entitlement amounts that places a premium on deaths resulting from participation in combat or from acts of terrorism;

(C) assess the adequacy of the current system of Survivor Benefit Plan annuities and Dependency and Indemnity Compensation and the anticipated effects of an elimination of the offset of Survivor Benefit Plan annuities by Dependency and Indemnity Compensation;

(D) examine the commercial insurability of members of the Armed Forces in high risk military occupational specialties; and

(E) examine the extent to which private trusts and foundations engage in fundraising or otherwise provide financial benefits for survivors of deceased members of the Armed Forces.

(3) Not later than March 1, 2004, the Secretary shall submit a report on the results of the study under paragraph (2) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) The assessments, analyses, and conclusions resulting from the study.

(B) Proposed legislation to address the deficiencies in the system of Federal Government death benefits for survivors of deceased members of the Armed Forces that are identified in the course of the study.

(C) An estimate of the costs of the system of death benefits provided for in the proposed legislation.

(4) The Comptroller General shall conduct a study to identify the death benefits that are

payable under Federal, State, and local laws for employees of the Federal Government, State governments, and local governments. Not later than November 1, 2003, the Comptroller General shall submit a report containing the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 644. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

Subtitle E—Other Matters

SEC. 651. RETENTION OF ACCUMULATED LEAVE.

(a) HIGHER MAXIMUM LIMITATION ASSOCIATED WITH CERTAIN SERVICE.—Section 701(f) of title 10, United States Code, is amended to read as follows:

''(f)(1) The Secretary of Defense may authorize a member eligible under paragraph (2) to retain 120 days' leave accumulated by the end of the fiscal year described in such paragraph.

''(2) Paragraph (1) applies to a member who—

''(A) during a fiscal year—

''(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37; or

''(ii) is assigned to a deployable ship, to a mobile unit, to duty in support of a contingency operation, or to other duty designated for the purpose of this section; and

''(B) except for paragraph (1), would lose any accumulated leave in excess of 60 days at the end of the fiscal year.

''(3) Leave in excess of 60 days accumulated under this subsection is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the service described in paragraph (2) terminated.''.

(b) SAVINGS PROVISIONS.—Regulations in effect under subsection (f) of section 701 of title 10, United States Code, on the day before the date of the enactment of this Act shall remain in effect until revised or superseded by regulations prescribed to implement the authority under the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

SEC. 652. GAO STUDY.

Not later than April 1, 2004, the Comptroller General shall submit a report regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods less than 30 days. The policies regarding eligibility for family separation allowance, including those relating to required duration of absences from the permanently assigned duty station, should be assessed.

Subtitle F—Naturalization and Family Protection for Military Members

SEC. 661. SHORT TITLE.

This subtitle may be cited as the ''Naturalization and Family Protection for Military Members Act of 2003''.

SEC. 662. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''three years'' and inserting ''2 years''.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking ''honorable. The'' and inserting ''honorable (the''; and

(ii) by striking ''discharge.'' and inserting ''discharge); and''; and

(B) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''; and

(2) in section 329(b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

SEC. 663. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting ''as a member of the Selected Reserve of the Ready Reserve or'' after ''has served honorably''.

SEC. 664. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of

the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) PARENTS.—

(A) IN GENERAL.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) EXCEPTION.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(c) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) TREATMENT AS IMMEDIATE RELATIVES.—

(A) IN GENERAL.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) PETITIONS.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) SELF-PETITIONS.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(d) PARENTS OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) SELF-PETITIONS.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) ADJUSTMENT OF STATUS.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.

(f) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this section, the ground for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply, and notwithstanding any other provision of law, the Secretary of Homeland Security may waive paragraph (6)(A), (7), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) with respect to such an alien if the alien establishes exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.

(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (e); and

(2) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting '', child, or parent'' after ''surviving spouse'';

(2) by inserting '', parent, or child'' after ''whose citizen spouse''; and

(3) by striking ''who was living'' and inserting ''who, in the case of a surviving spouse, was living''.

SEC. 665. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect as if enacted on September 11, 2001.

TITLE VII—HEALTH CARE

SEC. 701. MEDICAL AND DENTAL SCREENING FOR MEMBERS OF SELECTED RESERVE UNITS ALERTED FOR MOBILIZATION.

Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

''(2) The screening and care authorized under paragraph (1) shall include screening and care under TRICARE, pursuant to eligibility under paragraph (3), and continuation of care benefits under paragraph (4).

''(3)(A) Members of the Selected Reserve of the Ready Reserve and members of the Individual Ready Reserve described in section 10144(b) of this title are eligible, subject to subparagraph (I), to enroll in TRICARE.

''(B) A member eligible under subparagraph (A) may enroll for either of the following types of coverage:

''(i) Self alone coverage.

''(ii) Self and family coverage.

''(C) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(D) The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subparagraph (A) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

''(E) A member and the dependents of a member enrolled in the TRICARE program under this paragraph shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively. Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

''(F)(i) An enlisted member of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $330 for self-only coverage and $560 for self and family coverage for which enrolled under this section.

''(ii) An officer of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $380 for self-only coverage and $610 for self and family coverage for which enrolled under this section.

''(iii) The premiums payable by a member under this subparagraph may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

''(iv) Amounts collected as premiums under this subparagraph shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

''(G) A person who receives health care pursuant to an enrollment in a TRICARE program option under this paragraph, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as

apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(H) A member enrolled in the TRICARE program under this paragraph may terminate the enrollment only during an open enrollment period provided under subparagraph (D), except as provided in subparagraph (I). An enrollment of a member for self alone or for self and family under this paragraph shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subparagraph (A). The enrollment of a member under this paragraph may be terminated on the basis of failure to pay the premium charged the member under this paragraph.

''(I) A member may not enroll in the TRICARE program under this paragraph while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section. A member who enrolls in the TRICARE program under this paragraph within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

''(J) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this paragraph.

''(4)(A) The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subparagraph (J).

''(B) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subparagraph (A) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

''(C) For the purposes of this paragraph, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

''(i) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(ii) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

''(iii) the coverage has not lapsed.

''(D) The applicable premium payable under this paragraph for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.

''(E) The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for a member under this paragraph in a fiscal year may not exceed the amount determined by multiplying—

''(i) the sum of one plus the number of the member's dependents covered by the health benefits plan, by

''(ii) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

''(F) The benefits coverage continuation period under this paragraph for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

''(i) begins on the date of the call or order; and

''(ii) ends on the earlier of the date on which the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section, or the date on which the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member.

''(G) Notwithstanding any other provision of law—

''(i) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this paragraph shall be deemed to be equal to the benefits coverage continuation period for such member under this paragraph; and

''(ii) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(H) A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this paragraph is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

''(I) A member who makes an election under subparagraph (A) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.

''(J) The Secretary of Defense shall prescribe regulations for carrying out this paragraph. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.

''(5) For the purposes of this section, all members of the Ready Reserve who are to be called or ordered to active duty include all members of the Ready Reserve.

''(6) The Secretary concerned shall promptly notify all members of the Ready Reserve that they are eligible for screening and care under this section.

''(7) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.''.

SEC. 702. TRICARE BENEFICIARY COUNSELING AND ASSISTANCE COORDINATORS FOR RESERVE COMPONENT BENEFICIARIES.

Section 1095e(a)(1) of title 10, United States Code, is amended—

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

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members of the reserve components and their dependents who are beneficiaries under the TRICARE program; and''.

SEC. 703. EXTENSION OF AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR HEALTH CARE SERVICES TO BE PERFORMED AT LOCATIONS OUTSIDE MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 704. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND VALUATIONS AND CONTRIBUTIONS.

(a) SEPARATE PERIODIC ACTUARIAL VALUATION FOR SINGLE UNIFORMED SERVICE.—Section 1115(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) The Secretary of Defense may determine a single level dollar amount under subparagraph (A) or (B) of paragraph (1) for each or any of the participating uniformed services separately from the other participating uniformed services if the Secretary determines that a more accurate and appropriate actuarial valuation under such subparagraph would be achieved by doing so.''.

(b) ASSOCIATED CALCULATIONS OF PAYMENTS INTO THE FUND.—Section 1116 of such title is amended—

(1) in subsection (a), by striking ''the amount that'' in the matter preceding paragraph (1) and inserting ''the amount that, subject to subsection (b),'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) If an actuarial valuation referred to in paragraph (1) or (2) of subsection (a) has been calculated in a single level dollar amount for a participating uniformed service separately from the other participating uniformed services under section 1115(c)(6) of this title, the administering Secretary for the department in which such uniformed service is operating shall calculate the amount under such paragraph separately for such uniformed service. If the administering Secretary is not the Secretary of Defense, the administering Secretary shall notify the Secretary of Defense of the amount so calculated. To determine a single amount for the purpose of paragraph (1) or (2) of subsection (a), as the case may be, the Secretary of Defense shall aggregate the amount calculated under this subsection for a uniformed service for the purpose of such paragraph with the amount or amounts calculated (whether separately or otherwise) for the other uniformed services for the purpose of such paragraph.''.

(c) TECHNICAL CORRECTION.—Section 1115(c)(1)(B) of such title is amended by striking ''and other than members'' and inserting ''(other than members''

(d) CONFORMING AMENDMENT.—Subsections (a) and (c)(5) of section 1115 of such title are amended by striking ''section 1116(b) of this title'' and inserting section ''1116(c) of this title''.

SEC. 705. SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD.

(a) REQUIREMENT FOR SURVEYS.—(1) The Secretary of Defense shall conduct surveys in the TRICARE Standard market areas in the continental United States to determine how many health care providers are accepting new patients under TRICARE Standard in each such market area.

(2) The Secretary shall carry out the surveys in at least 20 TRICARE market areas in the continental United States each fiscal year after fiscal year 2003 until all such market areas in the continental United States have been surveyed. The Secretary shall complete six of the fiscal year 2004 surveys not later than March 31, 2004.

(3) In prioritizing the market areas for the sequence in which market areas are to be surveyed under this subsection, the Secretary shall consult with representatives of TRICARE beneficiaries and health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard and shall give a high priority to surveying health care providers in such areas.

(b) SUPERVISION.—(1) The Secretary shall designate a senior official of the Department of Defense to take the actions necessary for achieving and maintaining participation of health care providers in TRICARE Standard in each TRICARE market area in a number that is adequate to ensure the viability of TRICARE Standard for TRICARE beneficiaries in that market area.

(2) The official designated under paragraph (1) shall have the following duties:

(A) To educate health care providers about TRICARE Standard.

(B) To encourage health care providers to accept patients under TRICARE Standard.

(C) To ensure that TRICARE beneficiaries have the information necessary to locate TRICARE Standard providers readily.

(D) To recommend adjustments in TRICARE Standard provider payment rates that the official considers necessary to ensure adequate availability of TRICARE Standard providers for TRICARE Standard beneficiaries.

(c) GAO REVIEW.—(1) The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers accepting TRICARE Standard beneficiaries as patients under TRICARE Standard in each TRICARE market area; and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area.

(2)(A) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the results of the review under paragraph (1). The first semiannual report shall be submitted not later than June 30, 2004.

(B) The semiannual report under subparagraph (A) shall include the following:

(i) An analysis of the adequacy of the surveys under subsection (a).

(ii) The adequacy of existing statutory authority to address inadequate levels of participation by health care providers in TRICARE Standard.

(iii) Identification of policy-based obstacles to achieving adequacy of availability of TRICARE Standard health care in the TRICARE Standard market areas.

(iv) An assessment of the adequacy of Department of Defense education programs to inform health care providers about TRICARE Standard.

(v) An assessment of the adequacy of Department of Defense initiatives to encourage health care providers to accept patients under TRICARE Standard.

(vi) An assessment of the adequacy of information to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care under TRICARE Standard.

(vii) Any need for adjustment of health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care providers.

(d) DEFINITION.—In this section, the term ''TRICARE Standard'' means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

SEC. 706. ELIMINATION OF LIMITATION ON COVERED BENEFICIARIES' ELIGIBILITY TO RECEIVE HEALTH CARE SERVICES FROM FORMER PUBLIC HEALTH SERVICE TREATMENT FACILITIES.

Section 724(d) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) is amended by striking ''who—'' and all that follows through ''(2) are enrolled'' and inserting ''who are enrolled''.

SEC. 707. MODIFICATION OF STRUCTURE AND DUTIES OF DEPARTMENT OF VETERANS AFFAIRS-DEPARTMENT OF DEFENSE HEALTH EXECUTIVE COMMITTEE.

(a) IN GENERAL.—Subsection (c) of section 8111 of title 38, United States Code, is amended to read as follows:

''(c) DOD–VA JOINT EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the 'Committee').

''(2) The Committee shall be composed of—

''(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department as the Secretary may designate; and

''(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

''(3)(A) The Deputy Secretary and the Under Secretary shall determine the size and structure of the Committee, except that the Committee shall have subordinate committees as follows:

''(i) A Health Executive Committee.

''(ii) A Benefits Executive Committee.

''(iii) Such other subordinate committees as the Deputy Secretary and the Under Secretary consider appropriate.

''(B) The Deputy Secretary and the Under Secretary shall establish the administrative and procedural guidelines for the operation of the Committee.

''(C) The two Departments shall supply staff and resources to the Committee in order to provide such administrative support and services for the Committee as are necessary for the efficient operation of the Committee.

''(4) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing of efforts between and within the two Departments under this section, and shall oversee implementation of such coordination and efforts.

''(5) In order to enable the Committee to make recommendations under paragraph (4) in its annual report under paragraph (6), the Committee shall—

''(A) review existing policies, procedures, and practices relating to the coordination and sharing of health care resources and other resources between the two Departments;

''(B) identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of services and health care resources and other resources of the two Departments in order to achieve the goal of improving the quality, efficiency, and effectiveness of the delivery of benefits and services to veterans, members of the Armed Forces, military retirees, and their families through an enhanced partnership between the two Departments;

''(C) identify and assess further opportunities for coordination and collaboration between the two Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for benefits provided by either Department;

''(D) review the plans of both agencies for the acquisition of additional health care resources and other resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of such resources; and

''(E) review the implementation of activities designed to promote the coordination and sharing of health care resources and other resources between the two Departments.

''(6) The Committee shall submit to the Secretaries, and to Congress, each year a report containing such recommendations as the Committee considers appropriate, including recommendations in light of activities under paragraph (5).''.

(b) CONFORMING AMENDMENT.—Subsection (e)(1) of such section is amended by striking ''subsection (c)(2)'' and inserting ''subsection (c)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003, as if included in the amendments to section 8111 of title 38, United States Code, made by section 721 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2589), to which the amendments made by this section relate.

(d) INTEGRATED HEALING CARE PRACTICES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs-Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

SEC. 708. ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ORDERS TO ACTIVE DUTY FOLLOWING COMMISSIONING.

Section 1074(a) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''who is on active duty'' and inserting ''described in paragraph (2)''; and

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

''(2) Members of the uniformed services referred to in paragraph (1) are as follows:

''(A) A member of a uniformed service on active duty.

''(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

''(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

''(ii) the request for orders has been approved;

''(iii) the orders are to be issued but have not been issued; and

''(iv) the member does not have health care insurance and is not covered by any other health benefits plan.''.

SEC. 709. REIMBURSEMENT OF COVERED BENEFICIARIES FOR CERTAIN TRAVEL EXPENSES RELATING TO SPECIALIZED DENTAL CARE.

Section 1074i of title 10, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In any case''; and

(2) by adding at the end the following new subsection:

''(b) SPECIALTY CARE PROVIDERS.—For purposes of subsection (a), the term 'specialty care provider' includes a dental specialist (including an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist).''.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

SEC. 801. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

(a) EXTENSION OF AUTHORITY.—Section 836(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1192; 10 U.S.C. 2302 note) is amended by striking ''fiscal year 2002 and 2003'' and inserting ''fiscal years 2002, 2003, 2004, and 2005''.

(b) EXPANDED SCOPE.—Such section 836(a) is further amended—

(1) in paragraph (1), by striking ''the defense against terrorism or biological or chemical attack'' and inserting ''defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack''; and

(2) in paragraph (2), by striking ''the defense against terrorism or biological attack'' and inserting ''defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack''.

(c) CONFORMING AMENDMENT.—The heading for such section is amended to read as follows:

"SEC. 836. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK."

SEC. 802. SPECIAL TEMPORARY CONTRACT CLOSEOUT AUTHORITY.

SEC. 803. DEFENSE ACQUISITION PROGRAM MANAGEMENT FOR USE OF RADIO FREQUENCY SPECTRUM.

SEC. 804. NATIONAL SECURITY AGENCY MODERNIZATION PROGRAM.

SEC. 805. QUALITY CONTROL IN PROCUREMENT OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES.

SEC. 811. EXPANSION AND EXTENSION OF INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTS IN PROCUREMENTS OF SERVICES.

SEC. 812. PUBLIC-PRIVATE COMPETITIONS FOR THE PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS.

(a) AUTHORITY.—The Secretary of Defense may settle any financial account for a contract entered into by the Secretary or the Secretary of a military department before October 1, 1996, that is administratively complete if the financial account has an unreconciled balance, either positive or negative, that is less than $100,000.

(b) FINALITY OF DECISION.—A settlement under this section shall be final and conclusive upon the accounting officers of the United States.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of the authority under this section.

(d) TERMINATION OF AUTHORITY.—A financial account may not be settled under this section after September 30, 2006.

SEC. 803. DEFENSE ACQUISITION PROGRAM MANAGEMENT FOR USE OF RADIO FREQUENCY SPECTRUM.

(a) REVISION OF DEPARTMENT OF DEFENSE DIRECTIVE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall revise and reissue Department of Defense Directive 4650.1, relating to management and use of the radio frequency spectrum, last issued on June 24, 1987, to update the procedures applicable to Department of Defense management and use of the radio frequency spectrum.

(b) ACQUISITION PROGRAM REQUIREMENTS.—The Secretary of Defense shall—

(1) require that each military department or Defense Agency carrying out a program for the acquisition of a system that is to use the radio frequency spectrum consult with the official or board designated under subsection (c) on the usage of the spectrum by the system as early as practicable during the concept exploration and technology development phases of the acquisition program;

(2) prohibit the program from proceeding into system development and demonstration, or otherwise obtaining production or procuring any unit of the system, until—

(A) an evaluation of the proposed radio frequency spectrum usage by the system is completed in accordance with requirements prescribed by the Secretary; and

(B) the designated official or board reviews and approves the proposed usage of the spectrum by the system; and

(3) prescribe a procedure for waiving the prohibition imposed under paragraph (2) in any case in which it is determined necessary to do so in the national security interests of the United States.

(c) DESIGNATION OF OFFICIAL OR BOARD.—The Secretary of Defense shall designate an appropriate official or board of the Department of Defense to perform the functions described for the official or board in subsection (b).

SEC. 804. NATIONAL SECURITY AGENCY MODERNIZATION PROGRAM.

(a) RESPONSIBILITIES OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

(1) direct and manage the acquisitions under the National Security Agency Modernization Program; and

(2) designate the projects under such program as major defense acquisition programs.

(b) PROJECTS COMPRISING PROGRAM.—The National Security Agency Modernization Program includes the following projects of the National Security Agency:

(1) The Trailblazer project.

(2) The Groundbreaker project.

(3) Each cryptological mission management project.

(4) Each other project that—

(A) meets either of the dollar threshold requirements set forth in subsection (a)(2) of section 2430 of title 10, United States Code (as adjusted under subsection (b) of such section); and

(B) is determined by the Under Secretary of Defense for Acquisition, Technology, and Logistics as being a modernization project of the National Security Agency.

(c) MILESTONE DECISION AUTHORITY.—(1) In the administration of subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall exercise the milestone decision authority for—

(A) each major defense acquisition program under the National Security Agency Modernization Program, as designated under subsection (a)(2); and

(B) the acquisition of each major system under the National Security Agency Modernization Program, as described in subsection (d).

(2) The Under Secretary may not delegate the milestone decision authority to any other official before October 1, 2006.

(3) The Under Secretary may delegate the milestone decision authority to the Director of the National Security Agency at any time after the later of September 30, 2006, or the date on which the following conditions are satisfied:

(A) The Under Secretary has determined that the Director has implemented acquisition management policies, procedures, and practices that are sufficiently mature to ensure that National Security Agency acquisitions are conducted in a manner consistent with a sound, efficient acquisition enterprise.

(B) The Under Secretary has consulted with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management on the delegation.

(C) The Secretary of Defense has approved the delegation.

(D) The Under Secretary has transmitted to the Committees on Armed Services of the Senate and the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a notification of the intention to delegate the authority, together with a detailed discussion of the justification for the delegation of authority.

(d) MAJOR SYSTEM DEFINED.—In this section, the term ''major system'' means a system that meets either of the dollar threshold requirements set forth in paragraph (1) or (2) of subsection (a) of section 2302d of title 10, United States Code (as adjusted under subsection (c) of such section).

SEC. 805. QUALITY CONTROL IN PROCUREMENT OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES.

(a) QUALITY CONTROL POLICY.—The Secretary of Defense shall prescribe a quality control policy for the procurement of aviation critical safety items and the procurement of modifications, repair, and overhaul of such items.

(b) CONTENT OF POLICY.—The policy shall include the following requirements:

(1) That the head of the design control activity for aviation critical safety items establish processes to identify and manage aviation critical safety items and modifications, repair, and overhaul of such items.

(2) That the head of the contracting activity for an aviation critical safety item enter into a contract for such item only with a source approved by the design control activity in accordance with section 2319 of title 10, United States Code.

(3) That the aviation critical safety items delivered, and the services performed with respect to aviation critical safety items, meet all technical and quality requirements specified by the design control activity, except for any requirement determined unnecessary by the Secretary of Defense in writing.

(c) DEFINITIONS.—In this section, the terms ''aviation critical safety item'' and ''design control activity'' have the meanings given such terms in section 2319(g) of title 10, United States Code, as amended by subsection (d).

(d) CONFORMING AMENDMENT TO TITLE 10.—Section 2319 of title 10, United States Code, is amended—

(1) in subsection (c)(3), by inserting after ''the contracting officer'' the following: ''(or, in the case of a contract for the procurement of an aviation critical item, the head of the design control activity for such item)''; and

(2) by adding at the end the following new subsection:

''(g) DEFINITIONS.—In this section:

''(1) The term 'aviation critical safety item' means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system, an unacceptable risk of personal injury or loss of life, an uncommanded engine shutdown that jeopardizes safety, or the failure of a military mission.

''(2) The term 'design control activity', with respect to an aviation critical safety item, means the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment in which the item is to be used.''.

Subtitle B—Procurement of Services

SEC. 811. EXPANSION AND EXTENSION OF INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTS IN PROCUREMENTS OF SERVICES.

(a) INCREASED MAXIMUM AMOUNT OF PROCUREMENT ELIGIBLE FOR COMMERCIAL ITEMS TREATMENT.—Paragraph (1)(A) of section 821(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–218; 10 U.S.C. 2302 note) is amended by striking ''$5,000,000'' and inserting '$10,000,000''.

(b) EXTENSION OF AUTHORITY.—Paragraph (4) of such section 821(b) is amended by striking ''more than 3 years after the date of the enactment of this Act'' and inserting ''after October 30, 2006''.

SEC. 812. PUBLIC-PRIVATE COMPETITIONS FOR THE PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS.

(a) PILOT PROGRAM FOR BEST VALUE SOURCE SELECTION FOR THE PERFORMANCE OF INFORMATION TECHNOLOGY SERVICES.—

(1) AUTHORITY.—The Secretary of Defense may carry out a pilot program for use of a best value criterion in the selection of sources for performance of information technology services for the Department of Defense.

(2) CONVERSION TO PRIVATE SECTOR PERFORMANCE.—(A) Under the pilot program, an analysis of the performance of an information technology services function for the Department of Defense under section 2461(b)(3) of title 10, United States Code, shall include an examination of the performance of the function by Department of Defense civilian employees and by one or more private contractors to demonstrate whether change to performance by the private sector will result in the best value to the Government over the life of the contract, including in the examination the following:

(i) The cost to the Government, estimated by the Secretary of Defense (based on offers received), for performance of the function by the private sector.

(ii) The estimated cost to the Government of Department of Defense civilian employees performing the function.

(iii) Benefits in addition to price that warrant performance of the function by a particular source at a cost higher than that of performance by Department of Defense civilian employees.

(iv) In addition to the cost referred to in clause (i), an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract.

(B) Under the pilot program, subparagraph (A) of such section 2461(b)(3) shall not apply to an analysis of the performance of an information technology services function for the Department of Defense.

(3) CONTRACTING FOR INFORMATION TECHNOLOGY SERVICES.—(A) Under the pilot program, except as otherwise provided by law, the Secretary shall procure information technology services necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel) from a source in the private sector if performance by that source represents the best value to the United States, determined in accordance with the competition requirements of Office of Management and Budget Circular A–76.

(B) Under the pilot program, section 2462(a) of title 10, United States Code, shall not apply to a procurement described in paragraph (1).

(4) DURATION OF PILOT PROGRAM.—(A) The period for which the pilot program may be carried out under this subsection shall be fiscal years 2004 through 2008.

(B) An analysis commenced under the pilot program in accordance with paragraph (2), and a procurement for which a solicitation has been issued in accordance with paragraph (3), before the end of the pilot program period may be continued in accordance with paragraph (2) or (3), respectively, after the end of such period.

(5) GAO REVIEW.—(A) The Comptroller General shall review the administration of any pilot program carried out under this subsection to assess the extent to which the program is effective and is equitable for the potential public sources and the potential private sources of information technology services for the Department of Defense.

(B) Not later than February 1, 2008, the Comptroller General shall submit to the congressional defense committees a report on the review of the program under subparagraph (A). The report shall include the Comptroller General's assessment of the matters required under that subparagraph and any other conclusions resulting from the review.

(6) INFORMATION TECHNOLOGY SERVICES DEFINED.—In this subsection, the term ''information technology service'' means any service performed in the operation or maintenance of information technology (as defined in section 11101 of title 40, United States Code).

(b) RESOURCES-BASED SCHEDULES FOR COMPLETION OF PUBLIC-PRIVATE COMPETITIONS.—

(1) APPLICATION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone for the completion of a Department of Defense public-private competition shall be established solely on the basis of considered research and sound analysis regarding the availability of sufficient personnel, training, and technical resources to the Department of Defense to carry out such competition in a timely manner.

(2) EXTENSION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone established (consistent with paragraph (1)) for the completion of a Department of Defense public-private competition shall be extended if the Department of Defense official responsible for managing the competition determines under procedures prescribed by the Secretary of Defense that the personnel, training, or technical resources available to the Department of Defense to carry out such competition timely are insufficient.

SEC. 813. AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.

(a) AUTHORITY.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2396 the following new section:

''§ 2397. Personal services: procurement by certain elements of the Department of Defense

''(a) AUTHORITY.—The head of an element of the Department of Defense referred to in subsection (b) may enter into a contract for the procurement of services described in section 3109 of title 5 that are necessary to carry out a mission of that element without regard to the limitations in such section if the head of that element determines in writing that the services to be procured are unique and that it would not be practicable to obtain such services by other means.

''(b) APPLICABILITY.—Subsection (a) applies to—

''(1) any element of the Department of Defense within the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

''(2) the United States Special Operations Command, with respect to special operations activities described in paragraphs (1), (2), (3), and (4) of section 167(j) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2396 the following new item:

''2397. Personal services: procurement by certain elements of the Department of Defense.''.

Subtitle C—Major Defense Acquisition Programs

SEC. 821. CERTAIN WEAPONS-RELATED PROTOTYPE PROJECTS.

(a) EXTENSION OF AUTHORITY.—Subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking ''September 30, 2004'' and inserting ''September 30, 2007''.

(b) INCREASED SCOPE OF AUTHORITY.—Subsection (a) of such section is amended by inserting before the period at the end the following: '', or to improvement of weapons or weapon systems in use by the Armed Forces''.

(c) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—Such section, as amended by subsection (a), is further amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes that are developed by nontraditional defense contractors under prototype projects carried out under this section.

''(2) Under the pilot program—

''(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

''(B) the item or process may be treated as an item or process, respectively, that is developed in part with Federal funds and in part at private expense for the purposes of section 2320 of title 10, United States Code.

''(3) For the purposes of the pilot program, a qualifying contract or subcontract is a contract or subcontract, respectively, with a nontraditional defense contractor that—

''(A) does not exceed $50,000,000; and

''(B) is either—

''(i) a firm, fixed-price contract or subcontract; or

''(ii) a fixed-price contract or subcontract with economic price adjustment.

''(4) The authority to conduct a pilot program under this subsection shall terminate on September 30, 2007. The termination of the authority shall not affect the validity of contracts or subcontracts that are awarded or modified during the period of the pilot program, without regard to whether the contracts or subcontracts are performed during the period.''.

SEC. 822. APPLICABILITY OF CLINGER-COHEN ACT POLICIES AND REQUIREMENTS TO EQUIPMENT INTEGRAL TO A WEAPON OR WEAPON SYSTEM.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2223 the following:

''§ 2223a. Acquisition of equipment integral to a weapon or a weapon system: applicability of certain acquisition reform authorities and information technology-related requirements

''(a) BOARD OF SENIOR ACQUISITION OFFICIALS.—(1) The Secretary of Defense shall establish a board of senior acquisition officials to administer the implementation of the policies and requirements of chapter 113 of title 40 in procurements of information technology equipment determined by the Secretary as being an integral part of a weapon or a weapon system.

''(2) The Board shall be composed of the following officials:

''(A) Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the Chairman.

''(B) The acquisition executive of each of the military departments.

''(C) The Chief Information Officer of the Department of Defense.

''(c) RESPONSIBILITIES OF BOARD.—The Board shall be responsible for ensuring that—

''(1) the acquisition of information technology equipment determined by the Secretary of Defense as being an integral part of a weapon or a weapon system is conducted in a manner that is consistent with the capital planning, investment control, and performance and results-based management processes and requirements provided under sections 11302, 11303, 11312, and 11313 of title 40, to the extent that such processes requirements are applicable to the acquisition of such equipment;

''(2) issues of spectrum availability, interoperability, and information security are appropriately addressed in the development of weapons and weapon systems; and

''(3) in the case of information technology equipment that is to be incorporated into a weapon or a weapon system under a major defense acquisition program, the information technology equipment is incorporated in a manner that is consistent with—

''(A) the planned approach to applying certain provisions of law to major defense acquisition programs following the evolutionary acquisition process that the Secretary of Defense reported to Congress under section 802 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2602);

''(B) the acquisition policies that apply to spiral development programs under section 803 of such Act (116 Stat. 2603; 10 U.S.C. 2430 note); and

''(C) the software acquisition processes of the military department or Defense Agency concerned under section 804 of such Act (116 Stat. 2604; 10 U.S.C. 2430 note).

''(d) INAPPLICABILITY OF OTHER LAWS.—The following provisions of law do not apply to information technology equipment that is determined by the Secretary of Defense as being an integral part of a weapon or a weapon system:

''(1) Section 11315 of title 40.

''(2) The policies and procedures established under section 11316 of title 40.

''(3) Subsections (d) and (e) of section 811 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–211), and the requirements and prohibitions that are imposed by Department of Defense Directive 5000.1 pursuant to subsections (b) and (c) of such section.

''(4) Section 351 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2516; 10 U.S.C. 221 note).

''(e) DEFINITIONS.—In this section:

''(1) The term 'acquisition executive', with respect to a military department, means the official who is designated as the senior procurement executive of the military department under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

''(2) The term 'information technology' has the meaning given such term in section 11101 of title 40.

''(3) The term 'major defense acquisition program' has the meaning given such term in section 2430 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2223 the following new item:

''2223a. Acquisition of equipment integral to a weapon or a weapon system: applicability of certain acquisition reform authorities and information technology-related requirements.''.

(b) CONFORMING AMENDMENT.—Section 2223 of such title is amended by adding at the end the following new subsection:

''(c) EQUIPMENT INTEGRAL TO A WEAPON OR WEAPON SYSTEM.—(1) In the case of information technology equipment determined by the Secretary of Defense as being an integral part of a weapon or a weapon system, the responsibilities under this section shall be performed by the board of senior acquisition officials established pursuant to section 2223a of this title.

''(2) In this subsection, the term 'information technology' has the meaning given such term in section 11101 of title 40.''.

SEC. 823. APPLICABILITY OF REQUIREMENT FOR REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–107; 115 Stat. 1180) is amended by striking '', as in effect on the date of enactment of this Act,'' and inserting ''(as in effect on the date of the enactment of this Act), and the corresponding provision of any successor to such Instruction,''.

Subtitle D—Domestic Source Requirements

SEC. 831. EXCEPTIONS TO BERRY AMENDMENT FOR CONTINGENCY OPERATIONS AND OTHER URGENT SITUATIONS.

Section 2533a(d) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting ''or contingency operations'' after ''in support of combat operations''; and

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

''(4) Procurements for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.''.

SEC. 832. INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF WASTE AND BYPRODUCTS OF COTTON AND WOOL FIBER FOR USE IN THE PRODUCTION OF PROPELLANTS AND EXPLOSIVES.

Section 2533a(f) of title 10, United States Code, is amended—

(1) by striking ''(f) EXCEPTION'' and all that follows through ''the procurement of'' and inserting the following:

''(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:

''(1)'';

(2) by capitalizing the initial letter of the word following ''(1)'', as added by paragraph (1); and

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

''(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.''.

SEC. 833. WAIVER AUTHORITY FOR DOMESTIC SOURCE OR CONTENT REQUIREMENTS.

(a) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2539c. Waiver of domestic source or content requirements

''(a) AUTHORITY.—Except as provided in subsection (f), the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (b) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured—

''(1) in a foreign country that has a Declaration of Principles with the United States;

''(2) in a foreign country that has a Declaration of Principles with the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States; or

''(3) in the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States.

''(b) COVERED REQUIREMENTS.—For purposes of this section:

''(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).

''(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.

''(c) APPLICABILITY.—The authority of the Secretary to waive the application of a domestic source or content requirements under subsection (a) applies to the procurement of items for which the Secretary of Defense determines that—

''(1) application of the requirement would impede the reciprocal procurement of defense items under a Declaration of Principles with the United States; and

''(2) such country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

''(d) LIMITATION ON DELEGATION.—The authority of the Secretary to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Under Secretary of Defense for Acquisition, Technology and Logistics.

''(e) CONSULTATIONS.—The Secretary may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.

''(f) LAWS NOT WAIVABLE.—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:

''(1) The Small Business Act (15 U.S.C. 631 et seq.).

''(2) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

''(3) Sections 7309 and 7310 of this title.

''(4) Section 2533a of this title.

''(g) RELATIONSHIP TO OTHER WAIVER AUTHORITY.—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.

''(h) CONSTRUCTION WITH RESPECT TO LATER ENACTED LAWS.—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law enacted after the enactment of this section solely on the basis of the later enactment.

''(i) DECLARATION OF PRINCIPLES.—(1) In this section, the term 'Declaration of Principles' means a written understanding between the Department of Defense and its counterpart in a foreign country signifying a cooperative relationship between the Department and its counterpart to standardize or make interoperable defense equipment used by the armed forces and the armed forces of the foreign country across a broad spectrum of defense activities, including—

''(A) harmonization of military requirements and acquisition processes;

''(B) security of supply;

''(C) export procedures;

''(D) security of information;

''(E) ownership and corporate governance;

''(F) research and development;

''(G) flow of technical information; and

''(H) defense trade.

''(2) A Declaration of Principles is underpinned by a memorandum of understanding or other agreement providing for the reciprocal procurement of defense items between the United States and the foreign country concerned without unfair discrimination in accordance with section 2531 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2539b the following new item:

''2539c. Waiver of domestic source or content requirements.''.

SEC. 834. BUY AMERICAN EXCEPTION FOR BALL BEARINGS AND ROLLER BEARINGS USED IN FOREIGN PRODUCTS.

Section 2534(a)(5) of title 10, United States Code, is amended by inserting before the period at the end the following: '', except ball bearings and roller bearings being procured for use in an end product manufactured by a manufacturer that does not satisfy the requirements of subsection (b) or in a component part manufactured by such a manufacturer''.

Subtitle E—Defense Acquisition and Support Workforce

SEC. 841. FLEXIBILITY FOR MANAGEMENT OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) MANAGEMENT STRUCTURE.—(1) Sections 1703, 1705, 1706, and 1707 of title 10, United States Code, are repealed.

(2) Section 1724(d) of such title is amended—

(A) in the first sentence, by striking ''The acquisition career program board concerned'' and all that follows through ''if the board certifies'' and inserting ''The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines'';

(B) in the second sentence, by striking ''the board'' and inserting ''the Secretary''; and

(C) by striking the third sentence.

(3) Section 1732(b) of such title is amended—

(A) in paragraph (1)(C), by striking '', as validated by the appropriate career program management board''; and

(B) in paragraph (2)(A)(ii), by striking ''has been certified by the acquisition career program board of the employing military department as possessing'' and inserting ''possess''.

(4) Section 1732(d) of such title is amended—
(A) in paragraph (1)—
(i) in the first sentence, by striking ''the acquisition career program board of a military department'' and all that follows through ''if the board certifies'' and inserting ''The Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines'';
(ii) in the second sentence, by striking ''the board'' and inserting ''the Secretary''; and
(iii) by striking the third sentence; and
(B) in paragraph (2), by striking ''The acquisition career program board of a military department'' and inserting ''The Secretary''.
(5) Section 1734(d) of such title is amended—
(A) in subsection (d)—
(i) by striking paragraph (2); and
(ii) in paragraph (3), by striking the second sentence; and
(B) in subsection (e)(2), by striking '', by the acquisition career program board of the department concerned,''.
(6) Section 1737(c) of such title is amended—
(A) by striking paragraph (2); and
(B) by striking ''(1) The Secretary'' and inserting ''The Secretary''.

(b) ELIMINATION OF ROLE OF OFFICE OF PERSONNEL MANAGEMENT.—(1) Section 1725 of such title is repealed.
(2) Section 1731 of such title is amended by striking subsection (c).
(3) Section 1732(c)(2) of such title is amended by striking the second and third sentences.
(4) Section 1734(g) of such title is amended—
(A) by striking paragraph (2); and
(B) in paragraph (1) by striking ''(1) The Secretary'' and inserting ''The Secretary''.
(5) Section 1737 of such title is amended by striking subsection (d).
(6) Section 1744(c)(3)(A)(i) of such title is amended by striking ''and such other requirements as the Office of Personnel Management may prescribe''.

(c) SINGLE ACQUISITION CORPS.—(1) Section 1731 of such title is amended—
(A) in subsection (a)—
(i) by striking ''each of the military departments and one or more Corps, as he considers appropriate, for the other components of'' in the first sentence; and
(ii) by striking the second sentence; and
(B) in subsection (b), by striking ''an Acquisition Corps'' and inserting ''the Acquisition Corps''.
(2) Sections 1732(a), 1732(e)(1), 1732(e)(2), 1733(a), 1734(e)(1), and 1737(a)(1) of such title are amended by striking ''an Acquisition Corps'' and inserting ''the Acquisition Corps''.
(3) Section 1734 of such title is amended—
(A) in subsection (g), by striking ''each Acquisition Corps, a test program in which members of a Corps'' and inserting ''the Acquisition Corps, a test program in which members of the Corps''; and
(B) in subsection (h), by striking ''making assignments of civilian and military members of the Acquisition Corps of that military department'' and inserting ''making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps''.

(d) CONSOLIDATION OF CERTAIN EDUCATION AND TRAINING PROGRAM REQUIREMENTS.—(1) Section 1742 of such title is amended to read as follows:

''§ 1742. Internship, cooperative education, and scholarship programs

''The Secretary of Defense shall conduct the following education and training programs:
''(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.
''(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.
''(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.''.
(2) Sections 1743 and 1744 of such title are repealed.

(e) GENERAL MANAGEMENT PROVISIONS.—Subchapter V of chapter 87 of such title is amended—
(1) by striking section 1763; and
(2) by adding at the end the following new section 1764:

''§ 1764. Authority to establish different minimum requirements

''(a) AUTHORITY.—(1) The Secretary of Defense may prescribe a different minimum number of years of experience, different minimum education qualifications, and different tenure of service qualifications to be required for eligibility for appointment or advancement to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter.
''(2) Any requirement prescribed under paragraph (1) for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.
''(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:
''(1) Contracting officer, except a position referred to in paragraph (5).
''(2) Program executive officer.
''(3) Senior contracting official.
''(4) Program manager.
''(5) A position in the contract contingency force of an armed force that is filled by a member of that armed force.
''(c) DEFINITION.—In this section, the term 'contract contingency force', with respect to an armed force, has the meaning given such term in regulations prescribed by the Secretary concerned.''.

(f) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of subchapter I of chapter 87 of title 10, United States Code, is amended by striking the items relating to sections 1703, 1705, 1706, and 1707.
(2) The table of sections at the beginning of subchapter II of such chapter is amended by striking the item relating to section 1725.
(3) The table of sections at the beginning of subchapter IV of such chapter is amended by striking the items relating to sections 1742, 1743, and 1744 and inserting the following:

''1742. Internship, cooperative education, and scholarship programs.''.

(4) The table of sections at the beginning of subchapter V of such chapter is amended by striking the item relating to section 1763 and inserting the following:

''1764. Authority to establish different minimum requirements.''.

SEC. 842. LIMITATION AND REINVESTMENT AUTHORITY RELATING TO REDUCTION OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) LIMITATION.—Notwithstanding any other provision of law, the defense acquisition and support workforce may not be reduced, during fiscal years 2004, 2005, and 2006, below the level of that workforce as of September 30, 2002, determined on the basis of full-time equivalent positions, except as may be necessary to strengthen the defense acquisition and support workforce in higher priority positions in accordance with this section.

(b) WORKFORCE FLEXIBILITY.—During fiscal years 2004, 2005, and 2006, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

(c) HIGHER PRIORITY POSITIONS.—For the purposes of this section, higher priority positions in the defense acquisition and support workforce include the following positions:
(1) Positions the responsibilities of which include drafting performance-based work statements for services contracts and overseeing the performance of contracts awarded pursuant to such work statements.
(2) Positions the responsibilities of which include conducting spending analyses, negotiating company-wide pricing agreements, and taking other measures to reduce contract costs.
(3) Positions the responsibilities of which include reviewing contractor quality control systems, assessing and analyzing quality deficiency reports, and taking other measures to improve product quality.
(4) Positions the responsibilities of which include effectively conducting public-private competitions in accordance with Office of Management and Budget Circular A–76.
(5) Any other positions in the defense acquisition and support workforce that the Secretary identifies as being higher priority positions that are staffed at levels not likely to ensure efficient and effective performance of all of the responsibilities of those positions.

(d) DEFENSE ACQUISITION AND SUPPORT WORKFORCE DEFINED.—In this section, the term ''defense acquisition and support workforce'' means members of the Armed Forces and civilian personnel who are assigned to, or are employed in, an organization of the Department of Defense that has acquisition as its predominant mission, as determined by the Secretary of Defense.

SEC. 843. CLARIFICATION AND REVISION OF AUTHORITY FOR DEMONSTRATION PROJECT RELATING TO CERTAIN ACQUISITION PERSONNEL MANAGEMENT POLICIES AND PROCEDURES.

Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1701 note) is amended—
(1) in subsection (b), by striking paragraph (3) and inserting the following:
''(3) CONDITIONS.—Paragraph (2) shall not apply with respect to a demonstration project unless—
''(A) for each organization or team participating in the demonstration project—
''(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and
''(ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and
''(B) the demonstration project commences before October 1, 2007.'';
(2) in subsection (d), by striking ''95,000'' in subsection (d) and inserting ''120,000'';
(3) by redesignating subsection (e) as subsection (f); and
(4) by inserting after subsection (d) the following:
''(e) EFFECT OF REORGANIZATIONS.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.''.

Subtitle F—Federal Support for Procurement of Anti-Terrorism Technologies and Services by State and Local Governments

SEC. 851. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

(a) AUTHORITY.—Subject to the limitations of subsection (b), the President may exercise the

discretionary authority under Public Law 85–804 (50 U.S.C. 1431 et seq.) so as to provide under such law for indemnification of contractors and subcontractors in procurements by States or units of local government of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) LIMITATIONS.—Any authority that is delegated by the President under subsection (a) to the head of a Federal agency to provide for the indemnification of contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for procurements by States or units of local government may be exercised only—

(1) in the case of a procurement by a State or unit of local government that—

(A) is made under a contract awarded pursuant to section 852; and

(B) is approved, in writing, for the provision of indemnification by the President or the official designated by the President under section 852(a); and

(2) with respect to—

(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification; and

(B) liabilities of a contractor or subcontractor not arising out of willful misconduct or lack of good faith on the part of the contractor or subcontractor, respectively.

SEC. 852. FEDERAL SUPPORT FOR ENHANCEMENT OF STATE AND LOCAL ANTI-TERRORISM RESPONSE CAPABILITIES.

(a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND SERVICES BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.—

(1) ESTABLISHMENT OF PROGRAM.—The President shall designate an officer or employee of the United States—

(A) to establish, and the designated official shall establish, a program under which States and units of local government may procure through contracts entered into by the designated official anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism; and

(B) to carry out the SAFER grant program provided for under subsection (f).

(2) DESIGNATED FEDERAL PROCUREMENT OFFICIAL FOR PROGRAM.—In this section, the officer or employee designated by the President under paragraph (1) shall be referred to as the ''designated Federal procurement official''.

(3) AUTHORITIES.—Under the program, the designated Federal procurement official—

(A) may, but shall not be required to, award contracts using the same authorities as are provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act (41 U.S.C. 259(b)(3)); and

(B) may make SAFER grants in accordance with subsection (f).

(4) OFFERS NOT REQUIRED TO STATE AND LOCAL GOVERNMENTS.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government may not be required to offer such technology or services to a State or unit of local government under the program.

(b) RESPONSIBILITIES OF THE CONTRACTING OFFICIAL.—In carrying out the program established under this section, the designated Federal procurement official shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the designated official.

(c) REQUIRED PROCEDURES.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:

(1) SUBMISSIONS BY STATES.—

(A) REQUESTS AND PAYMENTS.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the designated Federal procurement official under this section shall submit to that official in such form and manner and at such times as such official prescribes, the following:

(i) REQUEST.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) PAYMENT.—Advance payment for each requested technology or service in an amount determined by the designated official based on estimated or actual costs of the technology or service and administrative costs incurred by such official.

(B) OTHER CONTRACTS.—The designated Federal procurement official may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contractors. No indemnification may be provided under Public Law 85–804 pursuant to an exercise of authority under section 851 for procurements that are made directly between contractors and States or units of local government.

(2) PERMITTED CATALOG TECHNOLOGIES AND SERVICES.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) COORDINATION OF LOCAL REQUESTS WITHIN STATE.—The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) SHIPMENT AND TRANSPORTATION COSTS.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation of the technologies or services, respectively, to the State and localities within the State.

(d) REIMBURSEMENT OF ACTUAL COSTS.—In the case of a procurement made by or for a State or unit of local government under the procedures established under this section, the designated Federal procurement official shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

(f) SAFER GRANT PROGRAM.—

(1) AUTHORITY.—The designated Federal procurement official, in cooperation with the Secretary of the Department of Homeland Security or his designee, is authorized to make grants to eligible entities for the purpose of supporting increases in the number of permanent positions for firefighters in fire services to ensure staffing at levels and with skill mixes that are adequate emergency response to incidents or threats of terrorism.

(2) USE OF FUNDS.—The proceeds of a SAFER grant to an eligible entity may be used only for the purpose specified in paragraph (1).

(3) DURATION.—A SAFER grant to an eligible entity shall provide funding for a period of 4 years. The proceeds of the grant shall be disbursed to the eligible entity in 4 equal annual installments.

(4) NON-FEDERAL SHARE.—

(A) REQUIREMENT.—An eligible entity may receive a SAFER grant only if the entity enters into an agreement with the designated Federal procurement official to contribute non-Federal funds to achieve the purpose of the grant in the following amounts:

(i) During the second year in which funds of a SAFER grant are received, an amount equal to 25 percent of the amount of the SAFER grant funds received that year.

(ii) During the third year in which funds of a SAFER grant are received, an amount equal to 50 percent of the amount of the SAFER grant funds received that year.

(iii) During the fourth year in which funds of a SAFER grant are received, an amount equal to 75 percent of the amount of the SAFER grant funds received that year.

(B) WAIVER.—The designated Federal procurement official may waive the requirement for a non-Federal contribution described in subparagraph (A) in the case of any eligible entity.

(C) ASSET FORFEITURE FUNDS.—An eligible entity may use funds received from the disposal of property transferred to the eligible entity pursuant to section 9703(h) of title 31, United States Code, section 981(e) of title 18, United States Code, or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) to provide the non-Federal share required under paragraph (1).

(D) BIA FUNDS.—Funds appropriated for the activities of any agency of a tribal organization or for the Bureau of Indian Affairs to perform firefighting functions on any Indian lands may be used to provide the share required under subparagraph (A), and such funds shall be deemed to be non-Federal funds for such purpose.

(5) APPLICATIONS.—

(A) REQUIREMENT.—To receive a SAFER grant, an eligible entity shall submit an application for the grant to the designated Federal procurement official.

(B) CONTENT.—Each application for a SAFER grant shall contain, for each fire service covered by the application, the following information:

(i) A long-term strategy for increasing the force of firefighters in the fire service to ensure readiness for appropriate and effective emergency response to incidents or threats of terrorism.

(ii) A detailed plan for implementing the strategy that reflects consultation with community groups, consultation with appropriate private and public entities, and consideration of any master plan that applies to the eligible entity.

(iii) An assessment of the ability of the eligible entity to increase the force of firefighters in the fire service without Federal assistance.

(iv) An assessment of the levels of community support for increasing that force, including financial and in-kind contributions and any other available community resources.

(v) Specific plans for obtaining necessary support and continued funding for the firefighter positions proposed to be added to the fire service with SAFER grant funds.

(vi) An assurance that the eligible entity will, to the extent practicable, seek to recruit and employ (or accept the voluntary services of) firefighters who are members of racial and ethnic minority groups or women.

(vii) Any additional information that the designated Federal procurement official considers appropriate.

(C) SPECIAL RULE FOR SMALL COMMUNITIES.—The designated Federal procurement official may authorize an eligible entity responsible for a population of less than 50,000 to submit an application without information required under subparagraph (B), and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of an application by such an entity.

(D) PREFERENTIAL CONSIDERATION.—The designated Federal procurement official may give preferential consideration, to the extent feasible, to an application submitted by an eligible entity that agrees to contribute a non-Federal share higher than the share required under paragraph (4)(A).

(E) ASSISTANCE WITH APPLICATIONS.—The designated Federal procurement official is authorized to provide technical assistance to an eligible entity for the purpose of assisting with the preparation of an application for a SAFER grant.

(6) SPECIAL RULES ON USE OF FUNDS.—

(A) SUPPLEMENT NOT SUPPLANT.—The proceeds of a SAFER grant made to an eligible entity shall be used to supplement and not supplant other Federal funds, State funds, or funds from a subdivision of a State, or, in the case of a tribal organization, funds supplied by the Bureau of Indian Affairs, that are available for salaries or benefits for firefighters.

(B) LIMITATION RELATING TO COMPENSATION OF FIREFIGHTERS.—

(i) IN GENERAL.—The proceeds of a SAFER grant may not be used to fund the pay and benefits of a full-time firefighter if the total annual amount of the pay and benefits for that firefighter exceeds $100,000. The designated Federal procurement official may waive the prohibition in the proceeding sentence in any particular case.

(ii) ADJUSTMENT FOR INFLATION.—Effective on October 1 of each year, the total annual amount applicable under subparagraph (A) shall be increased by the percentage (rounded to the nearest one-tenth of one percent) by which the Consumer Price Index for all-urban consumers published by the Department of Labor for July of such year exceeds the Consumer Price Index for all-urban consumers published by the Department of Labor for July of the preceding year. The first adjustment shall be made on October 1, 2004.

(7) PERFORMANCE EVALUATION.—

(A) REQUIREMENT FOR INFORMATION.—The designated Federal procurement official shall evaluate, each year, whether an entity receiving SAFER grant funds in such year is substantially complying with the terms and conditions of the grant. The entity shall submit to the designated Federal procurement official any information that the designated Federal procurement official requires for that year for the purpose of the evaluation.

(B) REVOCATION OR SUSPENSION OF FUNDING.—If the designated Federal procurement official determines that a recipient of a SAFER grant is not in substantial compliance with the terms and conditions of the grant the designated Federal procurement official may revoke or suspend funding of the grant.

(8) ACCESS TO DOCUMENTS.—

(A) AUDITS BY DESIGNATED FEDERAL PROCUREMENT OFFICIAL.—The designated Federal procurement official shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of an eligible entity that receives a SAFER grant.

(B) AUDITS BY THE COMPTROLLER GENERAL.—Subparagraph (A) shall also apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

(9) TERMINATION OF SAFER GRANT AUTHORITY.—

(A) IN GENERAL.—The authority to award a SAFER grant shall terminate at the end of September 30, 2010.

(B) REPORT TO CONGRESS.—Not later than two years after the date of the enactment of this Act, the designated Federal procurement official shall submit to Congress a report on the SAFER grant program under this section. The report shall include an assessment of the effectiveness of the program for achieving its purpose, and may include any recommendations that the designated Federal procurement official has for increasing the forces of firefighters in fire services.

(10) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(i) a State;

(ii) a subdivision of a State;

(iii) a tribal organization;

(iv) any other public entity that the designated Federal procurement official determines appropriate for eligibility under this section; and

(v) a multijurisdictional or regional consortium of the entities described in clauses (i) through (iv).

(B) FIREFIGHTER.—The term ''firefighter'' means an employee or volunteer member of a fire service, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

(i) is trained in fire suppression and has the legal authority and responsibility to engage in fire suppression; or

(ii) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

(C) FIRE SERVICE.—The term ''fire service'' includes an organization described in section 4(5) of the Federal Fire Prevention and Control Act of 1974 that is under the jurisdiction of a tribal organization.

(D) MASTER PLAN.—The term ''master plan'' has the meaning given the term in section 10 of the Federal Fire Prevention and Control Act of 1974.

(E) SAFER GRANT.—The term 'SAFER grant' means a grant of financial assistance under this subsection.

(F) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section such sums as may be necessary from the Department of Homeland Security, up to—

(A) $1,000,000,000 for fiscal year 2004;

(B) $1,030,000,000 for fiscal year 2005; and

(C) $1,061,000,000 for fiscal year 2006.

SEC. 853. DEFINITIONS.

In this subtitle:

(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms ''anti-terrorism technology'' and ''anti-terrorism service'' mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) INFORMATION TECHNOLOGY.—The term ''information technology'' has the meaning given such term in section 11101(6) of title 40, United States Code.

(3) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(4) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

Subtitle G—General Contracting Authorities, Procedures, and Limitations, and Other Matters

SEC. 861. LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF UNITED STATES JOINT FORCES COMMAND.

Section 164 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—(1) The Secretary of Defense shall delegate to the commander of the unified combatant command referred to in paragraph (2) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop and acquire equipment described in paragraph (3). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.

''(2) The commander to which authority is delegated under paragraph (1) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.

''(3) The equipment referred to in paragraph (1) is as follows:

''(A) Battlefield command, control, communications, and intelligence equipment.

''(B) Any other equipment that the commander referred to in that paragraph determines necessary and appropriate for—

''(i) facilitating the use of joint forces in military operations; or

''(ii) enhancing the interoperability of equipment used by the various components of joint forces on the battlefield.

''(4) The authority delegated under paragraph (1) does not apply to the development or acquisition of a system for which—

''(A) the total expenditure for research, development, test, and evaluation is estimated to be $10,000,000 or more; or

''(B) the total expenditure for procurement of the system is estimated to be $50,000,000 or more.

''(5) The commander of the unified combatant command referred to in paragraph (1) shall require the inspector general of the command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).''.

SEC. 862. OPERATIONAL TEST AND EVALUATION.

(a) LEADERSHIP AND DUTIES OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—(1) Subsection (b)(1) of section 196 of title 10, United States Code, is amended—

(A) by striking ''on active duty. The Director'' and inserting ''on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director''; and

(B) by adding at the end the following: ''A civilian officer or employee serving as the Director shall serve in a pay level equivalent in rank to lieutenant general.''.

(2)(A) Subsection (c)(1)(B) of such section is amended by inserting after ''Department of Defense'' the following: ''other than budgets and expenditures for activities described in section 139(i) of this title''.

(B) Subsection (e)(1) of such section is amended—

(i) by striking '', the Director of Operational Test and Evaluation,''; and

(ii) by striking '', Director's''.

(b) DEPLOYMENT BEFORE COMPLETION OF OT&E.—Section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2607; 10 U.S.C. 2302 note) is amended by adding at the end the following new paragraph:

''(3) If items are deployed under the rapid acquisition and deployment procedures prescribed pursuant to this section, or under any other authority, before the completion of operational test and evaluation of the items, the Director of Operational Test and Evaluation shall have access to operational records and data relevant to such items in accordance with section 139(e)(3) of title 10, United States Code, for the purpose of completing operational test and evaluation of the items. The access to the operational records and data shall be provided in a time and manner determined by the Secretary of Defense consistent with requirements of operational security and other relevant operational requirements.''.

SEC. 863. MULTIYEAR TASK AND DELIVERY ORDER CONTRACTS.

(a) REPEAL OF APPLICABILITY OF EXISTING AUTHORITY AND LIMITATIONS.—Section 2306c of title 10, United States Code, is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) MULTIYEAR CONTRACTING AUTHORITY.—Section 2304a of such title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

''(f) MULTIYEAR CONTRACTS.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover any period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification of the contract. In no event, however, may the total contract period as extended exceed eight years.''.

SEC. 864. REPEAL OF REQUIREMENT FOR CONTRACTOR ASSURANCES REGARDING THE COMPLETENESS, ACCURACY, AND CONTRACTUAL SUFFICIENCY OF TECHNICAL DATA PROVIDED BY THE CONTRACTOR.

Section 2320(b) of title 10, United States Code, is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 865. REESTABLISHMENT OF AUTHORITY FOR SHORT-TERM LEASES OF REAL OR PERSONAL PROPERTY ACROSS FISCAL YEARS.

(a) REESTABLISHMENT OF AUTHORITY.—Subsection (a) of section 2410a of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''The Secretary of Defense'';

(2) by striking ''for procurement of severable services'' and inserting ''for a purpose described in paragraph (2)''; and

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

''(2) The purpose of a contract described in this paragraph is as follows:

''(A) The procurement of severable services.

''(B) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property''.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2410a and inserting the following new item:

''2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.''.

SEC. 866. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) AMENDMENT TO TITLE 10.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2381 the following new section:

''§2382. Consolidation of contract requirements: policy and restrictions

''(a) POLICY.—The Secretary of Defense shall require the Secretary of each military department, the head of each Defense Agency, and the head of each Department of Defense Field Activity to ensure that the decisions made by that official regarding consolidation of contract requirements of the department, agency, or field activity, as the case may be, are made with a view to providing small business concerns with appropriate opportunities to participate in Department of Defense procurements as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.

''(b) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—(1) An official of a military department, Defense Agency, or Department of Defense Field Activity may not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive concerned first—

''(A) conducts market research;

''(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

''(C) determines that the consolidation is necessary and justified.

''(2) A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under subparagraph (B) of that paragraph. However, savings in administrative or personnel costs alone do not constitute, for such purposes, a sufficient justification for a consolidation of contract requirements in a procurement unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

''(3) Benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

''(A) quality;

''(B) acquisition cycle;

''(C) terms and conditions; and

''(D) any other benefit.

''(c) DEFINITIONS.—In this section:

''(1) The terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, Defense Agency, or Department of Defense Field Activity, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy two or more requirements of that department, agency, or activity for goods or services that have previously been provided to, or performed for, that department, agency, or activity under two or more separate contracts smaller in cost than the total cost of the contract for which the offers are solicited.

''(2) The term ''multiple award contract'' means—

''(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of this title;

''(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of this title or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

''(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.

''(3) The term 'senior procurement executive concerned' means—

''(A) with respect to a military department, the official designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department; or

''(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense.

''(4) The term 'small business concern' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2381 the following new item:

''2382. Consolidation of contract requirements: policy and restrictions.''.

(b) DATA REVIEW.—(1) The Secretary of Defense shall revise the data collection systems of the Department of Defense to ensure that such systems are capable of identifying each procurement that involves a consolidation of contract requirements within the department with a total value in excess of $5,000,000.

(2) The Secretary shall ensure that appropriate officials of the Department of Defense periodically review the information collected pursuant to paragraph (1) in cooperation with the Small Business Administration—

(A) to determine the extent of the consolidation of contract requirements in the Department of Defense; and

(B) to assess the impact of the consolidation of contract requirements on the availability of opportunities for small business concerns to participate in Department of Defense procurements, both as prime contractors and as subcontractors.

(3) In this subsection:

(A) The term ''consolidation of contract requirements'' has the meaning given that term in section 2382(c)(1) of title 10, United States Code, as added by subsection (a).

(B) The term ''small business concern'' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) APPLICABILITY.—This section applies only with respect to contracts entered into with funds authorized to be appropriated by this Act.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department Officers and Agencies

SEC. 901. CLARIFICATION OF RESPONSIBILITY OF MILITARY DEPARTMENTS TO SUPPORT COMBATANT COMMANDS.

Sections 3013(c)(4), 5013(c)(4), and 8013(3)(c)(4) of title 10, United States Code, are amended by striking ''(to the maximum extent practicable)''.

SEC. 902. REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) REDESIGNATION.—The National Imagery and Mapping Agency (NIMA) is hereby redesignated as the National Geospatial-Intelligence Agency (NGA).

(b) CONFORMING AMENDMENTS.—

(1) TITLE 10, UNITED STATES CODE.—(A) Chapter 22 of title 10, United States Code, is amended by striking ''National Imagery and Mapping Agency'' each place it appears (other than the penultimate place it appears in section 461(b) of such title) and inserting ''National Geospatial-Intelligence Agency''.

(B) Section 453(b) of such title is amended by striking ''NIMA'' each place it appears and inserting ''NGA''.

(C)(i) Subsection (b)(3) of section 424 of such title is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(ii) The heading for such section is amended to read as follows:

''§424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Geospatial Intelligence Agency''.

(iii) The table of sections at the beginning of subchapter I of chapter 21 of such title is

amended in the item relating to section 424 by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(D) Section 425(a) of such title is amended—

(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph (3):

''(3) The words 'National Geospatial-Intelligence Agency', the initials 'NGA', or the seal of the National Geospatial-Intelligence Agency.''.

(E) Section 1614(2)(C) of such title is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(F)(i) The heading for chapter 22 of such title is amended to read as follows:

''CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.''

(ii) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part I of such subtitle, are each amended by striking the item relating to chapter 22 and inserting the following new item:

''22. National Geospatial-Intelligence Agency ..... 441''.

(2) NATIONAL SECURITY ACT OF 1947.—(A) Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(B) That Act is further amended by striking ''National Imagery and Mapping Agency'' each place it appears in sections 105, 105A, 105C, 106, and 110 (50 U.S.C. 403–5, 403–5a, 403–5c, 403–6, 404e) and inserting ''National Geospatial-Intelligence Agency''.

(C) Section 105C of that Act (50 U.S.C. 403–5c) is further amended—

(i) by striking ''NIMA'' each place it appears and inserting ''NGA''; and

(ii) in subsection (a)(6)(B)(iv)(II), by striking ''NIMA's'' and inserting ''NGA's''.

(D) The heading for section 105C of that Act (50 U.S.C. 403–5c) is amended to read as follows:

''PROTECTION OF OPERATIONAL FILES OF THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(E) The heading for section 110 of that Act (50 U.S.C. 404e) is amended to read as follows:

''NATIONAL MISSION OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(F) The table of contents for that Act is amended—

(i) by striking the item relating to section 105C and inserting the following new item:

''Sec. 105C. Protection of operational files of the National Geospatial-Intelligence Agency.'';

and

(ii) by striking the item relating to section 110 and inserting the following new item:

''Sec. 110. National mission of National Geospatial-Intelligence Agency.''.

(c) REPORT ON UTILIZATION OF CERTAIN DATA EXTRACTION AND EXPLOITATION CAPABILITIES.—(1) Not later than 60 days after the date of the enactment of this Act, the Director of the National Geospatial-Intelligence Agency shall submit to the appropriate committees of Congress a report on the status of the efforts of the Agency to incorporate within the Commercial Joint Mapping Tool Kit (C/JMTK) applications for the rapid extraction and exploitation of three-dimensional geospatial data from reconnaissance imagery.

(2) In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) REFERENCES.—Any reference to the National Imagery and Mapping Agency or NIMA in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Geospatial-Intelligence Agency or NGA, respectively.

(e) MATTERS RELATING TO GEOSPATIAL INTELLIGENCE.—(1) Section 442(a)(2) of title 10, United States Code, is amended by striking ''Imagery, intelligence, and information'' and inserting ''Geospatial intelligence''.

(2) Section 467 of such title is amended by adding at the end the following new paragraph:

''(5) The term 'geospatial intelligence' means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth, and includes imagery, imagery intelligence, and geospatial information.''.

(3) Section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a)) is amended by striking ''imagery requirements'' and inserting ''geospatial intelligence requirements''.

SEC. 903. STANDARDS OF CONDUCT FOR MEMBERS OF THE DEFENSE POLICY BOARD AND THE DEFENSE SCIENCE BOARD.

(a) STANDARDS REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall promulgate standards of conduct for members of the Defense Policy Board and the Defense Science Board. The purpose of the standards of conduct shall be to ensure public confidence in the Defense Policy Board and the Defense Science Board.

(b) ISSUES TO BE ADDRESSED.—The standards of conduct promulgated pursuant to subsection (a) shall address, at a minimum, the following:

(1) Conditions governing the access of Board members to classified information and other confidential information about the plans and operations of the Department of Defense and appropriate limitations on any use of such information for private gain.

(2) Guidelines for addressing conflicting financial interests and recusal from participation in matters affecting such interests.

(3) Guidelines regarding the lobbying of Department of Defense officials or other contacts with Department of Defense officials regarding matters in which Board members may have financial interests.

(c) REPORT TO CONGRESS.—The Secretary of Defense shall provide the Committees on Armed Services of the Senate and the House of Representatives with a copy of the standards of conduct promulgated pursuant to subsection (a) immediately upon promulgation of the standards.

Subtitle B—Space Activities

SEC. 911. COORDINATION OF SPACE SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) SPACE SCIENCE AND TECHNOLOGY STRATEGY.—(1) The Under Secretary of the Air Force, in consultation with the Director of Defense Research and Engineering, shall develop a space science and technology strategy and shall review and, as appropriate, revise the strategy annually.

(2) The strategy shall, at a minimum, address the following issues:

(A) Short-term and long-term goals of the space science and technology programs of the Department of Defense.

(B) The process for achieving the goals, including an implementation plan.

(C) The process for assessing progress made toward achieving the goals.

(3) Not later than March 15, 2004, the Under Secretary shall submit a report on the space science and technology strategy to the Committees on Armed Services of the Senate and the House of Representatives.

(b) REQUIRED COORDINATION.—In executing the space science and technology strategy, the directors of the research laboratories of the Department of Defense, the heads of other Department of Defense research components, and the heads of all other appropriate organizations identified jointly by the Under Secretary of the Air Force and the Director of Defense Research and Engineering—

(1) shall identify research laboratory projects that make contributions pertaining directly and uniquely to the development of space technology; and

(2) may execute the identified projects only with the concurrence of the Under Secretary of the Air Force.

(c) GENERAL ACCOUNTING OFFICE REVIEW.—(1) The Comptroller General shall review and assess the space science and technology strategy developed under subsection (a) and the effectiveness of the coordination process required under subsection (b).

(2) Not later than September 1, 2004, the Comptroller General shall submit a report containing the findings and assessment under paragraph (1) to the committees on Armed Services of the Senate and the House of Representatives.

(d) DEFINITIONS.—In this section:

(1) The term ''research laboratory of the Department of Defense'' means the following:

(A) The Air Force Research Laboratory.

(B) The Naval Research Laboratory.

(C) The Office of Naval Research.

(D) The Army Research Laboratory.

(2) The term ''other Department of Defense research component'' means the following:

(A) The Defense Advanced Research Projects Agency.

(B) The National Reconnaissance Office.

SEC. 912. SPACE PERSONNEL CADRE.

(a) STRATEGY REQUIRED.—(1) The Secretary of Defense shall develop a human capital resources strategy for space personnel of the Department of Defense.

(2) The strategy shall be designed to ensure that the space career fields of the military departments are integrated to the maximum extent practicable.

(b) REPORT.—Not later than February 1, 2004, the Secretary shall submit a report on the strategy to the Committees on Armed Services of the Senate and the House of Representatives. The report shall contain the following information:

(1) The strategy.

(2) An assessment of the progress made in integrating the space career fields of the military departments.

(3) A comprehensive assessment of the adequacy of the establishment of the Air Force officer career field for space under section 8084 of title 10, United States Code, as a solution for correcting deficiencies identified by the Commission To Assess United States National Security Space Management and Organization (established under section 1621 of Public Law 106–65; 113 Stat. 813; 10 U.S.C. 111 note).

(c) GENERAL ACCOUNTING OFFICE REVIEW.—(1) The Comptroller General shall review the strategy developed under subsection (a) the space career fields of the military departments and the plans of the military departments for developing space career fields. The review shall include an assessment of how effective the strategy and the space career fields and plans, when implemented, are likely to be for developing the necessary cadre of personnel who are expert in space systems development and space systems operations.

(2) Not later than June 15, 2004, the Comptroller General shall submit to the Committees referred to in subsection (a)(2) a report on the results of the review under paragraph (1), including the assessment required by such paragraph.

SEC. 913. POLICY REGARDING ASSURED ACCESS TO SPACE FOR UNITED STATES NATIONAL SECURITY PAYLOADS.

(a) POLICY.—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.

(b) INCLUDED ACTIONS.—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

(1) the availability of at least two space launch vehicles or families of space launch vehicles capable of delivering into space all payloads designated as national security payloads by the Secretary of Defense and the Director of Central Intelligence; and

(2) a robust space launch infrastructure and industrial base.

(c) COORDINATION.—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the Administrator of the National Space and Aeronautics Administration.

SEC. 914. PILOT PROGRAM TO PROVIDE SPACE SURVEILLANCE NETWORK SERVICES TO ENTITIES OUTSIDE THE UNITED STATES GOVERNMENT.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a pilot program to provide eligible entities outside the Federal Government with satellite tracking services using assets owned or controlled by the Department of Defense.

(b) ELIGIBLE ENTITIES.—The Secretary shall prescribe the requirements for eligibility to obtain services under the pilot program. The requirements shall, at a minimum, provide eligibility for the following entities:

(1) The governments of States.

(2) The governments of political subdivisions of States.

(3) United States commercial entities.

(4) The governments of foreign countries.

(5) Foreign commercial entities.

(c) SALE OF SERVICES.—Services under the pilot program may be provided by sale, except in the case of services provided to a government described in paragraph (1) or (2) of subsection (b).

(d) CONTRACTOR INTERMEDIARIES.—Services under the pilot program may be provided either directly to an eligible entity or through a contractor of the United States or a contractor of an eligible entity.

(e) SATELLITE DATA AND RELATED ANALYSES.—The services provided under the pilot program may include satellite tracking data or any analysis of satellite data if the Secretary determines that it is in the national security interests of the United States for the services to include such data or analysis, respectively.

(f) REIMBURSEMENT OF COSTS.—The Secretary may require an entity purchasing services under the pilot program to reimburse the Department of Defense for the costs incurred by the Department in entering into the sale.

(g) CREDITING TO CHARGED ACCOUNTS.—(1) The proceeds of a sale of services under the pilot program, together with any amounts reimbursed under subsection (f) in connection with the sale, shall be credited to the appropriation for the fiscal year in which collected that is or corresponds to the appropriation charged the costs of such services.

(2) Amounts credited to an appropriation under paragraph (1) shall be merged with other sums in the appropriation and shall be available for the same period and the same purposes as the sums with which merged.

(h) NONTRANSFERABILITY AGREEMENT.—The Secretary shall require a recipient of services under the pilot program to enter into an agreement not to transfer any data or technical information, including any analysis of satellite tracking data, to any other entity without the expressed approval of the Secretary.

(i) PROHIBITION CONCERNING INTELLIGENCE ASSETS OR DATA.—Services and information concerning, or derived from, United States intelligence assets or data may not be provided under the pilot program.

(j) DEFINITIONS.—In this section:

(1) The term ''United States commercial entity'' means an entity that is involved in commerce and is organized under laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or American Samoa.

(2) The term ''foreign commercial entity'' means an entity that is involved in commerce and is organized under laws of a foreign country.

(k) DURATION OF PILOT PROGRAM.—The pilot program under this section shall be conducted for three years beginning on a date designated by the Secretary of Defense, but not later than 180 days after the date of the enactment of this Act.

SEC. 915. CONTENT OF BIENNIAL GLOBAL POSITIONING SYSTEM REPORT.

(a) REVISED CONTENT.—Paragraph (1) of section 2281(d) of title 10, United States Code, is amended—

(1) by striking subparagraph (C);

(2) in subparagraph (E), by striking ''Any progress made toward'' and inserting ''Progress and challenges in'';

(3) by striking subparagraph (F), and inserting the following:

''(F) Progress and challenges in protecting GPS from jamming, disruption, and interference.'';

(4) by redesignating subparagraphs (D), (E), and (F), as subparagraphs (C), (D), and (E), respectively; and

(5) by inserting after subparagraph (E), as so redesignated, the following new subparagraph (F):

''(F) Progress and challenges in developing the enhanced Global Positioning System required by section 218(b) of Public Law 105–261 (112 Stat. 1951; 10 U.S.C. 2281 note).''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of such section 2281(d) is amended by inserting ''(C),'' after ''under subparagraphs''.

Subtitle C—Other Matters

SEC. 921. COMBATANT COMMANDER INITIATIVE FUND.

(a) REDESIGNATION OF CINC INITIATIVE FUND.—(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the ''Combatant Commander Initiative Fund''.

(2) Section 166a of title 10, United States Code, is amended—

(A) by striking the heading for subsection (a) and inserting ''COMBATANT COMMANDER INITIATIVE FUND.—''; and

(B) by striking ''CINC Initiative Fund'' in subsections (a), (c), and (d), and inserting ''Combatant Commander Initiative Fund''.

(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.

(b) AUTHORIZED ACTIVITIES.—Subsection (b) of section 166a of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(10) Joint warfighting capabilities.''.

(c) INCREASED MAXIMUM AMOUNTS AUTHORIZED FOR USE.—Subsection (e)(1) of such section is amended—

(1) in subparagraph (A), by striking ''$7,000,000'' and inserting ''$15,000,000'';

(2) in subparagraph (B), by striking ''$1,000,000'' and inserting ''$10,000,000''; and

(3) in subparagraph (C), by striking ''$2,000,000'' and inserting ''$10,000,000''.

SEC. 922. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF OPERATIONAL STUDIES.

Section 7102(b) of title 10, United States Code, is amended—

(1) by striking ''MARINE CORPS WAR COLLEGE.—'' and inserting ''AWARDING OF DEGREES.—(1)''; and

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

''(2) Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the School of Advanced Warfighting of the Command and Staff College who fulfill the requirements for that degree.''.

SEC. 923. REPORT ON CHANGING ROLES OF UNITED STATES SPECIAL OPERATIONS COMMAND.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the changing roles of the United States Special Operations Command.

(b) CONTENT OF REPORT.—(1) The report shall specifically discuss in detail the following matters:

(A) The expanded role of the United States Special Operations Command in the global war on terrorism.

(B) The reorganization of the United States Special Operations Command to function as a supported combatant command for planning and executing operations.

(C) The role of the United States Special Operations Command as a supporting combatant command.

(2) The report shall also include, in addition to the matters discussed pursuant to paragraph (1), a discussion of the following matters:

(A) The military strategy to employ the United States Special Operations Command to fight the war on terrorism and how that strategy contributes to the overall national security strategy with regard to the global war on terrorism.

(B) The scope of the authority granted to the commander of the United States Special Operations Command to act as a supported commander and to prosecute the global war on terrorism.

(C) The operational and legal parameters within which the commander of the United States Special Operations Command is to exercise command authority in foreign countries when taking action against foreign and United States citizens engaged in terrorist activities.

(D) The decisionmaking procedures for authorizing, planning, and conducting individual missions, including procedures for consultation with Congress.

(E) The procedures for the commander of the United States Special Operations Command to use to coordinate with commanders of other combatant commands, especially geographic commands.

(F) Future organization plans and resource requirements for conducting the global counterterrorism mission.

(G) The impact of the changing role of the United States Special Operations Command on other special operations missions, including foreign internal defense, psychological operations, civil affairs, unconventional warfare, counterdrug activities, and humanitarian activities.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 924. INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

(a) FINDINGS.—Congress makes the following findings:

(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum where the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

(4) The current funding structure of a National Foreign Intelligence Program (NFIP), Joint Military Intelligence Program (JMIP), and Tactical Intelligence and Related Activities Program (TIARA) might not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

(5) The position of Under Secretary of Defense for Intelligence was established in 2002 by Public Law 107–314 in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

(b) GOAL.—It shall be a goal of the Department of Defense to fully coordinate and integrate the intelligence, surveillance, and reconnaissance capabilities and developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.

(c) REQUIREMENT.—(1) The Under Secretary of Defense for Intelligence shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council to provide a permanent forum for the discussion and arbitration of issues relating to the integration of intelligence, surveillance, and reconnaissance capabilities.

(2) The Council shall be composed of the senior intelligence officers of the Armed Forces and the United States Special Operations Command, the Director of Operations of the Joint Staff, and the directors of the intelligence agencies of the Department of Defense.

(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of Central Intelligence or his representative in the proceedings of the Council.

(d) ISR INTEGRATION ROADMAP.—The Under Secretary of Defense for Intelligence, in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of Central Intelligence, shall develop a comprehensive Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for 15 years.

(e) REPORT.—(1) Not later than September 30, 2004, the Under Secretary of Defense for Intelligence shall submit to the committees of Congress specified in paragraph (2) a report on the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap developed under subsection (d). The report shall include the following matters:

(A) The fundamental goals established in the roadmap.

(B) An overview of the intelligence, surveillance, and reconnaissance integration activities of the military departments and the intelligence agencies of the Department of Defense.

(C) An investment strategy for achieving—

(i) an integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities that ensures sustainment of needed tactical and operational efforts; and

(ii) efficient investment in new intelligence, surveillance, and reconnaissance capabilities.

(D) A discussion of how intelligence gathered and analyzed by the Department of Defense can enhance the role of the Department of Defense in fulfilling its homeland security responsibilities.

(E) A discussion of how counterintelligence activities of the Armed Forces and the Department of Defense intelligence agencies can be better integrated.

(F) Recommendations on how annual funding authorizations and appropriations can be optimally structured to best support the development of a fully integrated Department of Defense intelligence, surveillance, and reconnaissance architecture.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

(B) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 925. ESTABLISHMENT OF THE NATIONAL GUARD OF THE NORTHERN MARIANA ISLANDS.

(a) ESTABLISHMENT.—The Secretary of Defense may cooperate with the Governor of the Northern Mariana Islands to establish the National Guard of the Northern Mariana Islands, and may integrate into the Army National Guard of the United States and the Air National Guard of the United States the members of the National Guard of the Northern Mariana Islands who are granted Federal recognition under title 32, United States Code.

(b) AMENDMENTS TO TITLE 10.—(1) Section 101 of title 10, United States Code, is amended—

(A) in subsection (c), by inserting ''the Northern Mariana Islands,'' after ''Puerto Rico,'' in paragraphs (2) and (4); and

(B) in subsection (d)(5), by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''the Commonwealth of Puerto Rico,''.

(2) Section 10001 of such title is amended by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''the Commonwealth of Puerto Rico,''.

(c) AMENDMENTS TO TITLE 32.—Title 32, United States Code, is amended as follows:

(1) Section 101 is amended—

(A) in paragraphs (4) and (6), by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''; and

(B) in paragraph (19), by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''the Commonwealth of Puerto Rico,''.

(2) Section 103 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(3) Section 104 is amended—

(A) in subsection (a), by striking ''and Puerto Rico'' and inserting '', Puerto Rico, and the Northern Mariana Islands''; and

(B) in subsections (c) and (d), by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(4) Section 107(b) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(5) Section 109 is amended by inserting ''the Northern Mariana Islands'' in subsections (a), (b), and (c) after ''Puerto Rico,''.

(6) Section 112(i)(3) is amended by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''the Commonwealth of Puerto Rico,''.

(7) Section 304 is amended by inserting '', the Northern Mariana Islands,'' after ''or of Puerto Rico'' in the sentence following the oath.

(8) Section 314 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico'' in subsections (a) and (d).

(9) Section 315 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico'' each place it appears.

(10) Section 325(a) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(11) Section 501(b) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(12) Section 503(b) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(13) Section 504(b) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(14) Section 505 is amended by inserting ''or the Northern Mariana Islands,'' after ''Puerto Rico,'' in the first sentence.

(15) Section 509(l)(1) is amended by inserting ''the Commonwealth of the Northern Mariana Islands,'' after ''the Commonwealth of Puerto Rico,''.

(16) Section 702 is amended—

(A) in subsection (a), by inserting '', or the Northern Mariana Islands,'' after ''Puerto Rico''; and

(B) in subsections (b), (c), and (d), by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(17) Section 703 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico'' in subsections (a) and (b).

(18) Section 704 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico'' in subsections (a) and (b).

(19) Section 708 is amended—

(A) in subsection (a), by striking ''and Puerto Rico,'' and inserting ''Puerto Rico, and the Northern Mariana Islands,''; and

(B) in subsection (d), by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(20) Section 710 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico'' each place it appears in subsections (c), (d)(3), (e), and (f)(1).

(21) Section 711 is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(22) Section 712(1) is amended by inserting '', the Northern Mariana Islands,'' after ''Puerto Rico''.

(23) Section 715(c) is amended by striking ''or the District of Columbia or Puerto Rico,'' and inserting '', the District of Columbia, Puerto Rico, or the Northern Mariana Islands''.

(d) AMENDMENTS TO TITLE 37.—Section 101 of title 37, United States Code, is amended by striking ''the Canal Zone,'' in paragraphs (7) and (9) and inserting ''the Northern Mariana Islands,''.

(e) OTHER REFERENCES.—Any reference that is made in any other provision of law or in any regulation of the United States to a State, or to the Governor of a State, in relation to the National Guard (as defined in section 101(3) of title 32, United States Code) shall be considered to include a reference to the Commonwealth of the Northern Mariana Islands or to the Governor of the Northern Mariana Islands, respectively.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary

of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2004 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2004.

(a) FISCAL YEAR 2004 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2004 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2003, of funds appropriated for fiscal years before fiscal year 2004 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $853,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $207,125,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term ''common-funded budgets of NATO'' means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term ''fiscal year 1998 baseline limitation'' means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.

(a) DOD AND DOE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I of Public Law 108–11.

(b) REPORT ON FISCAL YEAR 2003 TRANSFERS.—Not later than 30 days after the end of each fiscal quarter for which unexpended balances of funds appropriated under title I of Public Law 108–11 are available for the Department of Defense, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer of such funds during such fiscal quarter of an amount provided for the Department of Defense through a so-called ''transfer account'', including the Iraqi Freedom Fund or any other similar account—

(1) the amount of the transfer;

(2) the appropriation account to which the transfer was made; and

(3) the specific purpose for which the transferred funds were used or are to be used.

Subtitle B—Improvement of Travel Card Management

SEC. 1011. MANDATORY DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO TRAVEL CARD CREDITORS.

Section 2784a(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''The Secretary of Defense may require'' and inserting ''The Secretary of Defense shall require'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) The Secretary of Defense may waive the requirement for a direct payment to a travel care issuer under paragraph (1) in any case in which it is determined under regulations prescribed by the Secretary that the direct payment would be against equity and good conscience or would be contrary to the best interests of the United States.''.

SEC. 1012. DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.

Section 2784a of title 10, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.—(1) The Secretary of Defense shall require that the creditworthiness of an individual be evaluated before a Defense travel card is issued to the individual. The evaluation may include an examination of the individual's credit history in available credit records.

''(2) An individual may not be issued a Defense travel card if the individual is found not creditworthy as a result of the evaluation required under paragraph (1).''.

SEC. 1013. DISCIPLINARY ACTIONS AND ASSESSING PENALTIES FOR MISUSE OF DEFENSE TRAVEL CARDS.

(a) REQUIREMENT FOR GUIDANCE.—The Secretary of Defense shall prescribe guidelines and procedures for making determinations regarding the taking of disciplinary action, including assessment of penalties, against Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.

(b) ACTIONS COVERED.—The disciplinary actions and penalties covered by the guidance and procedures prescribed under subsection (a) may include the following:

(1) Civil actions for false claims under sections 3729 through 3731 of title 31, United States Code.

(2) Administrative remedies for false claims and statements provided under chapter 38 of title 31, United States Code.

(3) In the case of civilian personnel, adverse personnel actions under chapter 75 of title 5, United States Code, and any other disciplinary actions available under law for employees of the United States.

(4) In the case of members of the Armed Forces, disciplinary actions and penalties under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

(c) REPORT.—Not later than February 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the guidelines and penalties prescribed under subsection (a). The report shall include the following:

(1) The guidelines and penalties.

(2) A discussion of the implementation of the guidelines and penalties.

(3) A discussion of any additional administrative action, or any recommended legislation, that the Secretary considers necessary to effectively take disciplinary action against and penalize Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.

(d) DEFENSE TRAVEL CARD DEFINED.—In this section, the term ''Defense travel card'' has the meaning given such term in section 2784a(d)(1) of title 10, United States Code.

Subtitle C—Reports

SEC. 1021. ELIMINATION AND REVISION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) PROVISIONS OF TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 128 is amended by striking subsection (d).

(2) Section 437 is amended—

(A) by striking subsection (b); and

(B) in subsection (c)—

(i) by striking ''and'' at the end of paragraph (2);

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

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

''(4) a description of each corporation, partnership, and other legal entity that was established during such fiscal year.''.

(3)(A) Section 520c is amended—

(i) by striking subsection (b);

(ii) by striking ''(a) PROVISION OF MEALS AND REFRESHMENTS.—''; and

(iii) by striking the heading for such section and inserting the following:

''§ 520c. Provision of meals and refreshments for recruiting purposes''.

(B) The item relating to such section in the table of sections at the beginning of chapter 31 of such title is amended to read as follow:

''520c. Provision of meals and refreshments for recruiting purposes.''.

(4) Section 986 is amended by striking subsection (e).

(5) Section 1060 is amended by striking subsection (d).

(6) Section 2212 is amended by striking subsections (d) and (e).

(7) Section 2224 is amended by striking subsection (e).

(8) Section 2255(b) is amended—

(A) by striking paragraph (2);

(B) by striking ''(b) EXCEPTION.—(1)'' and inserting ''(b) EXCEPTION.—'';

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(9) Section 2323(i) is amended by striking paragraph (3).

(10) Section 2350a is amended by striking subsection (f).

(11) Section 2350b(d) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) Not later than 90 days after the end of each fiscal year in which the Secretary of Defense has authority delegated as described in subsection (a), the Secretary shall submit to Congress a report on the administration of such authority under this section. The report for a fiscal year shall include the following information:

''(A) Each prime contract that the Secretary required to be awarded to a particular prime contractor during such fiscal year, and each subcontract that the Secretary required be awarded to a particular subcontractor during such fiscal year, to comply with a cooperative agreement, together with the reasons that the Secretary exercised authority to designate a particular contractor or subcontractor, as the case may be.

''(B) Each exercise of the waiver authority under subsection (c) during such fiscal year, including the particular provision or provisions of law that were waived.''; and

(B) by redesignating paragraph (3) as paragraph (2).

(12) Section 2371(h) is amended by adding at the end the following new paragraph:

''(3) No report is required under this section for fiscal years after fiscal year 2006.''.

(13) Section 2515(d) is amended—

(A) by striking ''ANNUAL REPORT.—'' and inserting ''BIENNIAL REPORT.—''; and

(B) in paragraph (1)—

(i) in the second sentence, by striking ''each year'' and inserting ''each even-numbered year''; and

(ii) in the third sentence, by striking ''during the fiscal year'' and inserting ''during the two fiscal years''.

(14) Section 2541d is amended—

(A) by striking subsection (b); and

(B) by striking ''(a) REPORT BY COMMERCIAL FIRMS TO SECRETARY OF DEFENSE.—''.

(15) Section 2645(d) is amended—

(A) by striking ''to Congress'' and all that follows through ''notification of the loss'' in paragraph (1) and inserting ''to Congress notification of the loss'';

(B) by striking ''loss; and'' and inserting ''loss.''; and

(C) by striking paragraph (2).

(16) Section 2680 is amended by striking subsection (e).

(17) Section 2688(e) is amended to read as follows:

''(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter. The report shall include, for each such conveyance, an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

''(A) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

''(B) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned.

''(2) In this section, the term 'congressional defense committees' means the following:

''(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.

''(B) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''.

(18) Section 2807(b) is amended by striking ''$500,000'' and inserting ''$1,000,000''.

(19) Section 2827 is amended—

(A) by striking subsection (b); and

(B) by striking ''(a) Subject to subsection (b), the Secretary'' and inserting ''The Secretary''.

(20) Section 2902(g) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(g)(1)'' and inserting ''(g)''.

(21) Section 9514 is amended—

(A) in subsection (c)—

(i) by striking ''to Congress'' and all that follows through ''notification of the loss'' in paragraph (1) and inserting ''to Congress notification of the loss'';

(ii) by striking ''loss; and'' and inserting ''loss.''; and

(iii) by striking paragraph (2); and

(B) by striking subsection (f).

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993.—Section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note) is amended by striking subsection (c).

(c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Section 324 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2367; 10 U.S.C. 2701 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking ''(a) SENSE OF CONGRESS.—''.

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 721 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2804; 10 U.S.C. 1074 note) is amended by striking subsection (h).

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—Section 324(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2480; 10 U.S.C. 2706 note) is amended by inserting ''before 2006'' after ''submitted to Congress''.

(f) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) is amended—

(1) in section 745(e) (112 Stat. 2078; 10 U.S.C. 1071 note)—

(A) by striking paragraph (2); and

(B) by striking ''TRICARE.—(1) The'' and inserting ''TRICARE.—The'' ; and

(2) effective on January 1, 2004, by striking section 1223 (112 Stat. 2154; 22 U.S.C. 1928 note).

(g) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended—

(1) by striking section 1025 (113 Stat. 748; 10 U.S.C. 113 note);

(2) in section 1039 (113 Stat. 756; 10 U.S.C. 113 note), by striking subsection (b); and

(3) in section 1201 (113 Stat. 779; 10 U.S.C. 168 note) by striking subsection (d).

(h) DEPARTMENT OF DEFENSE AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES ACT, 2002.—Section 8009 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117; 115 Stat. 2249) is amended by striking '', and these obligations shall be reported to the Congress as of September 30 of each year''.

SEC. 1022. GLOBAL STRIKE PLAN.

(a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE.—The Secretary of Defense shall prescribe an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.

(b) REPORTS REQUIRED.—(1) Not later than April 1 of each of 2004, 2005, and 2006, the Secretary shall submit to the congressional defense committees a report on the plan prescribed under subsection (a).

(2) Each report required under paragraph (1) shall include the following:

(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which the assets might be used.

(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including bombers, intercontinental ballistic missiles, and submarine launched ballistic missiles.

(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.

(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.

(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.

(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.

(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.

(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.

(I) An estimated schedule for achieving the desired prompt global strike capabilities.

(J) The estimated cost of achieving the desired prompt global strike capabilities.

(K) A description of ongoing and future studies necessary for updating the plan appropriately.

SEC. 1023. REPORT ON THE CONDUCT OF OPERATION IRAQI FREEDOM.

(a) REPORT REQUIRED.—(1) The Secretary of Defense shall summit to the congressional defense committees, not later than March 31, 2004, a report on the conduct of military operations under Operation Iraqi Freedom.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the Commander of the United States Central Command, and such other officials as the Secretary considers appropriate.

(b) CONTENT.—(1) The report shall include a discussion of the matters described in paragraph (2), with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address the shortcomings.

(2) The matters to be discussed in the report are as follows:

(A) The military objectives of the international coalition conducting Operation Iraqi Freedom, the military strategy selected to achieve the objectives, and an assessment of the execution of the military strategy.

(B) The deployment process, including the adaptability of the process to unforeseen contingencies and changing requirements.

(C) The reserve component mobilization process, including the timeliness of notification, training, and subsequent demobilization.

(D) The use and performance of major items of United States military equipment, weapon systems, and munitions (including items classified under special access procedures and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of those items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(E) Any additional identified requirements for military equipment, weapon systems, and munitions, including mix and quantity for future contingencies.

(F) The effectiveness of joint air operations, including the doctrine for the employment of close air support in the varied environments of Operation Iraqi Freedom, and the effectiveness of attack helicopter operations.

(G) The use of special operations forces, including operational and intelligence uses.

(H) The scope of logistics support, including support from other nations.

(I) The incidents of accidental fratricide, together with a discussion of the effectiveness of the tracking of friendly forces and of the combat

identification systems in mitigating friendly fire incidents.

(J) The adequacy of spectrum and bandwidth to transmit all necessary information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(K) The effectiveness of information operations, including the effectiveness of Commando Solo and other psychological operations assets, in achieving established objectives, together with a description of technological and other restrictions on the use of psychological operations capabilities.

(L) The effectiveness of the reserve component forces used in Operation Iraqi Freedom.

(M) The adequacy of intelligence support to the warfighter before, during, and after combat operations, including the adequacy of such support to facilitate searches for weapons of mass destruction.

(N) The rapid insertion and integration, if any, of developmental but mission-essential equipment during all phases of the operation.

(O) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes, and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces.

(P) The results of a study, carried out by the Secretary of Defense, regarding the availability of family support services provided to the dependents of members of the National Guard and other reserve components of the Armed Forces who are called or ordered to active duty (hereinafter in this subparagraph referred to as ''mobilized members''), including, at a minimum, the following matters:

(i) A discussion of the extent to which cooperative agreements are in place or need to be entered into to ensure that dependents of mobilized members receive adequate family support services from within existing family readiness groups at military installations without regard to the members' armed force or component of an armed force.

(ii) A discussion of what additional family support services, and what additional family support agreements between and among the Armed Forces (including the Coast Guard), are necessary to ensure that adequate family support services are provided to the families of mobilized members.

(iii) A discussion of what additional resources are necessary to ensure that adequate family support services are available to the dependents of each mobilized member at the military installation nearest the residence of the dependents.

(iv) The additional outreach programs that should be established between families of mobilized members and the sources of family support services at the military installations in their respective regions.

(v) A discussion of the procedures in place for providing information on availability of family support services to families of mobilized members at the time the members are called or ordered to active duty.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

(d) REPORTING REQUIREMENT RELATING TO NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE OF IRAQ.—(1) If a contract for the maintenance, rehabilitation, construction, or repair of infrastructure in Iraq is entered into under the oversight and direction of the Secretary of Defense or the Office of Reconstruction and Humanitarian Assistance in the Office of the Secretary of Defense without full and open competition, the Secretary shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:

(i) The amount of the contract.

(ii) A brief description of the scope of the contract.

(iii) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(iv) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(B) Subparagraph (A) does not apply to a contract entered into more than one year after date of enactment.

(2)(A) The head of an executive agency may—

(i) withhold from publication and disclosure under paragraph (1) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(ii) redact any part so classified that is in a document not so classified before publication and disclosure of the document under paragraph (1).

(B) In any case in which the head of an executive agency withholds information under subparagraph (A), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(i) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(ii) The Committees on Appropriations of the Senate and the House of Representatives.

(iii) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(3) This subsection shall apply to contracts entered into on or after October 1, 2002, except that, in the case of a contract entered into before the date of the enactment of this Act, paragraph (1) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(4) Nothing in this subsection shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(5) In this subsection, the terms ''executive agency'' and ''full and open competition'' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 1024. REPORT ON MOBILIZATION OF THE RESERVES.

(a) REQUIREMENT FOR REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the mobilization of reserve component forces during fiscal years 2002 and 2003.

(b) CONTENT.—The report under subsection (a) shall include, for the period covered by the report, the following information:

(1) The number of Reserves who were called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

(2) The number of such Reserves who were called or ordered to active duty for one year or more, including any extensions on active duty.

(3) The military specialties of the Reserves counted under paragraph (2).

(4) The number of Reserves who were called or ordered to active duty more than once under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

(5) The military specialties of the Reserves counted under paragraph (4).

(6) The known effects on the reserve components, including the effects on recruitment and retention of personnel for the reserve components, that have resulted from—

(A) the calls and orders of Reserves to active duty; and

(B) the tempo of the service of the Reserves on the active duty to which called or ordered.

(7) The changes in the Armed Forces, including any changes in the allocation of roles and missions between the active components and the reserve components of the Armed Forces, that are envisioned by the Secretary of Defense on the basis of—

(A) the effects discussed under paragraph (6); or

(B) the experienced need for calling and ordering Reserves to active duty during the period.

(8) An assessment of how necessary it would be to call or order Reserves to active duty in the event of a war or contingency operation (as defined in section 101(a)(13) of title 10, United States Code) if such changes were implemented.

(9) On the basis of the experience of calling and ordering Reserves to active duty during the period, an assessment of the process for calling and ordering Reserves to active duty, preparing such Reserves for the active duty, processing the Reserves into the force upon entry onto active duty, and deploying the Reserves, including an assessment of the adequacy of the alert and notification process from the perspectives of the individual Reserves, reserve component units, and employers of Reserves.

SEC. 1025. STUDY OF BERYLLIUM INDUSTRIAL BASE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium.

(b) REPORT.—Not later than January 30, 2004, the Secretary shall submit a report on the results of the study to Congress. The report shall contain, at a minimum, the following information:

(1) A discussion of the issues identified with respect to the long-term supply of beryllium.

(2) An assessment of the need, if any, for modernization of the primary sources of production of beryllium.

(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

Subtitle D—Other Matters

SEC. 1031. BLUE FORCES TRACKING INITIATIVE.

(a) FINDINGS.—Congress makes the following findings:

(1) For military commanders, a principal purpose of technology is to enable the commanders to ascertain the location of the units in their commands in near real time.

(2) Each of the Armed Forces is developing and testing a variety of technologies for tracking friendly forces (known as ''blue forces'').

(3) Situational awareness of blue forces has been much improved since the 1991 Persian Gulf War, but blue forces tracking remains a complex problem characterized by information that is incomplete, not fully accurate, or untimely.

(4) Casualties in recent warfare have declined, but casualties associated with friendly fire incidents have remained relatively constant.

(5) Despite significant investment, a coordinated, interoperable plan for tracking blue forces throughout a United States or coalition forces theater of operations has not been developed.

(b) GOAL.—It shall be a goal of the Department of Defense to fully coordinate the various efforts of the Joint Staff, the commanders of the

combatant commands, and the military departments to develop an effective blue forces tracking system.

(c) JOINT BLUE FORCES TRACKING EXPERIMENT.—(1) The Secretary of Defense, through the Commander of the United States Joint Forces Command, shall carry out a joint experiment in fiscal year 2004 to demonstrate and evaluate available joint blue forces tracking technologies.

(2) The objectives of the experiment are as follows:

(A) To explore various options for tracking United States and other friendly forces during combat operations.

(B) To determine an optimal, achievable, and ungradable solution for the development, acquisition, and fielding of a system for tracking all United States military forces that is coordinated and interoperable and also accommodates the participation of military forces of allied nations with United States forces in combat operations.

(d) REPORT.—Not later than 60 days after the conclusion of the experiment under subsection (c), but not later than December 1, 2004, the Secretary shall submit to the congressional defense committees a report on the results of the experiment, together with a comprehensive plan for the development, acquisition, and fielding of a functional, near real time blue forces tracking system.

SEC. 1032. LOAN, DONATION, OR EXCHANGE OF OBSOLETE OR SURPLUS PROPERTY.

During fiscal years 2004 and 2005, the Secretary of the military department concerned may exchange for an historical artifact any obsolete or surplus property held by such military department in accordance with section 2572 of title 10, United States Code, without regard to whether the property is described in subsection (c) of such section.

SEC. 1033. ACCEPTANCE OF GIFTS AND DONATIONS.

(a) AUTHORIZED SOURCES OF GIFTS AND DONATIONS.—Subsection (a) of section 2611 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''foreign gifts and donations'' and inserting ''gifts and donations from sources described in paragraph (2)'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) The sources from which gifts and donations may be accepted under paragraph (1) are as follows:

''(A) A department or agency of the Federal Government.

''(B) The government of a State or of a political subdivision of a State.

''(C) The government of a foreign country.

''(D) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

''(E) Any source in the private sector of the United States or a foreign country.''.

(b) CONFORMING AMENDMENTS.—(1) The headings for subsections (a) and (f) of such section are amended by striking ''FOREIGN''.

(2) Subsection (c) is amended by striking ''foreign''.

(3) Subsection (f) is amended—

(A) by striking ''foreign''; and

(B) by striking ''faculty services)'' and all that follows and inserting ''faculty services).''.

(4)(A) The heading of such section is amended to read as follows:

''§2611. Asia-Pacific Center for Security Studies: acceptance of gifts and donations''.

(B) The item relating to such section in the table of sections at the beginning of chapter 155 is amended to read as follows:

''2611. Asia-Pacific Center for Security Studies: acceptance of gifts and donations.''.

(c) ACCEPTANCE OF GUARANTEES WITH GIFTS IN DEVELOPMENT OF MARINE CORPS HERITAGE CENTER, MARINE CORPS BASE, QUANTICO, VIRGINIA.—(1) The Secretary of the Navy may utilize the authority in section 6975 of title 10, United States Code, for purposes of the project to develop the Marine Corps Heritage Center at Marine Corps Base, Quantico, Virginia, authorized by section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; as enacted into law by Public Law 106–398; 114 Stat. 1654A–440).

(2) The authority in paragraph (1) shall expire on December 31, 2006.

(3) The expiration under paragraph (2) of the authority in paragraph (1) shall not effect any qualified guarantee accepted pursuant to such authority for purposes of the project referred to in paragraph (1) before the date of the expiration of such authority under paragraph (2).

SEC. 1034. PROVISION OF LIVING QUARTERS FOR CERTAIN STUDENTS WORKING AT NATIONAL SECURITY AGENCY LABORATORY.

Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Director of the National Security Agency may provide living quarters to a student in the Student Educational Employment Program or similar program (as prescribed by the Office of Personnel Management) while the student is employed at the laboratory of the Agency.

''(2) Notwithstanding section 5911(c) of title 5, living quarters may be provided under paragraph (1) without charge, or at rates or charges specified in regulations prescribed by the Director.''.

SEC. 1035. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

''OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

''SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

''(2)(A) In this section, the term 'operational files' means—

''(i) files of the Signals Intelligence Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

''(ii) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

''(B) Files which are the sole repository of disseminated intelligence, and files that have been accessioned into NSA Archives, or its successor organizations, are not operational files.

''(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

''(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

''(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

''(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

''(i) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

''(ii) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(iii) The Intelligence Oversight Board.

''(iv) The Department of Justice.

''(v) The Office of General Counsel of NSA.

''(vi) The Office of the Inspector General of the Department of Defense.

''(vii) The Office of the Director of NSA.

''(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

''(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

''(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

''(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

''(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

''(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

''(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

''(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

''(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

''(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

''(II) The court may not order NSA to review the content of any exempted operational file or

files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

''(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

''(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

''(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

''(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.''.

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking ''For purposes of this title'' and inserting ''In this section and section 702,''.

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking ''enactment of this title'' and inserting ''October 15, 1984,''.

(3)(A) The title heading for title VII of such Act is amended to read as follows:

''TITLE VII—PROTECTION OF OPERATIONAL FILES''.

(B) The section heading for section 701 of such Act is amended to read as follows:

''PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY''.

(C) The section heading for section 702 of such Act is amended to read as follows:

''DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES''.

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

''TITLE VII—PROTECTION OF OPERATIONAL FILES

''Sec. 701. Protection of operational files of the Central Intelligence Agency.
''Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.
''Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.
''Sec. 704. Protection of operational files of the National Reconnaissance Office.
''Sec. 705. Protection of operational files of the National Security Agency.''.

SEC. 1036. TRANSFER OF ADMINISTRATION OF NATIONAL SECURITY EDUCATION PROGRAM TO DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) in subsection (a), by striking ''Secretary of Defense'' and inserting ''Director of Central Intelligence''; and

(2) by striking ''Secretary'' each place it appears (other than in subsection (h)) and inserting ''Director''.

(b) AWARDS TO ATTEND FOREIGN LANGUAGE CENTER.—Section 802(h) of such Act (50 U.S.C. 1902(h)) is amended by inserting ''of Defense'' after ''Secretary'' each place it appears.

(c) NATIONAL SECURITY EDUCATION BOARD.—(1) Section 803 of such Act (50 U.S.C. 1903) is amended—

(A) in subsection (a), by striking ''Secretary of Defense'' and inserting ''Director'';

(B) in subsection (b)—

(i) in paragraph (1), by striking ''Secretary of Defense'' and inserting ''Director'';

(ii) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(iii) by inserting after paragraph (1), as so amended, the following new paragraph (2):

''(2) The Secretary of Defense.'';

(C) in subsection (c), by striking ''subsection (b)(6)'' and inserting ''subsection (b)(8)''; and

(D) in subsection (d), by striking ''Secretary'' each place it appears and inserting ''Director''.

(2) Section 806(d) of such Act (50 U.S.C. 1906(d)) is amended by striking ''paragraphs (1) through (7)'' and inserting ''paragraphs (2) through (8)''.

(d) ADMINISTRATIVE PROVISIONS.—Section 805 of such Act (50 U.S.C. 1905) is amended by striking ''Secretary'' each place it appears and inserting ''Director''.

(e) ANNUAL REPORT.—Section 806 of such Act (50 U.S.C. 1906) is amended by striking ''Secretary'' each place it appears and inserting ''Director''.

(f) AUDITS.—Section 807 of such Act (50 U.S.C. 1907) is amended by striking ''Department of Defense'' and inserting ''Central Intelligence Agency''.

(g) DEFINITION.—Section 808 of such Act (50 U.S.C. 1908) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting before paragraph (2) the following new paragraph (1):

''(1) The term 'Director' means the Director of Central Intelligence.''.

(h) MATTERS RELATING TO NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Effective as if included therein as enacted by section 333(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2396), section 802(i)(1) of the David L. Boren National Security Education Act of 1991 is amended by striking ''Secretary'' and inserting ''Director''.

(2) Effective as if included therein as enacted by section 333(b) of the Intelligence Authorization Act for Fiscal Year 2003 (116 Stat. 2397), section 811(a) of the David L. Boren National Security Education Act of 1991 is amended by striking ''Secretary'' each place it appears and inserting ''Director''.

(i) EFFECT OF TRANSFER OF ADMINISTRATION ON SERVICE AGREEMENTS.—(1) The transfer to the Director of Central Intelligence of the administration of the National Security Education Program as a result of the amendments made by this section shall not affect the force, validity, or terms of any service agreement entered into under section 802(b) of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902(b)) before the date of the enactment of this Act that is in force as of that date, except that the Director shall administer such service agreement in lieu of the Secretary of Defense.

(2) Notwithstanding any other provision of law, the Director of Central Intelligence may, for purposes of the implementation of any service agreement referred to in paragraph (1), adopt regulations for the implementation of such service agreement that were prescribed by the Secretary of Defense under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act.

(j) REPEAL OF SATISFIED REQUIREMENTS.—Section 802(g) of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(1)''; and

(B) by striking the second sentence; and

(2) by striking paragraph (2).

(k) TECHNICAL AMENDMENT.—Paragraph (5)(A) of section 808 of such Act, as redesignated by subsection (g)(1) of this section, is further amended by striking ''a agency'' and inserting ''an agency''.

SEC. 1037. REPORT ON USE OF UNMANNED AERIAL VEHICLES FOR SUPPORT OF HOMELAND SECURITY MISSIONS.

(a) REQUIREMENT FOR REPORT.—Not later than April 1, 2004, the President shall submit to Congress a report on the potential uses of unmanned aerial vehicles for support of the performance of homeland security missions.

(b) CONTENT.—The report shall, at a minimum, include the following matters:

(1) An assessment of the potential for using unmanned aerial vehicles for monitoring activities in remote areas along the northern and southern borders of the United States.

(2) An assessment of the potential for using long-endurance, land-based unmanned aerial vehicles for supporting the Coast Guard in the performance of its homeland security missions, drug interdiction missions, and other maritime missions along the approximately 95,000 miles of inland waterways in the United States.

(3) An assessment of the potential for using unmanned aerial vehicles for monitoring the safety and integrity of critical infrastructure within the territory of the United States, including the following:

(A) Oil and gas pipelines.

(B) Dams.

(C) Hydroelectric power plants.

(D) Nuclear power plants.

(E) Drinking water utilities.

(F) Long-distance power transmission lines.

(4) An assessment of the potential for using unmanned aerial vehicles for monitoring the transportation of hazardous cargo.

(5) A discussion of the safety issues involved in—

(A) the use of unmanned aerial vehicles by agencies other than the Department of Defense; and

(B) the operation of unmanned aerial vehicles over populated areas of the United States.

(6) A discussion of—

(A) the effects on privacy and civil liberties that could result from the monitoring uses of unmanned aerial vehicles operated over the territory of the United States; and

(B) any restrictions on the domestic use of unmanned aerial vehicles that should be imposed, or any other actions that should be taken, to prevent any adverse effect of such a use of unmanned aerial vehicles on privacy or civil liberties.

(7) A discussion of what, if any, legislation and organizational changes may be necessary to accommodate the use of unmanned aerial vehicles of the Department of Defense in support of the performance of homeland security missions, including any amendment of section 1385 of title 18, United States Code (popularly referred to as the ''Posse Comitatus Act'').

(8) An evaluation of the capabilities of manufacturers of unmanned aerial vehicles to produce such vehicles at higher rates if necessary to meet any increased requirements for homeland security and homeland defense missions.

(c) REFERRAL TO COMMITTEES.—The report under subsection (a) shall be referred—

(1) upon receipt in the Senate, to the Committee on Armed Services of the Senate; and

(2) upon receipt in the House of Representatives, to the Committee on Armed Services of the House of Representatives.

SEC. 1038. CONVEYANCE OF SURPLUS T–37 AIRCRAFT TO AIR FORCE AVIATION HERITAGE FOUNDATION, INCORPORATED.

(a) AUTHORITY.—The Secretary of the Air Force may convey, without consideration, to the Air Force Aviation Heritage Foundation, Incorporated, of Georgia (in this section referred to as the ''Foundation''), all right, title, and interest of the United States in and to one surplus T–37 ''Tweet'' aircraft. The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The Secretary may not convey ownership of the aircraft under subsection (a) until the Secretary determines that the Foundation has altered the aircraft in such manner as the Secretary determines necessary to ensure that the aircraft does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) CONDITIONS FOR CONVEYANCE.—(1) The conveyance of a T–37 aircraft under this section shall be subject to the following conditions:

(A) That the Foundation not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force.

(B) That the operation and maintenance of the aircraft comply with all applicable limitations and maintenance requirements imposed by the Administrator of the Federal Aviation Administration.

(C) That if the Secretary of the Air Force determines at any time that the Foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in subparagraph (B), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(2) The Secretary shall include the conditions under paragraph (1) in the instrument of conveyance of the T–37 aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—Any conveyance of a T–37 aircraft under this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance by the Foundation with the conditions in subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the Foundation.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) CLARIFICATION OF LIABILITY.—Notwithstanding any other provision of law, upon the conveyance of ownership of a T–37 aircraft to the Foundation under subsection (a), the United States shall not be liable for any death, injury, loss, or damage that results from any use of that aircraft by any person other than the United States.

SEC. 1039. SENSE OF SENATE ON REWARD FOR INFORMATION LEADING TO RESOLUTION OF STATUS OF MEMBERS OF THE ARMED FORCES WHO REMAIN MISSING IN ACTION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense estimates that there are more than 10,000 members of the Armed Forces and others who as a result of activities during the Korean War or the Vietnam War were placed in a missing status or a prisoner of war status, or who were determined to have been killed in action although the body was not recovered, and who remain unaccounted for.

(2) One member of the Armed Forces, Navy Captain Michael Scott Speicher, remains missing in action from the first Persian Gulf War, and there have been credible reports of him being seen alive in Iraq in the years since his plane was shot down on January 16, 1991.

(3) The United States should always pursue every lead and leave no stone unturned to completely account for the fate of its missing members of the Armed Forces.

(4) The Secretary of Defense has the authority to disburse funds as a reward to individuals who provide information leading to the conclusive resolution of cases of missing members of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) that the Secretary of Defense should use the authority available to the Secretary to disburse funds rewarding individuals who provide information leading to the conclusive resolution of the status of any missing member of the Armed Forces; and

(2) to encourage the Secretary to authorize and publicize a reward of $1,000,000 for information resolving the fate of those members of the Armed Forces, such as Michael Scott Speicher, who the Secretary has reason to believe may yet be alive in captivity.

SEC. 1040. ADVANCED SHIPBUILDING ENTERPRISE.

(a) FINDINGS.—Congress makes the following findings:

(1) The President's budget for fiscal year 2004, as submitted to Congress, includes $10,300,000 for the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency among shipyards in the defense industrial base.

(3) The leaders of the Nation's shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method of exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all manufacturers in the industry.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate strongly supports the innovative Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program that has yielded new processes and techniques to reduce the cost of building and repairing ships in the United States;

(2) the Senate is concerned that the future-years defense program submitted to Congress for fiscal year 2004 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2004; and

(3) the Secretary of Defense and the Secretary of the Navy should continue funding the Advanced Shipbuilding Enterprise at a sustaining level through the future-years defense program to support subsequent rounds of research that reduce the cost of designing, building, and repairing ships.

SEC. 1041. AIR FARES FOR MEMBERS OF ARMED FORCES.

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

SEC. 1042. SENSE OF SENATE ON DEPLOYMENT OF AIRBORNE CHEMICAL AGENT MONITORING SYSTEMS AT CHEMICAL STOCKPILE DISPOSAL SITES IN THE UNITED STATES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Millions of assembled chemical weapons are stockpiled at chemical agent disposal facilities and depot sites across the United States.

(2) Some of these weapons are filled with nerve agents, such as GB and VX and blister agents such as HD (mustard agent).

(3) Hundreds of thousands of United States citizens live in the vicinity of these chemical weapons stockpile sites and depots.

(4) The airborne chemical agent monitoring systems at these sites are inefficient or outdated compared to newer and advanced technologies on the market.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Army should develop and deploy a program to upgrade the airborne chemical agent monitoring systems at all chemical stockpile disposal sites across the United States in order to achieve the broadest possible protection of the general public, personnel involved in the chemical demilitarization program, and the environment.

SEC. 1043. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD CHALLENGE PROGRAM.

(a) MAXIMUM FEDERAL SHARE.—Section 509(d) of title 32, United States Code, is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraph (4) as paragraph (1);

(3) in paragraph (1), as so redesignated, by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following new paragraph (2);

''(2) for fiscal year 2004 (notwithstanding paragraph (1)), 65 percent of the costs of operating the State program during that year.''.

(b) STUDY.—(1) The Secretary of Defense shall carry out a study to evaluate (A) the adequacy of the requirement under section 509(d) of title 32, United States Code, for the United States to fund 60 percent of the costs of operating a State program of the National Guard Challenge Program and the State to fund 40 percent of such costs, and (B) the value of the Challenge program to the Department of Defense.

(2) In carrying out the study under paragraph (1), the Secretary should identify potential alternatives to the matching funds structure provided for the National Guard Challenge Program under section 509(d) of title 32, United

States Code, such as a range of Federal-State matching ratios, that would provide flexibility in the management of the program to better respond to temporary fiscal conditions.

(3) The Secretary shall include the results of the study, including findings, conclusions, and recommendations, in the next annual report to Congress under section 509(k) of title 32, United States Code, that is submitted to Congress after the date of the enactment of this Act.

(c) AMOUNT FOR FEDERAL ASSISTANCE.—(1) The amount authorized to be appropriated under section 301(10) is hereby increased by $3,000,000.

(2) Of the total amount authorized to be appropriated under section 301(10), $68,216,000 shall be available for the National Guard Challenge Program under section 509 of title 32, United States Code.

(3) The total amount authorized to be appropriated under section 301(4) is hereby reduced by $3,000,000.

SEC. 1044. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL POLICY

SEC. 1101. AUTHORITY TO EMPLOY CIVILIAN FACULTY MEMBERS AT THE WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

Section 1595(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) The Western Hemisphere Institute for Security Cooperation.''.

SEC. 1102. PAY AUTHORITY FOR CRITICAL POSITIONS.

(a) AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1599e. Pay authority for critical positions

''(a) AUTHORITY GENERALLY.—(1) When the Secretary of Defense seeks a grant of authority under section 5377 of title 5 for critical pay for one or more positions within the Department of Defense, the Director of the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307 of such title, at any rate up to the salary set in accordance with section 104 of title 3.

''(2) Notwithstanding section 5307 of title 5, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under paragraph (1), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

''(b) TEMPORARY STREAMLINED CRITICAL PAY AUTHORITY.—(1) The Secretary of Defense may establish, fix the compensation of, and appoint persons to positions designated as critical administrative, technical, or professional positions needed to carry out the functions of the Department of Defense, subject to paragraph (2).

''(2) The authority under paragraph (1) may be exercised with respect to a position only if—

''(A) the position—

''(i) requires expertise of an extremely high level in an administrative, technical, or professional field; and

''(ii) is critical to the successful accomplishment of an important mission by the Department of Defense;

''(B) the exercise of the authority is necessary to recruit or retain a person exceptionally well qualified for the position;

''(C) the number of all positions covered by the exercise of the authority does not exceed 40 at any one time;

''(D) in the case of a position designated as a critical administrative, technical, or professional position by an official other than the Secretary of Defense, the designation is approved by the Secretary;

''(E) the term of appointment to the position is limited to not more than four years;

''(F) the appointee to the position was not a Department of Defense employee before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004;

''(G) the total annual compensation for the appointee to the position does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

''(H) the position is excluded from collective bargaining units.

''(3) The authority under this subsection may be exercised without regard to—

''(A) subsection (a);

''(B) the provisions of title 5 governing appointments in the competitive service or the Senior Executive Service; and

''(C) chapters 51 and 53 of title 5, relating to classification and pay rates.

''(4) The authority under this subsection may not be exercised after the date that is 10 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.

''(5) For so long as a person continues to serve without a break in service in a position to which appointed under this subsection, the expiration of authority under this subsection does not terminate the position, terminate the person's appointment in the position before the end of the term for which appointed under this subsection, or affect the compensation fixed for the person's service in the position under this subsection during such term of appointment.

''(6) Subchapter II of chapter 75 of title 5 does not apply to an employee during a term of service in a critical administrative, technical, or professional position to which the employee is appointed under this subsection.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1599e. Pay authority for critical positions.''.

SEC. 1103. EXTENSION, EXPANSION, AND REVISION OF AUTHORITY FOR EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.

(a) EXTENSION OF PROGRAM.—Subsection (e)(1) of section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2139; 5 U.S.C. 3104 note) is amended by striking ''October 16, 2005'' and inserting ''September 30, 2008''.

(b) INCREASED LIMITATION ON NUMBER OF APPOINTMENTS.—Subsection (b)(1)(A) of such section is amended by striking ''40'' and inserting ''50''.

(c) COMMENSURATE EXTENSION OF REQUIREMENT FOR ANNUAL REPORT.—Subsection (g) of such section is amended by striking ''2006'' and inserting ''2009''.

SEC. 1104. TRANSFER OF PERSONNEL INVESTIGATIVE FUNCTIONS AND RELATED PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF FUNCTIONS.—(1) With the consent of the Director of the Office of Personnel Management, the Secretary of Defense may transfer to the Office of Personnel Management the personnel security investigations functions that, as of the date of the enactment of this Act, are performed by the Defense Security Service of the Department of Defense.

(2) The Director of the Office of Personnel Management may accept a transfer of functions under paragraph (1).

(3) Any transfer of a function under this subsection is a transfer of function within the meaning of section 3503 of title 5, United States Code.

(b) TRANSFER OF PERSONNEL.—(1) If the Director of the Office of Personnel Management accepts a transfer of functions under subsection (a), the Secretary of Defense shall also transfer to the Office of Personnel Management, and the Director shall accept—

(A) the Defense Security Service employees who perform those functions immediately before the transfer of functions; and

(B) the Defense Security Service employees who, as of such time, are first level supervisors of employees transferred under subparagraph (A).

(2) The Secretary may also transfer to the Office of Personnel Management any Defense Security Service employees (including higher level supervisors) who provide support services for the performance of the functions transferred under subsection (a) or for the personnel (including supervisors) transferred under paragraph (1) if the Director—

(A) determines that the transfer of such additional employees and the positions of such employees to the Office of Personnel Management is necessary in the interest of effective performance of the transferred functions; and

(B) accepts the transfer of the additional employees.

(3) In the case of an employee transferred to the Office of Personnel Management under paragraph (1) or (2), whether a full-time or part-time employee—

(A) subsections (b) and (c) of section 5362 of title 5, United States Code, relating to grade retention, shall apply to the employee, except that—

(i) the grade retention period shall be the one-year period beginning on the date of the transfer; and

(ii) paragraphs (1), (2), and (3) of such subsection (c) shall not apply to the employee; and

(B) the employee may not be separated, other than pursuant to chapter 75 of title 5, United States Code, during such one-year period.

(c) ACTIONS AFTER TRANSFER.—(1) Not later than one year after a transfer of functions to the Office of Personnel Management under subsection (a), the Secretary of Defense shall review all functions performed by personnel of the Defense Security Service at the time of the transfer and make a written determination regarding whether each such function is inherently governmental or is otherwise inappropriate for performance by contractor personnel.

(2) A function performed by Defense Security Service employees as of the date of the enactment of this Act may not be converted to contractor performance by the Director of the Office of Personnel Management until—

(A) the Secretary of Defense reviews the function in accordance with the requirements of paragraph (1) and makes a written determination that the function is not inherently governmental and is not otherwise inappropriate for contractor performance; and

(B) the Director conducts a public-private competition regarding the performance of that

function in accordance with the requirements of the Office of Management and Budget Circular A–76.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. AUTHORITY TO USE FUNDS FOR PAYMENT OF COSTS OF ATTENDANCE OF FOREIGN VISITORS UNDER REGIONAL DEFENSE COUNTERTERRORISM FELLOWSHIP PROGRAM.

(a) AUTHORITY TO USE FUNDS.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program

''(a) AUTHORITY TO USE FUNDS.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs.

''(b) LIMITATION.—The total amount of funds used under the authority in subsection (a) in any fiscal year may not exceed $20,000,000.

''(c) ANNUAL REPORT.—Not later than December 1 of each year, the Secretary of Defense shall submit to Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:

''(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—

''(A) the countries of the foreign officers and officials for whom costs were paid; and

''(B) for each such country, the total amount of the costs paid.

''(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.

''(3) An assessment of the effectiveness of the Regional Defense Counterterrorism Fellowship Program in increasing the cooperation of the governments of foreign countries with the United States in the global war on terrorism.

''(4) A discussion of any actions being taken to improve the program.''.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.''.

(b) NOTIFICATION OF CONGRESS.—Not later than December 1, 2003, the Secretary of Defense shall—

(1) promulgate the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and

(2) notify the congressional defense committees of the promulgation of such regulations.

SEC. 1202. AVAILABILITY OF FUNDS TO RECOGNIZE SUPERIOR NONCOMBAT ACHIEVEMENTS OR PERFORMANCE OF MEMBERS OF FRIENDLY FOREIGN FORCES AND OTHER FOREIGN NATIONALS.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting the following new section:

"§ 1051a. Bilateral or regional cooperation programs: availability of funds to recognize superior noncombat achievements or performance

''(a) IN GENERAL.—The Secretary of Defense may expend amounts available to the Department of Defense or the military departments for operation and maintenance for the purpose of recognizing superior noncombat achievements or performance of members of friendly foreign forces, or other foreign nationals, that significantly enhance or support the national security strategy of the United States.

''(b) COVERED ACHIEVEMENTS OR PERFORMANCE.—The achievements or performance that may be recognized under subsection (a) include achievements or performance that—

''(1) play a crucial role in shaping the international security environment in a manner that protects and promotes the interests of the United States;

''(2) support or enhance the United States presence overseas or support or enhance United States peacetime engagement activities such as defense cooperation initiatives, security assistance training and programs, or training and exercises with the armed forces of the United States;

''(3) help deter aggression and coercion, build coalitions, or promote regional stability; or

''(4) serve as models for appropriate conduct for military forces in emerging democracies.

''(c) LIMITATION ON VALUE OF MEMENTOS.—The value of any memento procured or produced under subsection (a) may not exceed the minimal value in effect under section 7342(a)(5) of title 5.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051 the following new item:

''1051a. Bilateral or regional cooperation programs: availability of funds to recognize superior noncombat achievements or performance.''.

SEC. 1203. CHECK CASHING AND EXCHANGE TRANSACTIONS FOR FOREIGN PERSONNEL IN ALLIANCE OR COALITION FORCES.

Section 3342(b) of title 31, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; or''; and

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

''(8) a member of the armed forces of a foreign nation who is participating in a combined operation, combined exercise, or combined humanitarian or peacekeeping mission that is carried out with armed forces of the United States pursuant to an alliance or coalition of the foreign nation with the United States if—

''(A) the senior commander of the armed forces of the United States participating in the operation, exercise, or mission has authorized the action under paragraph (1) or (2) of subsection (a);

''(B) the government of the foreign nation has guaranteed payment for any deficiency resulting from such action; and

''(C) in the case of an action on a negotiable instrument, the negotiable instrument is drawn on a financial institution located in the United States or on a foreign branch of such an institution.''.

SEC. 1204. CLARIFICATION AND EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2004.—The total amount of the assistance for fiscal year 2004 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a), including funds used for activities of the Department of Defense in support of the United Nations Monitoring, Verification and Inspection Commission, shall not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking ''fiscal year 2003'' and inserting ''fiscal year 2004''.

(c) REFERENCES TO UNITED NATIONS SPECIAL COMMISSION ON IRAQ.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is further amended—

(1) in subsection (b)(2), by striking ''United Nations Special Commission on Iraq (or any successor organization)'' and inserting ''United Nations Monitoring, Verification and Inspection Commission''; and

(2) in subsection (d)(4)(A), by striking ''United Nations Special Commission on Iraq (or any successor organization)'' and inserting ''United Nations Monitoring, Verification and Inspection Commission''.

SEC. 1205. REIMBURSABLE COSTS RELATING TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

(a) DIRECT COSTS OF MONITORING FOREIGN LAUNCHES OF SATELLITES.—Section 1514(a)(1)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 22 U.S.C. 2778 note) is amended by striking ''The costs of such monitoring services'' in the second sentence and inserting the following: ''The Department of Defense costs that are directly related to monitoring the launch, including transportation and per diem costs,''.

(b) GAO STUDY.—(1) The Comptroller General shall conduct a study of the Department of Defense costs of monitoring launches of satellites in a foreign country under section 1514 of Public Law 105–261.

(2) Not later than April 1, 2004, the Comptroller General shall submit a report on the study to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following:

(A) An assessment of the Department of Defense costs of monitoring the satellite launches described in paragraph (1).

(B) A review of the costs reimbursed to the Department of Defense by each person or entity receiving the satellite launch monitoring services, including the extent to which indirect costs have been included.

SEC. 1206. ANNUAL REPORT ON THE NATO PRAGUE CAPABILITIES COMMITMENT AND THE NATO RESPONSE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) At the meeting of the North Atlantic Council held in Prague in November 2002, the heads of states and governments of the North Atlantic Treaty Organization (NATO) launched a Prague Capabilities Commitment and decided to create a NATO Response Force.

(2) The Prague Capabilities Commitment is part of the continuing NATO effort to improve and develop new military capabilities for modern warfare in a high-threat environment. As part of this commitment, individual NATO allies have made firm and specific political commitments to improve their capabilities in the areas of—

(A) chemical, biological, radiological, and nuclear defense;

(B) intelligence, surveillance, and target acquisition;

(C) air-to-ground surveillance;

(D) command, control, and communications;

(E) combat effectiveness, including precision guided munitions and suppression of enemy air defenses;

(F) strategic air and sea lift;

(G) air-to-air refueling; and

(H) deployable combat support and combat service support units.

(3) The NATO Response Force is envisioned to be a technologically advanced, flexible, deployable, interoperable, and sustainable force that includes land, sea, and air elements ready to move quickly to wherever needed, as determined by the North Atlantic Council. The NATO Response Force is also intended to be a catalyst

for focusing and promoting improvements in NATO's military capabilities. It is expected to have initial operational capability by October 2004, and full operational capability by October 2006.

(b) ANNUAL REPORT.—(1) Not later than January 31 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report, to be prepared in consultation with the Secretary of State, on implementation of the Prague Capabilities Commitment and development of the NATO Response Force by the member nations of NATO. The report shall include the following matters:

(A) A description of the actions taken by NATO as a whole and by each member nation of NATO other than the United States to further the Prague Capabilities Commitment, including any actions taken to improve capability shortfalls in the areas identified for improvement.

(B) A description of the actions taken by NATO as a whole and by each member nation of NATO, including the United States, to create the NATO Response Force.

(C) A discussion of the relationship between NATO's efforts to improve capabilities through the Prague Capabilities Commitment and those of the European Union to enhance European capabilities through the European Capabilities Action Plan, including the extent to which they are mutually reinforcing.

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee;

(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decisionmaking within NATO relating to the Prague Capabilities Commitment, and NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes; and

(vii) if a report under this subparagraph is a report other than the first report under this subparagraph, the information submitted in such report under any of clauses (i) through (vi) may consist solely of an update of any information previously submitted under the applicable clause in a preceding report under this subparagraph.

(2) The report shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

SEC. 1207. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) GENERAL EXTENSION OF AUTHORITY.—Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), is further amended—

(1) in subsection (a)—

(A) by inserting after ''subsection (f),'' the following: ''during fiscal years 1998 through 2006 in the case of the foreign governments named in paragraphs (1) and (2) of subsection (b), and fiscal years 2004 through 2006 in the case of the foreign governments named in paragraphs (3) through (9) of subsection (b),''; and

(B) by striking ''either or both'' and inserting ''any''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking '', for fiscal years 1998 through 2002''; and

(B) in paragraph (2), by striking '', for fiscal years 1998 through 2006''.

(b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section 1033 is further amended by adding at the end the following new paragraphs:

''(3) The Government of Afghanistan.
''(4) The Government of Bolivia.
''(5) The Government of Ecuador.
''(6) The Government of Pakistan.
''(7) The Government of Tajikistan.
''(8) The Government of Turkmenistan.
''(9) The Government of Uzbekistan.''.

(c) TYPES OF SUPPORT.—Subsection (c) of such section 1033 is amended—

(1) in paragraph (2), by striking ''riverine''; and

(2) in paragraph (3), by inserting ''or upgrade'' after ''maintenance and repair''.

(d) MAXIMUM ANNUAL AMOUNT OF SUPPORT.—Subsection (e)(2) of such section 1033, as amended by such section 1021, is further amended by striking ''$20,000,000 during any of the fiscal years 1999 through 2006'' and inserting ''$20,000,000 during any of fiscal years 1999 through 2003, or $40,000,000 during any of fiscal years 2004 through 2006''.

(e) COUNTER-DRUG PLAN.—(1) Subsection (h) of such section 1033 is amended—

(A) in the subsection caption, by striking ''RIVERINE'';

(B) in the matter preceding paragraph (1)—

(i) by inserting ''in the case of the governments named in paragraphs (1) and (2) of subsection (b) and for fiscal year 2004 in the case of the governments named in paragraphs (3) through (9) of subsection (b)''; and

(ii) by striking ''riverine''; and

(C) by striking ''riverine'' each place it appears in paragraphs (2), (7), (8), and (9).

(2) Subsection (f)(2)(A) of such section 1033 is amended by striking ''riverine''.

*(f) CLERICAL AMENDMENT.—The heading for such section 1033 is amended by striking ''**PERU AND COLOMBIA**'' and inserting ''**OTHER COUNTRIES**''.*

SEC. 1208. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTER- TERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY.—(1) In fiscal years 2004 and 2005, the Secretary of Defense may use funds available for assistance to the Government of Colombia to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8093 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2267).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575).

(c) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen (including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States).

(d) CONSTRUCTION WITH OTHER AUTHORITY.—The authority in subsection (a) to use funds to provide assistance to the Government of Colombia is in addition to any other authority in law to provide assistance to the Government of Colombia.

SEC. 1209. COMPETITIVE AWARD OF CONTRACTS FOR IRAQI RECONSTRUCTION.

(a) REQUIREMENT.—The Department of Defense shall fully comply with the Competition in Contracting Act (10 U.S.C. 2304 et seq.) for any contract awarded for reconstruction activities in Iraq and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.

(b) REPORT TO CONGRESS.—If the Department of Defense does not have a fully competitive contract in place to replace the March 8, 2003 contract for the reconstruction of the Iraqi oil industry by August 31, 2003, the Secretary of Defense shall submit a report to Congress by September 30, 2003, detailing the reasons for allowing this sole-source contract to continue. A follow-up report shall be submitted to Congress each 60 days thereafter until a competitive contract is in place.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term ''fiscal year 2004 Cooperative Threat Reduction funds'' means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $450,800,000 authorized to be appropriated to the Department of Defense for fiscal year 2004 in

section 301(22) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $57,600,000.

(2) For strategic nuclear arms elimination in Ukraine, $3,900,000.

(3) For nuclear weapons transportation security in Russia, $23,200,000.

(4) For weapons storage security in Russia, $48,000,000.

(5) For weapons of mass destruction proliferation prevention activities in the states of the former Soviet Union, $39,400,000.

(6) For chemical weapons destruction in Russia, $200,300,000.

(7) For biological weapons proliferation prevention activities in the former Soviet Union, $54,200,000.

(8) For defense and military contacts, $11,000,000.

(9) For activities designated as Other Assessments/Administrative Support, $13,100,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2004 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2004 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (9) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. ANNUAL CERTIFICATIONS ON USE OF FACILITIES BEING CONSTRUCTED FOR COOPERATIVE THREAT REDUCTION PROJECTS OR ACTIVITIES.

(a) CERTIFICATION ON USE OF FACILITIES BEING CONSTRUCTED.—Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:

(1) Whether or not such facility will be used for its intended purpose by the country in which the facility is constructed.

(2) Whether or not the country remains committed to the use of such facility for its intended purpose.

(b) APPLICABILITY.—Subsection (a) shall apply to—

(1) any facility the construction of which commences on or after the date of the enactment of this Act; and

(2) any facility the construction of which is ongoing as of that date.

SEC. 1304. AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) AUTHORITY.—The President may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the President determines that such project or activity will—

(1) assist the United States in the resolution of a critical emerging proliferation threat; or

(2) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for the project or activity utilizing such funds, but does not include authority to provide cash directly to the project or activity.

(c) LIMITATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.

(d) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.

(2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.

(3) Any limitation on Cooperative Threat Reduction projects or activities.

SEC. 1305. ONE-YEAR EXTENSION OF INAPPLICABILITY OF CERTAIN CONDITIONS ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION.

Section 8144 of Public Law 107–248 (116 Stat. 1571) is amended—

(1) in subsection (a), by striking ''and 2003'' and inserting ''2003, and 2004''; and

(2) in subsection (b), by striking ''September 30, 2003'' and inserting ''September 30, 2004''.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 2004''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$5,500,000
	Fort Richardson	$10,700,000
Alaska	Fort Wainwright	$138,800,000
Georgia	Fort Benning	$30,000,000
	Fort Stewart/Hunter Army Air Field	$138,550,000
	Fort Gordon	$4,350,000
Hawaii	Helemano Military Reservation	$20,800,000
	Schofield Barracks	$100,000,000
Kansas	Fort Leavenworth	$115,000,000
	Fort Riley	$40,000,000
Kentucky	Fort Knox	$13,500,000
Louisiana	Fort Polk	$72,000,000
Maryland	Aberdeen Proving Ground	$13,000,000
	Fort Meade	$9,600,000
New York	Fort Drum	$125,500,000
North Carolina	Fort Bragg	$152,000,000
Oklahoma	Fort Sill	$3,500,000
Texas	Fort Hood	$49,800,000
Virginia	Fort Myer	$9,000,000
Washington	Fort Lewis	$3,900,000
	Total	$1,055,500,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Italy	Aviano Air Base	$15,500,000
	Livorno	$22,000,000
Korea	Camp Humphreys	$105,000,000
Kwajalein Atoll	Kwajalein Atoll	$9,400,000
	Total	$151,900,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	140 Units	$64,000,000
Arizona	Fort Huachuca	220 Units	$41,000,000
Kansas	Fort Riley	72 Units	$16,700,000
Kentucky	Fort Knox	178 Units	$41,000,000
New Mexico	White Sands Missile Range	58 Units	$14,600,000
Oklahoma	Fort Sill	120 Units	$25,373,000
Virginia	Fort Lee	90 Units	$18,000,000
		Total:	$220,673,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $34,488,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $156,030,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,980,454,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $843,500,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $151,900,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $122,710,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $409,191,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,031,853,000.

(6) For the construction of phase 3 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2107 of this Act, $17,000,000.

(7) For the construction of phase 3 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2107 of this Act, $33,000,000.

(8) For the construction of phase 3 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $48,000,000.

(9) For the construction of phase 2 of a barracks complex, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(10) For the construction of phase 2 of a combined arms collective training facility at Fort Riley, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,600,000.

(11) For the construction of phase 2 of a barracks complex, Range Road, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(12) For the construction of phase 2 of a maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal year 2003 (division B of Public Law 107–314; 116 Stat. 2681) $13,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of—

(1) the total amount authorized to be appropriated under paragraphs (1), and (2) of subsection (a);

(2) $32,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks, Fort Stewart, Georgia);

(3) $87,000,000 (the balance of the amount authorized under section 2101(a) for construction of a Lewis and Clark instructional facility, Fort Leavenworth, Kansas);

(4) $43,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a barracks complex, Wheeler-Sack Army Airfield, Fort Drum, New York); and

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina).

SEC. 2105. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) MILITARY CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2682) is amended—

(1) by striking the item relating to Area Support Group, Bamberg, Germany;

(2) by striking the item relating to Coleman Barracks, Germany;

(3) by striking the item relating to Darmstadt, Germany;

(4) by striking the item relating to Mannheim, Germany;

(5) by striking the item relating to Schweinfurt, Germany; and

(6) by striking the amount identified as the total in the amount column and inserting ''$288,066,000''.

(b) FAMILY HOUSING OUTSIDE THE UNITED STATES.—The table in section 2102(a) of that Act (116 Stat. 2683) is amended—

(1) by striking the item relating to Yongsan, Korea; and

(2) by striking the amount identified as the total in the amount column and inserting ''$23,852,000''.

(c) IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.—Section 2103 of that Act (116 Stat. 2683) is amended by striking ''$239,751,000'' and inserting ''$190,551,000''.

(d) CONFORMING AMENDMENTS.—Section 2104(a) of that Act (116 Stat. 2683) is amended—

(1) in the matter preceding paragraph (1), by striking ''$3,104,176,000'' and inserting ''$2,985,826,000'';

(2) in paragraph (2), by striking ''$354,116,000'' and inserting ''$288,066,000''; and

(3) in paragraph (6)(A), by striking ''$282,356,000'' and inserting ''$230,056,000''.

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) MILITARY CONSTRUCTION INSIDE THE UNITED STATES.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681) is amended—

(1) in the item relating to Fort Riley, Kansas, by striking ''$81,095,000'' in the amount column and inserting ''$81,495,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$1,156,167,000''.

(b) MILITARY CONSTRUCTION OUTSIDE THE UNITED STATES.—The table in section 2101(b) of that Act (116 Stat. 2682) is amended—

(1) by striking the item relating to Camp Castle, Korea;

(2) by striking the item relating to Camp Hovey, Korea;

(3) in the item relating to Camp Humphreys, Korea, by striking ''$36,000,000'' in the amount column and inserting ''$107,800,000'' ; and

(4) by striking the item relating to K16 Airfield, Korea.

(c) CONFORMING AMENDMENT.—Section 2104(b)(4) of that Act (116 Stat. 2684) is amended by striking ''$13,200,000'' and inserting ''$13,600,000''.

SEC. 2107. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECT.

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2689), is further amended—

(1) in the item relating to Fort Richardson, Alaska, by striking ''$115,000,000'' in the amount column and inserting ''$117,000,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$1,364,750,000''.

(b) CONFORMING AMENDMENT.—Section 2104(b)(2) of that Act (115 Stat. 1284) is amended by striking ''$52,000,000'' and inserting ''$54,000,000''.

SEC. 2108. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECT.

(a) IN GENERAL.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1285), is further amended—

(1) in the item relating to Pohakoula Training Facility, Hawaii, by striking ''$32,000,000'' in the amount column and inserting ''$42,000,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$636,374,000''.

(b) CONFORMING AMENDMENT.—Section 2104(b)(7) of the Military Construction Authorization Act for Fiscal Year 2001 (114 Stat. 1654A–392) is amended by striking ''$20,000,000'' and inserting ''$30,000,000''.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$22,230,000
California	Marine Corps Base, Camp Pendleton	$73,580,000
	Naval Air Station, Lemoore	$34,510,000
	Marine Corps Air Station, Miramar	$4,740,000
	Naval Air Station, North Island	$49,240,000
	Naval Air Warfare Center, China Lake	$12,890,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	$9,150,000
	Naval Air Facility, San Clemente Island	$18,940,000
	Naval Postgraduate School, Monterey	$35,550,000
	Naval Station, San Diego	$42,710,000
	Marine Air Ground Task Force Training Center, Twentynine Palms	$28,390,000
Connecticut	New London	$3,000,000
District of Columbia	Marine Corps Barracks	$1,550,000
Florida	Naval Air Station, Jacksonville	$3,190,000
	Naval Air Station, Whiting Field, Milton	$4,830,000
	Naval Surface Warfare Center, Coastal Systems Station, Panama City	$9,550,000
	Blount Island (Jacksonville)	$115,711,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	$11,510,000
Hawaii	Fleet and Industrial Supply Center, Pearl Harbor	$32,180,000
	Naval Magazine, Lualualei	$6,320,000
	Naval Shipyard, Pearl Harbor	$7,010,000
Illinois	Naval Training Center, Great Lakes	$137,120,000
Maryland	Naval Air Warfare Center, Patuxent River	$24,370,000
	Naval Surface Warfare Center, Indian Head	$14,850,000
Mississippi	Naval Air Station, Meridian	$4,570,000
Nevada	Naval Air Station, Fallon	$4,700,000
New Jersey	Naval Air Warfare Center, Lakehurst	$20,681,000
	Naval Weapons Station, Earle	$123,720,000
North Carolina	Marine Corps Air Station, Cherry Point	$1,270,000
	Marine Corps Air Station, New River	$6,240,000
	Marine Corps Base, Camp Lejeune	$29,450,000
Pennsylvania	Philadelphia Foundry	$10,200,000
Rhode Island	Naval Station, Newport	$18,690,000
	Naval Undersea Warfare Center, Newport	$10,890,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Texas	Naval Station, Ingleside	$7,070,000
Virginia	Henderson Hall, Arlington	$1,970,000
	Marine Corps Combat Development Command, Quantico	$18,120,000
	Naval Amphibious Base, Little Creek	$3,810,000
	Naval Station, Norfolk	$182,240,000
	Naval Space Command Center, Dahlgren	$24,020,000
	Norfolk Naval Shipyard, Portsmouth	$17,770,000
Washington	Naval Magazine, Indian Island	$2,240,000
	Naval Submarine Base, Bangor	$33,820,000
	Strategic Weapons Facility Pacific, Bangor	$6,530,000
Various Locations	Various Locations, CONUS	$56,360,000
	Total	$1,287,482,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	Naval Support Activity, Bahrain	$18,030,000
Italy	Naval Support Activity, La Madalena	$39,020,000
	Naval Air Station, Sigonella	$34,070,000
United Kingdom	Joint Maritime Facility, St. Mawgan	$7,070,000
	Total	$98,190,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	187 Units	$41,585,000
Florida	Naval Air Station, Pensacola	25 Units	$3,197,000
North Carolina	Marine Corps Base, Camp Lejeune	519 Units	$67,781,000
	Marine Corps Air Station, Cherry Point	339 Units	$42,803,000
		Total	$155,366,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,381,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $20,446,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,179,919,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $959,702,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $98,190,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,334,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,612,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $184,193,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $813,158,000.

(6) For construction of phase 2 of a bachelor enlisted quarters shipboard ashore at Naval Shipyard Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2687), $46,730,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $25,690,000 (the balance of the amount authorized under section 2201(a) for the construction of a tertiary sewage treatment complex, Marine Corps Base, Camp Pendleton, California);

(3) $58,190,000 (the balance of the amount authorized under section 2201(a) for the construction of a battle station training facility, Naval Training Center, Great Lakes, Illinois);

(4) $96,980,000 (the balance of the amount authorized under section 2201(a) for replacement of a general purpose berthing pier, Naval Weapons Station, Earle, New Jersey);

(5) $118,170,000 (the balance of the amount authorized under section 2201(a) for replacement of pier 11, Naval Station, Norfolk, Virginia); and

(6) $28,750,000 (the balance of the amount authorized under section 2201(a) for the construction of an outlying landing field and facilities at a location to be determined).

SEC. 2205. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.

(a) TERMINATION.—The table in section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2687) is amended—

(1) by striking the item relating to Naval Air Station, Keflavik, Iceland; and

(2) by striking the amount identified as the total in the amount column and inserting ''$135,900,000''.

(b) CONFORMING AMENDMENTS.—Section 2204(a) of that Act (116 Stat. 2688) is amended—

(1) in the matter preceding paragraph (1), by striking ''$2,576,381,000'' and inserting ''$2,561,461,000''; and

(2) in paragraph (2), by striking ''$148,250,000'' and inserting ''$133,330,000''.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	*Installation or location*	*Amount*
Alabama	*Maxwell Air Force Base*	*$13,400,000*
Alaska	*Eielson Air Force Base*	*$48,774,000*
	Elmendorf Air Force Base	*$2,000,000*
Arizona	*Davis-Monthan Air Force Base*	*$9,864,000*
	Luke Air Force Base	*$14,300,000*
Arkansas	*Little Rock Air Force Base*	*$7,372,000*
California	*Beale Air Force Base*	*$22,300,000*
	Edwards Air Force Base	*$19,060,000*
	Los Angeles Air Force Base	*$5,000,000*
	Vandenberg Air Force Base	*$16,500,000*
Colorado	*Buckley Air Force Base*	*$6,957,000*
	Peterson Air Force Base	*$10,200,000*
Delaware	*Dover Air Force Base*	*$8,500,000*
District of Columbia	*Bolling Air Force Base*	*$9,300,000*
Florida	*Hurlburt Field*	*$27,200,000*
	Patrick Air Force Base	*$8,800,000*
	Tyndall Air Force Base	*$6,195,000*
Georgia	*Moody Air Force Base*	*$7,600,000*
	Robins Air Force Base	*$28,685,000*
Hawaii	*Hickam Air Force Base*	*$78,276,000*
Idaho	*Mountain Home Air Force Base*	*$15,137,000*
Illinois	*Scott Air Force Base*	*$1,900,000*
Mississippi	*Columbus Air Force Base*	*$5,500,000*
	Keesler Air Force Base	*$2,900,000*
Nevada	*Nellis Air Force Base*	*$11,800,000*
New Jersey	*McGuire Air Force Base*	*$11,627,000*
New Mexico	*Cannon Air Force Base*	*$9,000,000*
	Kirtland Air Force Base	*$6,957,000*
	Tularosa Radar Test Site	*$3,600,000*
North Carolina	*Pope Air Force Base*	*$24,015,000*
	Seymour Johnson Air Force Base	*$22,430,000*
North Dakota	*Minot Air Force Base*	*$12,550,000*
Ohio	*Wright-Patterson Air Force Base*	*$10,500,000*
Oklahoma	*Altus Air Force Base*	*$1,144,000*
	Tinker Air Force Base	*$25,560,000*
	Vance Air Force Base	*$15,000,000*
South Carolina	*Charleston Air Force Base*	*$8,863,000*
	Shaw Air Force Base	*$8,500,000*
South Dakota	*Ellsworth Air Force Base*	*$9,300,000*
Texas	*Goodfellow Air Force Base*	*$19,970,000*
	Lackland Air Force Base	*$64,926,000*
	Randolph Air Force Base	*$13,600,000*
	Sheppard Air Force Base	*$28,590,000*
Utah	*Hill Air Force Base*	*$21,711,000*
Virginia	*Langley Air Force Base*	*$24,969,000*
Washington	*McChord Air Force Base*	*$19,000,000*
Wyoming	*F.E. Warren Air Force Base*	*$10,000,000*
	Total	*$740,909,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$35,616,000
	Spangdahlem Air Base	$5,411,000
Italy	Aviano Air Base	$14,025,000
Korea	Kunsan Air Base	$7,059,000
	Osan Air Base	$16,638,000
Portugal	Lajes Field, Azores	$4,086,000
United Kingdom	Royal Air Force, Lakenheath	$42,487,000
	Royal Air Force, Mildenhall	$10,558,000
Wake Island	Wake Island	$24,000,000
	Total	$159,880,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or location	Amount
Unspecified Worldwide	Classified Location	$28,981,000
	Total	$28,981,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	93 Units	$19,357,000
California	Travis Air Force Base	56 Units	$12,723,000
Delaware	Dover Air Force Base	112 Units	$19,601,000
Florida	Eglin Air Force Base	279 Units	$32,166,000
Idaho	Mountain Home Air Force Base	186 Units	$37,126,000
Maryland	Andrews Air Force Base	50 Units	$20,233,000
Missouri	Whiteman Air Force Base	100 Units	$18,221,000
Montana	Malmstrom Air Force Base	94 Units	$19,368,000
North Carolina	Seymour Johnson Air Force Base	138 Units	$18,336,000
North Dakota	Grand Forks Air Force Base	144 Units	$29,550,000
	Minot Air Force Base	200 Units	$41,117,000
South Dakota	Ellsworth Air Force Base	75 Units	$16,240,000
Texas	Dyess Air Force Base	116 Units	$19,973,000
	Randolph Air Force Base	96 Units	$13,754,000
Korea	Osan Air Base	111 Units	$44,765,000
Portugal	Lajes Field, Azores	42 Units	$13,428,000
United Kingdom	Royal Air Force, Lakenheath	89 Units	$23,640,000
		Total	$399,598,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $33,488,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $223,979,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,505,373,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $760,332,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $159,880,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $28,981,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $74,345,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $657,065,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $812,770,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this

Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

SEC. 2305. MODIFICATION OF FISCAL YEAR 2003 AUTHORITY RELATING TO IMPROVEMENT OF MILITARY FAMILY HOUSING UNITS.

(a) MODIFICATION.—Section 2303 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2693) is amended by striking ''$226,068,000'' and inserting ''$206,721,000''.

(b) CONFORMING AMENDMENTS.—Section 2304(a) of that Act (116 Stat. 2693) is amended—

(1) in the matter preceding paragraph (1), by striking ''$2,633,738,000'' and inserting ''$2,614,391,000''; and

(2) in paragraph (6)(A), by striking ''$689,824,000'' and inserting ''$670,477,000''.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Education Activity	Marine Corps Base, Camp Lejeune, North Carolina	$15,259,000
Defense Logistics Agency	Defense Distribution Depot, New Cumberland, Pennsylvania	$27,000,000
	Eglin Air Force Base, Florida	$4,800,000
	Eielson Air Force Base, Alaska	$17,000,000
	Hickam Air Force Base, Hawaii	$14,100,000
	Hurlburt Field, Florida	$3,500,000
	Langley Air Force Base, Virginia	$13,000,000
	Laughlin Air Force Base, Texas	$4,688,000
	McChord Air Force Base, Washington	$8,100,000
	Nellis Air Force Base, Nevada	$12,800,000
	Offutt Air Force Base, Nebraska	$13,400,000
National Security Agency	Fort Meade, Maryland	$1,842,000
Special Operations Command	Dam Neck, Virginia	$15,281,000
	Fort Benning, Georgia	$2,100,000
	Fort Bragg, North Carolina	$36,300,000
	Fort Campbell, Kentucky	$7,800,000
	Harrisburg International Airport, Pennsylvania	$3,000,000
	Hurlburt Field, Florida	$6,000,000
	Little Creek, Virginia	$9,000,000
	MacDill Air Force Base, Florida	$25,500,000
Tri-Care Management Activity	Naval Station, Anacostia, District of Columbia	$15,714,000
	Naval Submarine Base, New London, Connecticut	$6,400,000
	United States Air Force Academy, Colorado	$21,500,000
	Walter Reed Medical Center, District of Columbia	$9,000,000
Washington Headquarters Services	Arlington, Virginia	$38,086,000
	Total	$331,170,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Agency	Grafenwoehr, Germany	$36,247,000
	Heidelberg, Germany	$3,086,000
	Sigonella, Italy	$30,234,000
	Vicenza, Italy	$16,374,000
	Vilseck, Germany	$1,773,000
Special Operations Command	Stuttgart, Germany	$11,400,000
Tri-Care Management Activity	Andersen Air Force Base, Guam	$24,900,000
	Grafenwoehr, Germany	$12,585,000
	Total	$136,599,000

SEC. 2402. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $300,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $69,500,000.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,154,402,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $331,170,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $102,703,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,153,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,960,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $59,884,000.

(6) For energy conservation projects authorized by section 2404, $69,500,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $370,427,000.

(8) For military family housing functions:

(A) For planning, design, and improvement of military family housing and facilities, $350,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,440,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $300,000.

(9) For construction of the Defense Threat Reduction Center at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695), $25,700,000.

(10) For construction of phase 5 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $88,388,000.

(11) For construction of phase 6 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1299) and section 2406 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $15,207,000.

(12) For construction of phase 4 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $16,220,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $16,265,000 (the balance of the amount authorized under section 2401(b) for the renovation and construction of an elementary and high school, Naval Station Sigonella, Italy); and

(3) $17,631,000 (the balance of the amount authorized under section 2401(b) for the construction of an elementary and middle school, Grafenwoehr, Germany).

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.

The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695) is amended in the matter relating to Department of Defense Dependent Schools by striking ''Seoul, Korea'' in the installation or location column and inserting ''Camp Humphreys, Korea''.

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) MODIFICATION.—The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695) is amended—

(1) in the matter relating to Department of Defense Dependent Schools—

(A) by striking ''Seoul, Korea'' in the installation or location column and inserting ''Camp Humphreys, Korea''; and

(B) by striking the item relating to Spangdahlem Air Base, Germany; and

(2) by striking the amount identified as the total in the amount column and inserting ''$205,586,000''.

(b) CONFORMING AMENDMENTS.—Section 2404(a) of that Act (116 Stat. 2696) is amended—

(1) in the matter preceding paragraph (1), by striking $1,434,795,000'' and inserting ''$1,433,798,000''; and

(2) in paragraph (2), by striking ''$206,583,000'' and inserting ''$205,586,000''.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,300,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 2003, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $276,779,000; and

(B) for the Army Reserve, $74,478,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $34,132,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $208,530,000; and

(B) for the Air Force Reserve, $53,912,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2007 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407), authorizations set forth in the tables in subsection (b), as provided in section 2102, 2201, 2401, or 2601 of that Act, shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2001 Project Authorization

State	Installation or location	Project	Amount
South Carolina	Fort Jackson	New Construction—Family Housing (1 Unit)	$250,000

Navy: Extension of 2001 Project Authorization

State	Installation or location	Project	Amount
Pennsylvania	Naval Surface Warfare Center Shipyard Systems Engineering Station, Philadelphia	Gas Turbine Test Facility	$10,680,000

Defense Agencies: Extension of 2001 Project Authorizations

State or country	Installation or location	Project	Amount
Defense Education Activity	Seoul, Korea	Elementary School Full Day Kindergarten Classroom Addition	$2,317,000
	Taegu, Korea	Elementary/High School Full Day Kindergarten Classroom Addition	$762,000

Army National Guard: Extension of 2001 Project Authorizations

State	Installation or location	Project	Amount
Arizona	Papago Park	Add/Alter Readiness Center	$2,265,000
Pennsylvania	Mansfield	Readiness Center	$3,100,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The table referred to in subsection (a) is as follows:

Air Force: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	$6,000,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-purpose Range-Heavy	$13,500,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2003; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF GENERAL DEFINITIONS RELATING TO MILITARY CONSTRUCTION.

(a) MILITARY CONSTRUCTION.—Subsection (a) of section 2801 of title 10, United States Code, is amended by inserting before the period the following: '', whether to satisfy temporary or permanent requirements''.

(b) MILITARY INSTALLATION.—Subsection (c)(2) of such section is amended by inserting before the period the following: '', without regard to the duration of operational control''.

SEC. 2802. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN ITALY AUTHORIZED FOR LEASE BY THE NAVY.

Section 2828(e)(2) of title 10, United States Code, is amended by striking ''2,000'' and inserting ''2,800''.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. INCREASE IN THRESHOLD FOR REPORTS TO CONGRESS ON REAL PROPERTY TRANSACTIONS.

Section 2662 of title 10, United States Code, is amended by striking ''$500,000'' each place it appears and inserting ''$750,000''.

SEC. 2812. ACCEPTANCE OF IN-KIND CONSIDERATION FOR EASEMENTS.

(a) EASEMENTS FOR RIGHTS-OF-WAY.—Section 2668 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) Subsection (c) of section 2667 of this title shall apply with respect to in-kind consideration received by the Secretary of a military department in connection with an easement granted under this section in the same manner as such subsection applies to in-kind consideration received pursuant to leases entered into by that Secretary under such section.''.

(b) EASEMENTS FOR UTILITY LINES.—Section 2669 of such title is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) Subsection (c) of section 2667 of this title shall apply with respect to in-kind consideration received by the Secretary of a military department in connection with an easement granted under this section in the same manner as such subsection applies to in-kind consideration received pursuant to leases entered into by that Secretary under such section.''.

SEC. 2813. EXPANSION TO MILITARY UNACCOMPANIED HOUSING OF AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED IN EXCHANGE FOR MILITARY HOUSING.

Section 2905(f)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting ''unaccompanied members of the Armed Forces or'' before ''members of the Armed Forces and their dependents''; and

(2) by striking ''FAMILY'' in the subsection heading.

SEC. 2814. EXEMPTION FROM SCREENING AND USE REQUIREMENTS UNDER MCKINNEY-VENTO HOMELESS ASSISTANCE ACT OF DEPARTMENT OF DEFENSE PROPERTY IN EMERGENCY SUPPORT OF HOMELAND SECURITY.

Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) APPLICABILITY TO DEPARTMENT OF DEFENSE PROPERTY IN EMERGENCY SUPPORT OF HOMELAND SECURITY.—The provisions of this section shall not apply to a building or property under the jurisdiction of the Department of Defense that the Secretary of Defense determines should be made available for use by a State or local government, or private entity, on a temporary basis, for emergency activities in support of homeland security.''.

Subtitle C—Land Conveyances

SEC. 2821. TRANSFER OF LAND AT FORT CAMPBELL, KENTUCKY AND TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the State of Tennessee, all right, title, and interest of the United States in and to a parcel of real property (right-of-way), including improvements thereon, located at Fort Campbell, Kentucky and Tennessee, for the purpose of realigning and upgrading United States Highway 79 from a 2-lane highway to a 4-lane highway.

(b) CONSIDERATION.—

(1) PAYMENT.—As consideration for the conveyance of the right-of-way parcel to be conveyed by subsection (a), the State of Tennessee shall pay from any source (including Federal funds made available to the State from the Highway Trust Fund) all of the Secretary's costs associated with the following:

(A) COSTS OF CONVEYANCE.—The conveyance of the right-of-way parcel, including the preparation of documents under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), surveys (including surveys under subsection (c)), appraisals, cultural reviews, administrative expenses, cemetery relocation, and other expenses necessary to transfer the property.

(B) ACQUISITION OF REPLACEMENT LAND.—The acquisition of approximately 200 acres of mission-essential replacement land required to support the training mission at Fort Campbell.

(C) DISPOSAL OF RESIDUAL PROPERTY.—The disposal of residual land located south of the realigned highway.

(2) ACCEPTANCE AND CREDIT.—The Secretary may accept funds under this subsection from the Federal Highway Administration or the State of Tennessee to pay the costs described in paragraph (1) and shall credit the funds to the appropriate Department of the Army accounts for the purpose of paying such costs.

(3) PERIOD OF AVAILABILITY.—All funds accepted by the Secretary under this subsection shall remain available until expended.

(c) DESCRIPTION OF PROPERTY.—The acreage of the real property to be conveyed, acquired, and disposed of under this section shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, FORT KNOX, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans Affairs of the Commonwealth of Kentucky (in this section referred to as the ''Department''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 93 acres at Fort Knox, Kentucky, for the purpose of permitting the Department to establish and operate a State-run cemetery for veterans of the Armed Forces.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Department shall reimburse the Secretary for any costs incurred by the Secretary in making the conveyance authorized by subsection (a), including costs related to environmental documentation and other administrative costs. This paragraph does not apply to costs associated with the environmental remediation of the real property to be conveyed under such subsection.

(2) Any reimbursements received under paragraph (1) for costs described in that paragraph shall be deposited into the accounts from which the costs were paid, and amounts so deposited shall be merged with amounts in such accounts and available for the same purposes, and subject to the same conditions and limitations, as the amounts in such accounts with which merged.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Department.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, MARINE CORPS LOGISTICS BASE, ALBANY, GEORGIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey through negotiated sale to the Preferred Development Group Corporation, a corporation incorporated in the State of Georgia and authorized to do business in the State of Georgia (referred to in this section as the ''Corporation''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10.44 acres located at Boyett Village/Turner Field and McAdams Road in Albany, Georgia, for the purpose of permitting the Corporation to use the property for economic development.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Corporation accept the real property conveyed under subsection (a) as is.

(2) That the Corporation bear all costs related to the use and redevelopment of the real property.

(c) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the Corporation shall pay the United States an amount, determined pursuant to negotiations between the Secretary and the Corporation and based upon the fair market value of the property (as determined pursuant to an appraisal acceptable to the Secretary), that is appropriate for the property.

(d) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—The Secretary may require the Corporation to reimburse the Secretary for any costs incurred by the Secretary in making the conveyance authorized by subsection (a).

(e) DEPOSIT OF AMOUNTS.—(1) The consideration received under subsection (c) shall be deposited in the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Any reimbursements received under subsection (d) for costs described in that subsection shall be deposited into the accounts from which the costs were paid, and amounts so deposited shall be merged with amounts in such accounts and available for the same purposes, and subject to the same conditions and limitations, as the amounts in such accounts with which merged.

(f) EXEMPTION.—The conveyance authorized by subsection (a) shall be exempt from the requirement in section 2696 of title 10, United States Code, to screen the property for further Federal use.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be

determined by a survey satisfactory to the Secretary.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND CONVEYANCE, AIR FORCE AND ARMY EXCHANGE SERVICE PROPERTY, DALLAS, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Defense may authorize the Army and Air Force Exchange Service to convey through negotiated sale all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7.5 acres located at 1515 Roundtable Drive in Dallas, Texas.

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the purchaser shall pay the United States a single payment equal to the fair market value of the real property, as determined pursuant to an appraisal acceptable to the Secretary.

(c) DEPOSIT OF AMOUNTS.—Section 574 of title 40, United States Code, shall apply to the consideration received under subsection (b), except that in the application of such section, all of the proceeds shall be returned to the Army and Air Force Exchange Service.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND EXCHANGE, NAVAL AND MARINE CORPS RESERVE CENTER, PORTLAND OREGON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the United Parcel Service, Inc. (in this section referred to as ''UPS''), any or all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres in Portland, Oregon, and comprising the Naval and Marine Corps Reserve Center for the purpose of facilitating the expansion of the UPS main distribution complex in Portland.

(b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consideration for the conveyance under subsection (a), UPS shall —

(A) convey to the United States a parcel of real property determined to be suitable by the Secretary; and

(B) design, construct, and convey such replacement facilities on the property conveyed under subparagraph (A) as the Secretary considers appropriate.

(2) The value of the real property and replacement facilities received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require UPS to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from UPS in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to UPS.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary determines that the replacement facilities required by subsection (b) are suitable and available for the relocation of the operations of the Naval and Marine Corps Reserve Center.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, FORT RITCHIE, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey, without consideration, to the PenMar Development Corporation, a public instrumentality of the State of Maryland (in this section referred to as the ''Corporation''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at former Fort Ritchie, Cascade, Maryland, consisting of approximately 33 acres, that is currently being leased by the International Masonry Institute (in this section referred to as the ''Institute''), for the purpose of enabling the Corporation to sell the property to the Institute for the economic development of former Fort Ritchie.

(b) EXEMPTION FROM FEDERAL SCREENING REQUIREMENT.—The conveyance authorized by subsection (a) shall be exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code, under the Defense Base and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or under any other applicable law or regulation.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Corporation.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. FEASIBILITY STUDY OF CONVEYANCE OF LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.

(a) STUDY REQUIRED.—(1) The Secretary of the Army shall conduct a study of the feasibility, costs, and benefits for the conveyance of the Louisiana Army Ammunition Plant as a model for a public-private partnership for the utilization and development of the Plant and similar parcels of real property.

(2) In conducting the study, the Secretary shall consider—

(A) the feasibility and advisability of entering into negotiations with the State of Louisiana or the Louisiana National Guard for the conveyance of the Plant;

(B) means by which the conveyance of the Plant could—

(i) facilitate the execution by the Department of Defense of its national security mission; and

(ii) facilitate the continued use of the Plant by the Louisiana National Guard and the execution by the Louisiana National Guard of its national security mission;

(C) evidence presented by the State of Louisiana of the means by which the conveyance of the Plant could benefit current and potential private sector and governmental tenants of the Plant and facilitate the contribution of such tenants to economic development in Northwestern Louisiana;

(D) the amount and type of consideration that is appropriate for the conveyance of the Plant;

(E) the evidence presented by the State of Louisiana of the extent to which the conveyance of the Plant to a public-private partnership will contribute to economic growth in the State of Louisiana and in Northwestern Louisiana in particular;

(F) the value of any mineral rights in the lands of the Plant; and

(G) the advisability of sharing revenues and rents paid by current and potential tenants of the Plant as a result of the Armament Retooling and Manufacturing Support Program.

(b) LOUISIANA ARMY AMMUNITION PLANT.—In this section, the term ''Louisiana Army Ammunition Plant'' means the Louisiana Army Ammunition Plant in Doyline, Louisiana, consisting of approximately 14,949 acres, of which 13,665 acres are under license to the Military Department of the State of Louisiana and 1,284 acres are used by the Army Joint Munitions Command.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House or Representatives a report on the study conducted under subsection (a). The report shall include the results of the study and any other matters in light of the study that the Secretary considers appropriate.

Subtitle D—Review of Overseas Military Facility Structure

SEC. 2841. SHORT TITLE.

This subtitle may be cited as the ''Overseas Military Facility and Range Structure Review Act of 2003''.

SEC. 2842. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission on the Review of the Overseas Military Facility and Range Structure of the United States (in this subtitle referred to as the ''Commission'').

(b) MEMBERSHIP.—(1) The Commission shall be composed of 9 members of whom—

(A) one shall be appointed by the Secretary of Defense;

(B) two shall be appointed by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Armed Services of the Senate and the Chairman of the Subcommittee on Defense of the Committee on Appropriations of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate, in consultation with the Ranking Member of the Committee on Armed Services of the Senate and the Ranking Member of the Subcommittee on Defense of the Committee on Appropriations of the Senate;

(D) two shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Armed Services of the House of Representatives and the Chairman of the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Armed Services of the House of Representatives and the Ranking Member of the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

(2) Individuals appointed to the Commission shall have significant experience in the national security or foreign policy of the United States.

(3) Appointments of the members of the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 2843. DUTIES OF COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of matters relating to the military facility and range structure of the United States overseas.

(b) MATTERS TO BE STUDIED.—In conducting the study, the Commission shall—

(1) assess the number of military personnel of the United States required to be based outside the United States;

(2) examine the current state of the military facilities and training ranges of the United States overseas for all permanent stations and deployed locations, including the condition of land and improvements at such facilities and ranges and the availability of additional land, if required, for such facilities and ranges;

(3) identify the amounts received by the United States, whether in direct payments, in-kind contributions, or otherwise, from foreign countries by reason of military facilities of the United States overseas;

(4) assess whether or not the current military basing and training range structure of the United States overseas is adequate to meet the current and future mission of the Department of Defense, including contingency, mobilization, and future force requirements;

(5) assess the feasibility and advisability of the closure or realignment of military facilities of the United States overseas, or the establishment of new military facilities of the United States overseas, to meet the requirements of the Department of Defense to provide for the national security of the United States; and

(6) consider or assess any other issue relating to military facilities and ranges of the United States overseas that the Commission considers appropriate.

(c) REPORT.—(1) Not later than August 30, 2004, the Commission shall submit to the President and Congress a report which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) In addition to the matters specified in paragraph (1), the report shall also include a proposal by the Commission for an overseas basing strategy for the Department of Defense in order to meet the current and future mission of the Department.

SEC. 2844. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support necessary for the Commission to carry out its duties under this subtitle.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 2845. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission under this subtitle. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL.—(1) Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission under this subtitle.

(2) Members and staff of the Commission may receive transportation on aircraft of the Military Airlift Command to and from the United States, and overseas, for purposes of the performance of the duties of the Commission to the extent that such transportation will not interfere with the requirements of military operations.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties under this subtitle. The employment of an executive director shall be subject to confirmation by the Commission.

(2) The Commission may employ a staff to assist the Commission in carrying out its duties. The total number of the staff of the Commission, including an executive director under paragraph (1), may not exceed 12.

(3) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Department of Defense, the Department of State, or the General Accounting Office may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 2846. SECURITY.

(a) SECURITY CLEARANCES.—Members and staff of the Commission, and any experts and consultants to the Commission, shall possess security clearances appropriate for their duties with the Commission under this subtitle.

(b) IN GENERAL.—The Secretary of Defense shall assume responsibility for the handling and disposition of any information relating to the national security of the United States that is received, considered, or used by the Commission under this subtitle.

SEC. 2847. TERMINATION OF COMMISSION.

The Commission shall terminate 45 days after the date on which the Commission submits its report under section 2843(c).

SEC. 2848. FUNDING.

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 301(5) for the Department of Defense for operation and maintenance, Defense-wide, $3,000,000 shall be available to the Commission to carry out this subtitle.

(b) AVAILABILITY.—The amount authorized to be appropriated by subsection (a) shall remain available, without fiscal year limitation, until September 30, 2005.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,933,847,000, to be allocated as follows:

(1) For weapons activities, $6,457,272,000.

(2) For defense nuclear nonproliferation activities, $1,340,195,000.

(3) For naval reactors, $788,400,000.

(4) For the Office of the Administrator for Nuclear Security, $347,980,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for weapons activities, as follows:

(1) Project 04–D–101, test capabilities revitalization, phase I, Sandia National Laboratories, Albuquerque, New Mexico, $36,450,000.

(2) Project 04–D–102, exterior communications infrastructure modernization, Sandia National Laboratories, Albuquerque, New Mexico, $20,000,000.

(3) Project 04–D–103, project engineering and design, various locations, $2,000,000.

(4) Project 04–D–125, chemistry and metallurgy research (CMR) facility replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,500,000.

(5) Project 04–D–126, building 12–44 production cells upgrade, Pantex Plant, Amarillo, Texas, $8,780,000.

(6) Project 04–D–127, cleaning and loading modifications (CALM), Savannah River Site, Aiken, South Carolina, $2,750,000.

(7) Project 04–D–128, TA–18 mission relocation project, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,820,000.

(8) Project 04–D–203, project engineering and design, facilities and infrastructure recapitalization program, various locations, $3,719,000.

(9) Project 03–D–102, sm.43 replacement administration building, Los Alamos National Laboratory, Los Alamos, New Mexico, $50,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated

to the Department of Energy for fiscal year 2004 for environmental management activities in carrying out programs necessary for national security in the amount of $6,809,814,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,814,635,000.

(2) For defense environmental services in carrying out environmental restoration and waste management activities necessary for national security programs, $995,179,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for defense site acceleration completion activities, as follows:

(1) Project 04–D–408, glass waste storage building #2, Savannah River Site, Aiken, South Carolina, $20,259,000.

(2) Project 04–D–414, project engineering and design, various locations, $23,500,000.

(3) Project 04–D–423, 3013 container surveillance capability in 235–F, Savannah River Site, Aiken, South Carolina, $1,134,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for other defense activities in carrying out programs necessary for national security in the amount of $465,059,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $360,000,000.

SEC. 3105. DEFENSE ENERGY SUPPLY.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense energy supply in carrying out programs necessary for national security in the amount of $110,473,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3131. REPEAL OF PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.

(a) REPEAL.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note) is repealed.

(b) CONSTRUCTION.—Nothing in the repeal made by subsection (a) shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.

(c) LIMITATION.—The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.

(d) REPORT.—(1) Not later than March 1, 2004, the Secretary of State, the Secretary of Defense and the Secretary of Energy shall jointly submit to Congress a report assessing whether or not the repeal of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 will affect the ability of the United States to achieve its nonproliferation objectives and whether or not any changes in programs and activities would be required to achieve those objectives.

(2) The report shall be submitted in unclassified form, but may include a classified annex if necessary.

SEC. 3132. READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) 18-MONTH READINESS POSTURE REQUIRED.—Commencing not later than October 1, 2006, the Secretary of Energy shall achieve, and thereafter maintain, a readiness posture of 18 months for resumption by the United States of underground nuclear tests, subject to subsection (b).

(b) ALTERNATIVE READINESS POSTURE.—If as a result of the review conducted by the Secretary for purposes of the report required by section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) the Secretary, in consultation with the Administrator for Nuclear Security, determines that the optimal, advisable, and preferred readiness posture for resumption by the United States of underground nuclear tests is a number of months other than 18 months, the Secretary may, and is encouraged to, achieve and thereafter maintain under subsection (a) such optimal, advisable, and preferred readiness posture instead of the readiness posture of 18 months.

(c) REPORT ON DETERMINATION.—(1) The Secretary shall submit to the congressional defense committees a report on a determination described in subsection (b) if the determination leads to the achievement by the Secretary of a readiness posture of other than 18 months under that subsection.

(2) The report under paragraph (1) shall set forth—

(A) the determination described in that paragraph, including the reasons for the determination; and

(B) the number of months of the readiness posture to be achieved and maintained under subsection (b) as a result of the determination.

(3) The requirement for a report, if any, under paragraph (1) is in addition to the requirement for a report under section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and the requirement in that paragraph shall not be construed as terminating, modifying, or otherwise affecting the requirement for a report under such section.

(d) READINESS POSTURE.—For purposes of this section, a readiness posture of a specified number of months for resumption by the United States of underground nuclear weapons tests is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than the specified number of months after the date on which the President so directs.

SEC. 3133. TECHNICAL BASE AND FACILITIES MAINTENANCE AND RECAPITALIZATION ACTIVITIES.

(a) DEADLINE FOR INCLUSION OF PROJECTS IN FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—(1) The Administrator for Nuclear Security shall complete the selection of projects for inclusion in the Facilities and Infrastructure Recapitalization Program (FIRP) of the National Nuclear Security Administration not later than September 30, 2004.

(2) No project may be included in the Facilities and Infrastructure Recapitalization Program after September 30, 2004, unless such project has been selected for inclusion in that program as of that date.

(b) TERMINATION OF FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—The Administrator shall terminate the Facilities and Infrastructure Recapitalization Program not later than September 30, 2011.

(c) READINESS IN TECHNICAL BASE AND FACILITIES PROGRAM.—(1) Not later than September 30, 2004, the Administrator shall submit to the congressional defense committees a report setting forth guidelines on the conduct of the Readiness in Technical Base and Facilities (RTBF) program of the National Nuclear Security Administration.

(2) The guidelines on the Readiness in Technical Base and Facilities program shall include the following:

(A) Criteria for the inclusion of projects in the program, and for establishing priorities among projects included in the program.

(B) Mechanisms for the management of facilities under the program, including maintenance as provided pursuant to subparagraph (C).

(C) A description of the scope of maintenance activities under the program, including recurring maintenance, construction of facilities, recapitalization of facilities, and decontamination and decommissioning of facilities.

(3) The guidelines on the Readiness in Technical Base and Facilities program shall ensure that the maintenance activities provided for under paragraph (2)(C) are carried out in a timely and efficient manner designed to avoid maintenance backlogs.

(d) OPERATIONS OF FACILITIES PROGRAM.—(1) The Administration shall provide for the administration of the Operations of Facilities Program of the National Nuclear Security Administration as a program independent of the Readiness in Technical Base and Facilities Program and of any other programs that the Operations of Facilities Program is intended to support.

(2) The Operations of Facilities Program shall be managed by the Associate Administrator of the National Nuclear Security Administration for Facilities and Operations, or by such other official within the National Nuclear Security Administration as the Administrator shall designate for that purpose.

SEC. 3134. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.

(a) CONTINUATION OF H–CANYON FACILITY.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is amended by striking ''F–canyon and H–canyon facilities'' and inserting ''H–canyon facility''.

(b) MODIFICATION OF LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—Subsection (b) of such section is amended—

(1) by striking ''and the Defense Nuclear Facilities Safety Board'' and all that follows through ''House of Representatives'' and inserting ''submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board,''; and

(2) by striking ''the following:'' and all that follows and inserting ''a report setting forth—

''(1) an assessment whether or not all materials present in the F–canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;

''(2) an assessment whether or not the requirements applicable to the F–canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H–canyon facility at the Savannah River Site; and

''(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H–canyon facility—

''(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H–canyon facility; and

''(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H–canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.''.

(c) REPEAL OF SUPERSEDED PLAN REQUIREMENT.—Subsection (c) of such section is repealed.

SEC. 3135. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR COMMENCEMENT OF ENGINEERING DEVELOPMENT PHASE OR SUBSEQUENT PHASE OF ROBUST NUCLEAR EARTH PENETRATOR.

The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.

Subtitle C—Proliferation Matters

SEC. 3141. EXPANSION OF INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.

(a) EXPANSION OF PROGRAM TO ADDITIONAL COUNTRIES.—The Secretary of Energy may expand the International Materials, Protection, Control, and Accounting Program to carry out nuclear nonproliferation threat reduction activities and projects outside the states of the former Soviet Union.

(b) NOTICE TO CONGRESS OF USE OF FUNDS.—Not later than 15 days before the Secretary obligates funds for the International Materials Protection, Control, and Accounting Program for a project or activity in or with respect to a country outside the former Soviet Union pursuant to the authority in subsection (a), the Secretary shall submit to the congressional defense committees a notice on the obligation of such funds for the project or activity that shall specify—

(1) the project or activity, and forms of assistance, for which the Secretary proposes to obligate such funds;

(2) the amount of the proposed obligation; and

(3) the projected involvement (if any) of any United States department or agency (other than the Department of Energy), or the private sector, in the project, activity, or assistance for which the Secretary proposes to obligate such funds.

SEC. 3142. SEMI-ANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAM.

(a) SEMIANNUAL REPORTS REQUIRED.—Not later than April 30 and October 30 each year, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the financial status during the half fiscal year ending at the end of the preceding month of all Department of Energy defense nuclear nonproliferation programs for which funds were authorized to be appropriated for the fiscal year in which such half fiscal year falls.

(b) CONTENTS.—Each report on a half fiscal year under subsection (a) shall set forth for each Department of Energy defense nuclear nonproliferation program for which funds were authorized to be appropriated for the fiscal year in which such half fiscal year falls—

(1) the aggregate amount appropriated for such fiscal year for such program; and

(2) of the aggregate amount appropriated for such fiscal year for such program—

(A) the amounts obligated for such program as of the end of the half fiscal year;

(B) the amounts committed for such program as of the end of the half fiscal year;

(C) the amounts disbursed for such program as of the end of the half fiscal year; and

(D) the amounts that remain available for obligation for such program as of the end of the half fiscal year.

(c) APPLICABILITY.—This section shall apply with respect to fiscal years after fiscal year 2003.

SEC. 3143. REPORT ON REDUCTION OF EXCESSIVE UNCOSTED BALANCES FOR DEFENSE NUCLEAR NONPROLIFERATION ACTIVITIES.

(a) CONTINGENT REQUIREMENT FOR REPORT.—If as of September 30, 2004, the aggregate amount obligated but not expended for defense nuclear nonproliferation activities from amounts authorized to be appropriated for such activities in fiscal year 2004 exceeds an amount equal to 20 percent of the aggregate amount so obligated for such activities, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an aggressive plan to provide for the timely expenditure of amounts so obligated but not expended.

(b) SUBMITTAL DATE.—If required to be submitted under subsection (a), the submittal date for the report under that subsection shall be November 30, 2004.

Subtitle D—Other Matters

SEC. 3151. MODIFICATION OF AUTHORITIES ON DEPARTMENT OF ENERGY PERSONNEL SECURITY INVESTIGATIONS.

(a) IN GENERAL.—Subsection e. of section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is amended by striking paragraph (2) and inserting the following new paragraph (2):

''(2) In the case of any program designated by the Secretary of Energy as sensitive, the Secretary may require that any investigation required by subsections a., b., and c. of an individual employed in the program be made by the Federal Bureau of Investigation.''.

(b) CONFORMING AMENDMENT.—Subsection f. of such section is amended by striking ''a majority of the members of the Commission shall certify those specific positions'' and inserting ''the Secretary of Energy may certify specific positions (in addition to positions in programs designated as sensitive under subsection e.)''.

SEC. 3152. RESPONSIBILITIES OF ENVIRONMENTAL MANAGEMENT PROGRAM AND NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF ENERGY FOR ENVIRONMENTAL CLEANUP, DECONTAMINATION AND DECOMMISSIONING, AND WASTE MANAGEMENT.

(a) DELINEATION OF RESPONSIBILITIES.—The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report setting forth a delineation of responsibilities between and among the Environmental Management (EM) program and the National Nuclear Security Administration (NNSA) of the Department of Energy for activities on each of the following:

(1) Environmental cleanup.

(2) Decontamination and decommissioning (D&D).

(3) Waste management.

(b) PLAN FOR IMPLEMENTATION OF DELINEATED RESPONSIBILITIES.—(1) The Secretary shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2006 (as so submitted) a report setting forth a plan to implement among the Environmental Management program and the National Nuclear Security Administration the responsibilities for activities referred to in subsection (a) as delineated under that subsection.

(2) The report under paragraph (1) shall include such recommendations for legislative action as the Secretary considers appropriate in order to—

(A) clarify in law the responsibilities delineated under subsection (a); and

(B) facilitate the implementation of the plan set forth in the report.

(c) CONSULTATION.—The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.

SEC. 3153. UPDATE OF REPORT ON STOCKPILE STEWARDSHIP CRITERIA.

(a) UPDATE OF REPORT.—Not later than March 1, 2005, the Secretary of Energy shall submit to the committees referred to in subsection (c) of section 4202 of the Atomic Energy Defense Act a report updating the report submitted under subsection (a) of such section.

(b) ELEMENTS.—The report under subsection (a) of this section shall—

(1) update any information or criteria described in the report submitted under such section 4202;

(2) describe any additional information identified, or criteria established, on matters covered by such section 4202 during the period beginning on the date of the submittal of the report under such section 4202 and ending on the date of the submittal of the report under subsection (a) of this section; and

(3) for each science-based tool developed by the Department of Energy during such period—

(A) a description of the relationship of such science-based tool to the collection of information needed to determine that the nuclear weapons stockpile is safe and reliable; and

(B) a description of the criteria for judging whether or not such science-based tool provides for the collection of such information.

SEC. 3154. PROGRESS REPORTS ON ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) REPORT ON ACCESS TO INFORMATION FOR PERFORMANCE OF RADIATION DOSE RECONSTRUCTIONS.—(1) Not later than 90 days after the date of the enactment of this Act, the National Institute for Occupational Safety and Health shall submit to Congress a report on the ability of the Institute to obtain, in a timely, accurate, and complete manner, information necessary for the purpose of carrying out radiation dose reconstructions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.), including information requested from any element of the Department of Energy.

(2) The report shall include the following:

(A) An identification of each matter adversely affecting the ability of the Institute to obtain information described in paragraph (1) in a timely, accurate, and complete manner.

(B) For each facility with respect to which the Institute is carrying out one or more dose reconstructions described in paragraph (1)—

(i) a specification of the total number of claims requiring dose reconstruction;

(ii) a specification of the number of claims for which dose reconstruction has been adversely affected by any matter identified under paragraph (1); and

(iii) a specification of the number of claims requiring dose reconstruction for which, because of any matter identified under paragraph (1), dose reconstruction has not been completed within 150 days after the date on which the Secretary of Labor submitted the claim to the Secretary of Health and Human Services.

(b) REPORT ON DENIAL OF CLAIMS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report on the denial of claims under the Energy Employees Occupational Illness Compensation Program Act of 2000 as of the date of such report.

(2) The report shall include for each facility with respect to which the Secretary has received one or more claims under that Act the following:

(A) The number of claims received with respect to such facility that have been denied, including the percentage of total number of claims received with respect to such facility that have been denied.

(B) The reasons for the denial of such claims, including the number of claims denied for each such reason.

SEC. 3155. STUDY ON THE APPLICATION OF TECHNOLOGY FROM THE ROBUST NUCLEAR EARTH PENETRATOR PROGRAM TO CONVENTIONAL HARD AND DEEPLY BURIED TARGET WEAPONS DEVELOPMENT PROGRAMS.

(a) FINDINGS.—Much of the work that will be carried out by the Secretary of Energy in the feasibility study for the Robust Nuclear Earth Penetrator will have applicability to a nuclear or a conventional earth penetrator, but the Department of Energy does not have responsibility for development of conventional earth penetrator or other conventional programs for hard and deeply buried targets.

(b) PLAN.—The Secretary of Energy and the Secretary of Defense shall develop, submit to Congress three months after the date of enactment of this Act, and implement, a plan to coordinate the Robust Nuclear Earth Penetrator feasibility study at the Department of Energy

with the ongoing conventional hard and deeply buried weapons development programs at the Department of Defense. This plan shall ensure that over the course of the feasibility study for the Robust Nuclear Earth Penetrator the ongoing results of the work of the Department of Energy, with application to the Department of Defense programs, is shared with and integrated into the Department of Defense programs.

Subtitle E—Consolidation of General Provisions on Department of Energy National Security Programs

SEC. 3161. CONSOLIDATION AND ASSEMBLY OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.

(2) CONSTRUCTION OF TRANSFERS.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.

(3) TREATMENT OF SATISFIED REQUIREMENTS.—Any requirement in a provision of law transferred under this section that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.

(4) CLASSIFICATION.—The provisions of the Atomic Energy Defense Act, as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.

(b) DIVISION HEADING.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by adding at the end the following new division heading:

"DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS".

(c) SHORT TITLE; DEFINITION.—

(1) SHORT TITLE.—Section 3601 of the Atomic Energy Defense Act (title XXXVI of Public Law 107–314; 116 Stat. 2756) is—

(A) transferred to the end of the Bob Stump National Defense Authorization Act for Fiscal Year 2003;

(B) redesignated as section 4001;

(C) inserted after the heading for division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by subsection (b); and

(D) amended by striking ''title'' and inserting ''division''.

(2) DEFINITION.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new section:

''SEC. 4002. DEFINITION.

''In this division, the term 'congressional defense committees' means—

''(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''.

(d) ORGANIZATIONAL MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following:

"TITLE XLI—ORGANIZATIONAL MATTERS".

(2) NAVAL NUCLEAR PROPULSION PROGRAM.—Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2649) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) inserted after the title heading for such title, as so added; and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4101. NAVAL NUCLEAR PROPULSION PROGRAM.'';

and

(ii) by striking ''SEC. 1634.''.

(3) MANAGEMENT STRUCTURE FOR FACILITIES AND LABORATORIES.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2833) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4102;

(C) inserted after section 4101, as added by paragraph (2); and

(D) amended in subsection (d)(2), by striking ''120 days after the date of the enactment of this Act,'' and inserting ''January 21, 1997,''.

(4) RESTRICTION ON LICENSING REQUIREMENTS FOR CERTAIN ACTIVITIES AND FACILITIES.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3202) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4102, as added by paragraph (3); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4103. RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES.'';

(ii) by striking ''SEC. 210.''; and

(iii) by striking ''this or any other Act'' and inserting ''the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act''.

(e) NUCLEAR WEAPONS STOCKPILE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

"Subtitle A—Stockpile Stewardship and Weapons Production".

(2) STOCKPILE STEWARDSHIP PROGRAM.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946), as amended by section 3152(e) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2042), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4201; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) STOCKPILE STEWARDSHIP CRITERIA.—Section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2257), as amended, is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4202; and

(C) inserted after section 4201, as added by paragraph (2).

(4) PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN STOCKPILE.—Section 3151 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2041) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4203; and

(C) inserted after section 4202, as added by paragraph (3).

(5) STOCKPILE LIFE EXTENSION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 926) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4204;

(C) inserted after section 4203, as added by paragraph (4); and

(D) amended in subsection (c)(1) by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999''.

(6) ANNUAL ASSESSMENTS AND REPORTS ON CONDITION OF STOCKPILE.—Section 3141 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2730) is—

(A) transferred to title XLII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4205;

(C) inserted after section 4204, as added by paragraph (5); and

(D) amended in subsection (d)(3)(B) by striking ''section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note)'' and inserting ''section 4213''.

(7) FORM OF CERTAIN CERTIFICATIONS REGARDING STOCKPILE.—Section 3194 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4206; and

(C) inserted after section 4205, as added by paragraph (6).

(8) NUCLEAR TEST BAN READINESS PROGRAM.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2075) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4207;

(C) inserted after section 4206, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STUDY ON NUCLEAR TEST READINESS POSTURES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623), as amended by section 3192 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4208; and

(C) inserted after section 4207, as added by paragraph (8).

(10) REQUIREMENTS FOR REQUESTS FOR NEW OR MODIFIED NUCLEAR WEAPONS.—Section 3143 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) is—

(A) transferred to title XLII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4209; and

(C) inserted after section 4208, as added by paragraph (9).

(11) LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.—Subsection (f) of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–337; 106 Stat. 1345) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4209, as added by paragraph (10); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4210. LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.";

and

(ii) by striking ''(f)''.

(12) PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4211;

(C) inserted after section 4210, as added by paragraph (11); and

(D) amended in subsection (b) by striking ''the date of the enactment of this Act,'' and inserting ''November 30, 1993,''.

(13) TESTING OF NUCLEAR WEAPONS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4212;

(C) inserted after section 4211, as added by paragraph (12); and

(D) amended—

(i) in subsection (a), by inserting ''of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)'' after ''section 3101(a)(2)''; and

(ii) in subsection (b), by striking ''this Act'' and inserting ''the National Defense Authorization Act for Fiscal Year 1994''.

(14) MANUFACTURING INFRASTRUCTURE FOR STOCKPILE.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620), as amended by section 3132 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2829), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4213;

(C) inserted after section 4212, as added by paragraph (13); and

(D) amended in subsection (d) by inserting ''of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)'' after ''section 3101(b)''.

(15) REPORTS ON CRITICAL DIFFICULTIES AT LABORATORIES AND PLANTS.—Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842), as amended by section 1305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1954) and section 3163 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 944), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4214; and

(C) inserted after section 4213, as added by paragraph (14).

(16) SUBTITLE HEADING ON TRITIUM.—Title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Tritium".

(17) TRITIUM PRODUCTION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 618) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4231;

(C) inserted after the heading for subtitle B of such title XLII, as added by paragraph (16); and

(D) amended—

(i) by striking ''the date of the enactment of this Act'' each place it appears and inserting ''February 10, 1996''; and

(ii) in subsection (b), by inserting ''of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)'' after ''section 3101''.

(18) TRITIUM RECYCLING.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4232; and

(C) inserted after section 4231, as added by paragraph (17).

(19) TRITIUM PRODUCTION.—Subsections (c) and (d) of section 3133 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) are—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4232, as added by paragraph (18); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4233. TRITIUM PRODUCTION.";

(ii) by redesignating such subsections as subsections (a) and (b), respectively; and

(iii) in subsection (a), as so redesignated, by inserting ''of Energy'' after ''The Secretary''.

(20) MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4234;

(C) inserted after section 4233, as added by paragraph (19); and

(D) amended in subsection (b) by inserting ''of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)'' after ''section 3101''.

(21) PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4235; and

(C) inserted after section 4234, as added by paragraph (20).

(f) PROLIFERATION MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new title heading:

"TITLE XLIII—PROLIFERATION MATTERS".

(2) INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036), as amended by sections 1069 and 3131 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136, 2246), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4301;

(C) inserted after the heading for such title, as so added; and

(D) amended in subsection (b)(3) by striking ''of this Act'' and inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)''.

(3) NONPROLIFERATION INITIATIVES AND ACTIVITIES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4302;

(C) inserted after section 4301, as added by paragraph (2); and

(D) amended in subsection (b)(1) by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)''.

(4) ANNUAL REPORT ON MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.—Section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–475) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4303;

(C) inserted after section 4302, as added by paragraph (3); and

(D) amended in subsection (c)(1) by striking ''this Act'' and inserting ''the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)''.

(5) NUCLEAR CITIES INITIATIVE.—Section 3172 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–476) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4304; and

(C) inserted after section 4303, as added by paragraph (4).

(6) PROGRAMS ON FISSILE MATERIALS.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617), as amended by section 3152 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4305; and

(C) inserted after section 4304, as added by paragraph (5).

(7) DISPOSITION OF WEAPONS USABLE PLUTONIUM.—Section 3182 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2747) is—

(A) transferred to title XLIII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4306; and

(C) inserted after section 4305, as added by paragraph (7).

(8) DISPOSITION OF SURPLUS DEFENSE PLUTONIUM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1378) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4307; and

(C) inserted after section 4306, as added by paragraph (7).

(g) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLIV—ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS

"Subtitle A—Environmental Restoration and Waste Management".

(2) DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACCOUNT.—Section 3134 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4401; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4402;

(C) inserted after section 4401, as added by paragraph (2); and

(D) amended—

(i) in subsection (d), by striking ''the date of the enactment of this Act'' and inserting ''September 23, 1996,''; and

(ii) in subsection (h)(1), by striking ''the date of the enactment of this Act'' and inserting ''September 23, 1996''.

(4) INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.—Section 3172 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 948) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4403; and

(C) inserted after section 4402, as added by paragraph (3).

(5) BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950), as amended by section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3094), section 3152 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839), and section 3160 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048), is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4404; and

(C) inserted after section 4403, as added by paragraph (4).

(6) ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3156 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4405;

(C) inserted after section 4404, as added by paragraph (5); and

(D) amended in subsection (b)(2) by inserting before the period the following: '', the predecessor provision to section 4404 of this Act''.

(7) DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.—Section 3141 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1679) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4406;

(C) inserted after section 4405, as added by paragraph (6); and

(D) amended in the section heading by adding a period at the end.

(8) REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4407;

(C) inserted after section 4406, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Subsection (e) of section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4407, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4408. PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT AT DEFENSE NUCLEAR FACILITIES.";

and

(ii) by striking ''(e) PUBLIC PARTICIPATION IN PLANNING.—''.

(10) SUBTITLE HEADING ON CLOSURE OF FACILITIES.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Closure of Facilities".

(11) PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.—Section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4421;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10); and

(D) amended in subsection (i), by striking ''the expiration of the 15-year period beginning on the date of the enactment of this Act'' and inserting ''September 23, 2011''.

(12) REPORTS IN CONNECTION WITH PERMANENT CLOSURE OF DEFENSE NUCLEAR FACILITIES.—Section 3156 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1683) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4422;

(C) inserted after section 4421, as added by paragraph (11); and

(D) amended in the section heading by adding a period at the end.

(13) SUBTITLE HEADING ON PRIVATIZATION.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Privatization".

(14) DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4431;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (13); and

(D) amended—

(i) in subsections (a), (c)(1)(B)(i), and (d), by inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)'' after ''section 3102(i)''; and

(ii) in subsections (c)(1)(B)(ii) and (f), by striking ''the date of enactment of this Act'' and inserting ''November 18, 1997''.

(h) SAFEGUARDS AND SECURITY MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLV—SAFEGUARDS AND SECURITY MATTERS

"Subtitle A—Safeguards and Security".

(2) PROHIBITION ON INTERNATIONAL INSPECTIONS OF FACILITIES WITHOUT PROTECTION OF RESTRICTED DATA.—Section 3154 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 624) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4501;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) by striking ''(1) The'' and inserting ''The''; and

(ii) by striking ''(2) For purposes of paragraph (1),'' and inserting ''(c) RESTRICTED DATA DEFINED.—In this section,''.

(3) RESTRICTIONS ON ACCESS TO LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.—Section 3146 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4502;

(C) inserted after section 4501, as added by paragraph (2); and

(D) amended—

(i) in subsection (b)(2)—

(I) in the matter preceding subparagraph (A), by striking ''30 days after the date of the enactment of this Act'' and inserting ''on November 4, 1999,''; and

(II) in subparagraph (A), by striking ''The date that is 90 days after the date of the enactment of this Act'' and inserting ''January 3, 2000'';

(ii) in subsection (d)(1), by striking ''the date of the enactment of this Act,'' and inserting ''October 5, 1999,''; and

(iii) in subsection (g), by adding at the end the following new paragraphs:

''(3) The term 'national laboratory' means any of the following:

''(A) Lawrence Livermore National Laboratory, Livermore, California.

''(B) Los Alamos National Laboratory, Los Alamos, New Mexico.

''(C) Sandia National Laboratories, Albuquerque, New Mexico and Livermore, California.

''(4) The term 'Restricted Data' has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).''.

(4) BACKGROUND INVESTIGATIONS ON CERTAIN PERSONNEL.—Section 3143 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 934) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4503;

(C) inserted after section 4502, as added by paragraph (3); and

(D) amended—

(i) in subsection (b), by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999,''; and

(ii) by adding at the end the following new subsection:

''(c) DEFINITIONS.—In this section, the terms 'national laboratory' and 'Restricted Data' have the meanings given such terms in section 4502(g)).''.

(5) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—

(A) DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1376) is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504;

(iii) inserted after section 4503, as added by paragraph (4); and

(iv) amended in subsection (c) by striking ''section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h)'' and inserting ''section 4504A''.

(B) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3154 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 941), as amended by section 3135 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–456), is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504A;

(iii) inserted after section 4504, as added by subparagraph (A); and

(iv) amended in subsection (h) by striking ''180 days after the date of the enactment of this Act,'' and inserting ''April 5, 2000,''.

(6) NOTICE OF SECURITY AND COUNTERINTELLIGENCE FAILURES.—Section 3150 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 939) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4505; and

(C) inserted after section 4504A, as added by paragraph (5)(B).

(7) ANNUAL REPORT ON SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2049) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4506;

(C) inserted after section 4505, as added by paragraph (6); and

(D) amended in subsection (b) by inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048; 42 U.S.C. 7251 note)'' after ''section 3161''.

(8) REPORT ON COUNTERINTELLIGENCE AND SECURITY PRACTICES AT LABORATORIES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4507;

(C) inserted after section 4506, as added by paragraph (7); and

(D) amended by adding at the end the following new subsection:

''(c) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).''.

(9) REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4508;

(C) inserted after section 4507, as added by paragraph (8); and

(D) amended by adding at the end the following new subsection:

''(f) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).''.

(10) SUBTITLE HEADING ON CLASSIFIED INFORMATION.—Title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Classified Information''.

(11) REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4521; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10).

(12) PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2259), as amended by section 1067(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) and section 3193 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4522;

(C) inserted after section 4521, as added by paragraph (11); and

(D) amended—

(i) in subsection (c)(1), by striking ''the date of the enactment of this Act'' and inserting ''October 17, 1998,'';

(ii) in subsection (f)(1), by striking ''the date of the enactment of this Act'' and inserting ''October 17, 1998''; and

(iii) in subsection (f)(2), by striking ''The Secretary'' and inserting ''Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary''.

(13) SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3149 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 938) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4523;

(C) inserted after section 4522, as added by paragraph (12); and

(D) amended—

(i) in subsection (a), by striking ''subsection (a) of section 3161 of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2260; 50 U.S.C. 435 note)'' and inserting ''subsection (a) of section 4522'';

(ii) in subsection (b)—

(I) by striking ''section 3161(b)(1) of that Act'' and inserting ''subsection (b)(1) of section 4522''; and

(II) by striking ''the date of the enactment of that Act'' and inserting ''October 17, 1998,'';

(iii) in subsection (c)—

(I) by striking ''section 3161(c) of that Act'' and inserting ''subsection (c) of section 4522''; and

(II) by striking ''section 3161(a) of that Act'' and inserting ''subsection (a) of such section''; and

(iv) in subsection (d), by striking ''section 3161(d) of that Act'' and inserting ''subsection (d) of section 4522''.

(14) PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.—Section 3145 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4524; and

(C) inserted after section 4523, as added by paragraph (13).

(15) IDENTIFICATION IN BUDGETS OF AMOUNT FOR DECLASSIFICATION ACTIVITIES.—Section 3173 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 949) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4525;

(C) inserted after section 4524, as added by paragraph (14); and

(D) amended in subsection (b) by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999,''.

(16) SUBTITLE HEADING ON EMERGENCY RESPONSE.—Title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle C—Emergency Response''.

(17) RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4541; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (16).

(i) PERSONNEL MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLVI—PERSONNEL MATTERS

"Subtitle A—Personnel Management".

(2) AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095), as amended by section 3139 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2040), sections 3152 and 3155 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2253, 2257), and section 3191 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4601; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) WHISTLEBLOWER PROTECTION PROGRAM.—Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 946) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4602;

(C) inserted after section 4601, as added by paragraph (2); and

(D) amended in subsection (n) by striking ''60 days after the date of the enactment of this Act,'' and inserting ''December 5, 1999,''.

(4) EMPLOYEE INCENTIVES FOR WORKERS AT CLOSURE PROJECT FACILITIES.—Section 3136 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–458) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4603;

(C) inserted after section 4602, as added by paragraph (3); and

(D) amended—

(i) in subsections (c) and (i)(1)(A), by striking ''section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)'' and inserting ''section 4421''; and

(ii) in subsection (g), by striking ''section 3143(h) of the National Defense Authorization Act for Fiscal Year 1997'' and inserting ''section 4421(h)''.

(5) DEFENSE NUCLEAR FACILITY WORKFORCE RESTRUCTURING PLAN.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644), as amended by section 1070(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857), Public Law 105–277 (112 Stat. 2681–419, 2681–430), and section 1048(h)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1229), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4604;

(C) inserted after section 4603, as added by paragraph (4); and

(D) amended—

(i) in subsection (a), by striking ''(hereinafter in this subtitle referred to as the 'Secretary')''; and

(ii) by adding at the end the following new subsection:

''(g) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term 'Department of Energy defense nuclear facility' means—

''(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

''(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

''(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);

''(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

''(5) any facility described in paragraphs (1) through (4) that—

''(A) is no longer in operation;

''(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

''(C) was operated for national security purposes.''.

(6) AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO EMPLOYEES.—Section 3195 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4605; and

(C) inserted after section 4604, as added by paragraph (5).

(7) SUBTITLE HEADING ON TRAINING AND EDUCATION.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Education and Training".

(8) EXECUTIVE MANAGEMENT TRAINING.—Section 3142 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1680) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4621;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3085) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4622;

(C) inserted after section 4621, as added by paragraph (8); and

(D) amended—

(i) in subsection (a)(1), by striking ''section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note)'' and inserting ''section 4201''; and

(ii) in subsection (b)(2), by inserting ''of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)'' after ''section 3101(a)(1)''.

(10) FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO NUCLEAR WEAPONS COMPLEX.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 621), as amended by section 3162 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 943), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4623; and

(C) inserted after section 4622, as added by paragraph (9).

(11) SUBTITLE HEADING ON WORKER SAFETY.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Worker Safety".

(12) WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.—Section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4641;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (11); and

(D) amended in subsection (e) by inserting ''of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)'' after ''section 3101(9)(A)''.

(13) SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.—Section 3163 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3097) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4642;

(C) inserted after section 4641, as added by paragraph (12); and

(D) amended in subsection (b) by striking ''90 days after the date of the enactment of this Act,'' and inserting ''January 5, 1995,''.

(14) PROGRAM TO MONITOR WORKERS AT DEFENSE NUCLEAR FACILITIES EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2646) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4643;

(C) inserted after section 4642, as added by paragraph (13); and

(D) amended—

(i) in subsection (b)(6), by striking ''1 year after the date of the enactment of this Act'' and inserting ''October 23, 1993'';

(ii) in subsection (c), by striking ''180 days after the date of the enactment of this Act,'' and inserting ''April 23, 1993,''; and

(iii) by adding at the end the following new subsection:

''(c) DEFINITIONS.—In this section:

''(1) The term 'Department of Energy defense nuclear facility' has the meaning given that term in section 4604(g).

''(2) The term 'Department of Energy employee' means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor of subcontractor of the Department of Energy employed at such a facility.''.

(j) BUDGET AND FINANCIAL MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

''Subtitle A—Recurring National Security Authorization Provisions''.

(2) RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS.—Sections 3620 through 3631 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2756) are—

(A) transferred to title XLVII of division D of such Act, as added by paragraph (1);

(B) redesignated as sections 4701 through 4712, respectively;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in section 4702, as so redesignated, by striking ''sections 3629 and 3630'' and inserting ''sections 4710 and 4711'';

(ii) in section 4706(a)(3)(B), as so redesignated, by striking ''section 3626'' and inserting ''section 4707'';

(iii) in section 4707(c), as so redesignated, by striking ''section 3625(b)(2)'' and inserting ''section 4706(b)(2)'';

(iv) in section 4710(c), as so redesignated, by striking ''section 3621'' and inserting ''section 4702'';

(v) in section 4711(c), as so redesignated, by striking ''section 3621'' and inserting ''section 4702''; and

(vi) in section 4712, as so redesignated, by striking ''section 3621'' and inserting ''section 4702''.

(3) SUBTITLE HEADING ON PENALTIES.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Penalties''.

(4) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4063) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4721;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (3); and

(D) amended in the section heading by adding a period at the end.

(5) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.—Section 211 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3203) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4721, as added by paragraph (4); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4722. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.'';

(ii) by striking SEC. 211.''; and

(iii) by striking ''this or any other Act'' and inserting ''the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act''.

(6) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle C—Other Matters''.

(7) SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.—Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (Public Law 95–509; 92 Stat. 1779) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle C of such title, as added by paragraph (6); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4731. SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.'';

and

(ii) by striking ''SEC. 208.''.

(k) ADMINISTRATIVE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLVIII—ADMINISTRATIVE MATTERS

''Subtitle A—Contracts''.

(2) COSTS NOT ALLOWED UNDER CERTAIN CONTRACTS.—Section 1534 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 774), as amended by section 3131 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1238), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4801;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (b)(1), by striking ''the date of the enactment of this Act,'' and inserting ''November 8, 1985,''.

(3) PROHIBITION ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.—Section 3151 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4802;

(C) inserted after section 4801, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''the date of the enactment of this Act'' and inserting ''November 29, 1989'';

(iii) in subsection (b), by striking ''6 months after the date of the enactment of this Act,'' and inserting ''May 29, 1990,''; and

(iv) in subsection (d), by striking ''90 days after the date of the enactment of this Act'' and inserting ''March 1, 1990''.

(4) CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING FROM ATOMIC WEAPONS TESTING PROGRAMS.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1837) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4803;

(C) inserted after section 4802, as added by paragraph (3); and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (d), by striking ''the date of the enactment of this Act'' each place it appears and inserting ''November 5, 1990,''.

(5) SUBTITLE HEADING ON RESEARCH AND DEVELOPMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Research and Development''.

(6) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1832) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4811;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (5); and

(D) amended in the section heading by adding a period at the end.

(7) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—

(A) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812;

(iii) inserted after section 4811, as added by paragraph (6); and

(iv) amended—

(I) in subsection (b), by striking ''section 3136(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2831; 42 U.S.C. 7257b)'' and inserting ''section 4812A(b)'';

(II) in subsection (d)—

(aa) by striking ''section 3136(b)(1)'' and inserting ''section 4812A(b)(1)''; and

(bb) by striking ''section 3132(c) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(c))'' and inserting ''section 4811(c)''; and

(III) in subsection (e), by striking ''section 3132(d) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d))'' and inserting ''section 4811(d)''.

(B) LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830), as amended by section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038), is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812A;

(iii) inserted after section 4812, as added by paragraph (7); and

(iv) amended in subsection (a) by inserting ''of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)'' after ''section 3101''.

(8) CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 3136 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1577), as amended by section 203(b)(3) of Public Law 103–35 (107 Stat. 102), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4813; and

(C) inserted after section 4812A, as added by paragraph (7)(B).

(9) UNIVERSITY-BASED RESEARCH COLLABORATION PROGRAM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4814;

(C) inserted after section 4813, as added by paragraph (8); and

(D) amended in subsection (c) by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)''.

(10) SUBTITLE HEADING ON FACILITIES MANAGEMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle C—Facilities Management''.

(11) TRANSFERS OF REAL PROPERTY AT CERTAIN FACILITIES.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2046) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4831; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (10).

(12) ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION AT CERTAIN NUCLEAR WEAPONS PRODUCTION PLANTS.—Section 3156 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–467) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4832; and

(C) inserted after section 4831, as added by paragraph (11).

(13) PILOT PROGRAM ON USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN ASSETS.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2039) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4833;

(C) inserted after section 4832, as added by paragraph (12); and

(D) amended in subsection (d) by striking ''sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j))'' and inserting ''subchapter II of chapter 5 and section 549 of title 40, United States Code,''.

(14) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle D—Other Matters''.

(15) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—Subsection (f) of section 3153 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle D of such title, as added by paragraph (14); and

(C) amended—

(i) by inserting before the text the following new section heading:

''SEC. 4851. SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.'';

(ii) by striking ''(f) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—''; and

(iii) by striking ''section 3161(c)(6) of the National Defense Authorization Act of Fiscal Year 1993 (42 U.S.C. 7274h(c)(6))'' and inserting ''section 4604(c)(6)''.

(l) MATTERS RELATING TO PARTICULAR FACILITIES.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLIX—MATTERS RELATING TO PARTICULAR FACILITIES

''Subtitle A—Hanford Reservation, Washington''.

(2) SAFETY MEASURES FOR WASTE TANKS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4901;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''Within 90 days after the date of the enactment of this Act,'' and inserting ''Not later than February 3, 1991,'';

(iii) in subsection (b), by striking ''Within 120 days after the date of the enactment of this Act,'' and inserting ''Not later than March 5, 1991,'';

(iv) in subsection (c), by striking ''Beginning 120 days after the date of the enactment of this Act,'' and inserting ''Beginning March 5, 1991,''; and

(v) in subsection (d), by striking ''Within six months of the date of the enactment of this Act,'' and inserting ''Not later than May 5, 1991,''.

(3) PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD RESERVATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087), is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4902;

(C) inserted after section 4901, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)''; and

(iii) in subsection (c)—

(I) in paragraph (2), by striking ''six months after the date of the enactment of this Act,'' and inserting ''May 5, 1991,''; and

(II) in paragraph (3), by striking ''18 months after the date of the enactment of this Act,'' and inserting ''May 5, 1992,''.

(4) WASTE TANK CLEANUP PROGRAM.—Section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–463) and section 3135 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368), is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4903;

(C) inserted after section 4902, as added by paragraph (3); and

(D) amended in subsection (d) by striking ''30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001,'' and inserting ''November 29, 2000,''.

(5) RIVER PROTECTION PROJECT.—Subsection (a) of section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–462) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4903, as added by paragraph (4); and

(C) amended—

(i) by inserting before the text the following new section heading:

''SEC. 4904. RIVER PROTECTION PROJECT.'';

and

(ii) by striking ''(a) REDESIGNATION OF PROJECT.—''.

(6) FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT.—Section 3131 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–454) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4905;

(C) inserted after section 4904, as added by paragraph (5); and

(D) amended—

(i) by striking ''section 3141'' and inserting ''section 4904''; and

(ii) by striking ''the date of the enactment of this Act'' and inserting ''October 30, 2000''.

(7) SUBTITLE HEADING ON SAVANNAH RIVER SITE, SOUTH CAROLINA.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Savannah River Site, South Carolina''.

(8) ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT DEFENSE WASTE PROCESSING FACILITY.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization

Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4911; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (7).

(9) MULTI-YEAR PLAN FOR CLEAN-UP.—Subsection (e) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4911, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

***"SEC. 4912. MULTI-YEAR PLAN FOR CLEAN-UP."**;*

and

(ii) by striking ''(e) MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.—The Secretary'' and inserting ''The Secretary of Energy''.

(10) CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.—

(A) FISCAL YEAR 2001.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat 1654A–460) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4912, as added by paragraph (9); and

(iii) amended—

(I) by inserting before the text the following new section heading:

***"SEC. 4913. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS."**;*

and

(II) by striking ''(a) CONTINUATION.—''.

(B) FISCAL YEAR 2000.—Section 3132 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 924) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4913A; and

(iii) inserted after section 4913, as added by subparagraph (A).

(C) FISCAL YEAR 1999.—Section 3135 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2248) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4913B; and

(iii) inserted after section 4913A, as added by subparagraph (B).

(D) FISCAL YEAR 1998.—Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4913B, as added by subparagraph (C); and

(iii) amended—

(I) by inserting before the text the following new section heading:

***"SEC. 4913C. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS."**;*

and

(II) by striking ''(b) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—''.

(E) FISCAL YEAR 1997.—Subsection (f) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4913C, as added by subparagraph (D); and

(iii) amended—

(I) by inserting before the text the following new section heading:

***"SEC. 4913D. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS."**;*

(II) by striking ''(f) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—The Secretary'' and inserting ''The Secretary of Energy''; and

(III) by striking ''subsection (e)'' and inserting ''section 4912''.

(11) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—Subsection (b) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4913D, as added by paragraph (10)(E); and

(C) amended—

(i) by inserting before the text the following new section heading:

***"SEC. 4914. LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY."**;*

(ii) by striking ''(b) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—'';

(iii) by striking ''this or any other Act'' and inserting ''the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act''; and

(iv) by striking ''the Secretary'' in the matter preceding paragraph (1) and inserting ''the Secretary of Energy''.

(12) SUBTITLE HEADING ON OTHER FACILITIES.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

***"Subtitle C—Other Facilities"**.*

(13) PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.—Section 3144 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2838) is—

(A) transferred to title XLIX of division D of such Act, as amended by this subsection;

(B) redesignated as section 4921; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (12).

(m) CONFORMING AMENDMENTS.—(1) Title XXXVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 1756) is repealed.

(2) Subtitle E of title XXXI of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h et seq.) is repealed.

(3) Section 8905a(d)(5)(A) of title 5, United States Code, is amended by striking ''section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)'' and inserting ''section 4421 of the Atomic Energy Defense Act''.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2004, $19,559,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

Mr. WARNER. I thank all Senators for their participation. This last vote was not an easy vote. Nevertheless, it came out in the best interests of our national security. I thank my distinguished colleague, the ranking member. I thank the whips, the Senator from Nevada, the Senator from Kentucky, the two leaders, Senator FRIST, Senator DASCHLE, and particularly the members of the Senate Armed Services Committee and our fine staffs for enabling this bill to be put forward and voted favorably.

Mr. LEVIN. Mr. President, I thank the chairman for the extremely thoughtful and thorough way he handles these bills, the fair way he operates. We are all grateful to the committee and our staffs. We are both grateful to our staffs, and I thank all Members of this body.

This last vote was particularly a difficult vote for everyone, whichever way they voted. It was a difficult vote. We know that. Let's hope we can reach the right result.

The PRESIDING OFFICER. Under the previous order, passage of S. 1050 is vitiated. The Senate insists on its amendment and requests a conference with the House.

Mr. WARNER. On the last matter, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Chair appointed Mr. WARNER, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, Mr. CORNYN, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. BAYH, Mrs. CLINTON, and Mr. PRYOR, as conferees on the past of the Senate.

The PRESIDING OFFICER. The clerk will report the pending business.

Mr. LEVIN. 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. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent the engrossment of S. 1047 as earlier passed by the Senate be corrected by inserting the amendments to H.R. 1588 agreed to today in the respective bills as follows: S. 1047, amendment No. 847, Kennedy-Cornyn-Brownback-McCain; amendment No. 848, Reid-Inhofe.

Further, Mr. President, I ask unanimous consent that with respect to S. 1047, as corrected, S. 1048, and S. 1049, if

the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees, and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair. Further, I ask unanimous consent that S. 1050, as previously passed by the Senate, be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

ENERGY POLICY ACT OF 2003—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Domenici/Bingaman Amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program (LIHEAP), weatherization assistance, and State energy programs.

Domenici (for Gregg) Amendment No. 841 (to Amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent amendment No. 840 be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 850

Mr. DOMENICI. On behalf of the majority leader and minority leader and other Senators listed, I send to the desk the ethanol amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. FRIST, for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND, proposes an amendment numbered 850.

Mr. DOMENICI. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under ''Text of Amendments.''

Mr. DOMENICI. Mr. President, for the benefit of the Senate, we are now back on the Energy bill. The pending business is the ethanol amendment. We did dispose of two amendments yesterday. I am hopeful we will not have to redo them, however there is going to be another amendment, at least one, perhaps two, on the ethanol amendment. But in the meantime, the distinguished Republican whip has requested that he be permitted to speak for 5 minutes as in morning business.

I make that request in his behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask the Chair get order in the Senate so he can be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Kentucky.

(The remarks of Mr. MCCONNELL, Mr. MCCAIN, and Mrs. FEINSTEIN, pertaining to the introduction of S. 1182 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BROWNBACK. Mr. President, I rise today in support of the ethanol amendment No. 850 that has been offered by our distinguished majority leader, Senator FRIST. This is a bipartisan amendment which has been crafted thoughtfully by leadership on both sides of the aisle and proves to be a compromise bill that will triple the amount of domestically produced ethanol used in America. President Bush was right when he said 2 years ago that we are long overdue in implementing a comprehensive energy policy for our Nation. If he were to say the same thing today, he would still be right. We need a policy that broadens our base of energy resources to create stability, guarantee reasonable prices, and protect America's security.

I believe that increasing our use of alternative and renewable fuels such as ethanol and biodiesel is a key element in our effort to constructing that much needed stability. It is a clean burning, homegrown renewable fuel that we can rely on for generations to come. Ethanol is a step towards good stewardship of our environment. Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health. It just so happens that as we are looking out for our environment we are not only going to benefit in the arena of environmental friendliness but as the same time boost our economy.

Consumers will benefit from more efficient use of their vehicles at a lower cost. Adding 10 percent ethanol to a gallon of regular gas would reduce the retail price to consumers by almost seven cents per gallon according to the Energy Information Administration.

By continuing each year to increase the volume of ethanol in a gallon of gasoline, we can concurrently decrease the volume of crude oil needed for it. Crude oil prices have risen in 2003 as a result of the war with Iraq and international tensions. We must protect ourselves and be secure with our independence during these trying times and possible terrorism. It is no secret that we currently import over 58 percent of the oil we use. This dependence is not getting better. The Energy Information Administration estimates that our dependency on imported oil could grow to nearly 70 percent by 2020. We are so dependent on foreign oil, that the demand for renewable fuels such as ethanol and biodiesel is on the rise. Although our troops were successful in the liberation of Iraq, our greatest energy challenge remains the need to reduce our reliance on foreign sources to meet our energy needs.

The production and marketing of ethanol is very important to the economy of my state and the nation. The Energy Information Administration has proven that tripling the use nationally of renewable fuels over the next decade will increase U.S. GDP by $156 billion by 2012, reduce our National Trade Deficit by more than $34 billion, save taxpayers $2 billion annually in reduced government subsidies due to the creation of new markets for corn, and create more than 214,000 new jobs.

The benefits for the farm economy are even more pronounced. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Currently, ethanol production provides 192,000 jobs and $4.5 billion to net farm income nationwide. Passage of this amendment will increase net farm income by nearly $6 billion annually. Passage of this amendment will create $5.3 billion of new investment in renewable fuel production capacity. Kansas are loudly voicing their support of this legislation. Phasing out MTBE on a National basis will be good for our fuel suppliers. Refiners are under tremendous strain from having to make several different gasoline blends to meet various state clean air requirements. The MTBE phaseout provisions in this package will ensure that refiners will have less stress on their system.

This entire Nation's is in need of this environmentally friendly, sustainable fuel as we carry on in our efforts to be good stewards of our environment. Ethanol will boost our energy independence and become an aid to national security while we as a country find ourselves continuing the battle against terrorism. I cannot proclaim enough, the greatness of the positive impacts this fuel contains. Leaders here in our body have discovered it. The language in this bill has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, National Corn Growers Association, Farm Bureau Federation, American Petroleum Institute, Northeast States for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Americans can rest more sound and secure as we further develop the use of our homegrown fuel, ethanol.

Mr. DOMENICI. Mr. President, I know there are many Senators who have plenty to do besides being concerned about this Energy bill on the

floor of the Senate. But I want to say for some of us that the Energy Policy Act is a very important subject. The committee has worked very hard. We don't claim to have a perfect bill, but we claim to have a bill that deserves the consideration of the Senate.

For all those Senators who want to review the bill and haven't, I hope they will start. For those who have amendments and haven't reduced them to writing, I hope they get going. For those who have questions about the bill, we are going to be here working on it—both the minority whip and Senator BINGAMAN. His staff is adequate in numbers and capacity and will be available, as will mine.

With that in mind, we are back to the point where we have set aside the LIHEAP issue that came about yesterday—the issue with reference to the jurisdiction of the different LIHEAP provisions that we wanted to have in this bill where the chairman of the Committee on Health and Human Resources desires that it not be on the bill but rather be returned to his committee for jurisdictional consideration. That will be taken up later.

We are now back to ethanol. Yesterday we had two votes. They were very heavily debated for a long period of time. In each instance both failed. In each instance 60 votes or more were obtained on the side of supporting the bill, which is not just a Republican or Democrat bill. It is a bill put together by Democrats and Republicans, and all kinds of different leadership groups in this country that are concerned about our future in terms of dependence upon oil and its derivatives; those who are concerned about agricultural products and the fact that we produce so much more than we need and that the price is constantly a problem both to the Government because of its support programs and to the farmer because it is difficult to make a living.

Those who are concerned about rural America see this bill as a potential for the injection of tremendous amounts of real investments and real jobs and capital into all parts of rural America because facilities will have to be built that will cost billions of dollars in order to comply with the requirements of this national mandate for ethanol use.

The mandate is a good mandate. It is a national mandate. It is a mandate that says by a year certain we will be using certain quantities of ethanol in our petroleum products that feed the gasoline tanks, and thus the automobiles and trucks of America that use gasoline and diesel fuel.

I am sure there are additional amendments on this issue. I merely wanted to recap for the Senate where we are.

I also wish to say that while we have been on this bill for a number of days, it appears that the only amendments are those that pertain to ethanol. I know there are more. I implore Senators, I beg them, if they have amendments, let us get them ready and bring them down here. Who knows, they may have winners. They may have a much better approach to energy independence in this bill. We stand ready to accommodate and get them before the Senate and get the votes on them as soon as possible.

What I understand the situation to be now, so the Senators will understand, is that the distinguished minority manager, the junior Senator from New Mexico, has an amendment on ethanol. I understand that when he is finished, the distinguished Senator from New York has an amendment. He told the Senator from New Mexico that he would follow the amendment of the Senator from New Mexico. I hope that will be the case. If he comes forth, we will not have one vote at a time but rather back-to-back votes. There appears to be a couple of other amendments that may be offered before the day is out.

Then I suggest that as many Senators as possible begin to try to figure out what they want to do with this bill. I know there are Senators who have not had a chance to make up their mind about amendments but I ask that they do that. Actually, there are many of us who want to get an Energy bill. We think the remainder of this week, clear through Friday, and all of next week ought to be sufficient time to get this done. Some do not think so but I surmise that if we tried, and we had amendments going most of the day, with votes taking place each day, we would be surprised how soon we would get this bill completed.

Having said that, I yield the floor to my distinguished fellow Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I thank the chairman of the committee, Senator DOMENICI, for his comments. I agree with his request that we move ahead with amendments. I know there are many Senators with amendments they want to offer. I think the logical thing to do is to try to deal with all of the ethanol-related amendments at this stage in the consideration of the bill. I hope that by offering an ethanol-related amendment now, on behalf of myself and Senator SUNUNU, we can begin the process of considering these amendments in a thoughtful way and, hopefully, work through them over the next day or two.

AMENDMENT NO. 851 TO AMENDMENT NO. 850

Mr. President, with that, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to amendment No. 850 that Senator DOMENICI offered on behalf of Senator FRIST and others.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. SUNUNU, proposes an amendment numbered 851 to amendment No. 850.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Secretary of Energy to waive the ethanol mandate on the East and West Coast in the event of a significant price increase or supply interruption)

On page 18, after line 15, insert the following:

''(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

''(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

''(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

''(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

''(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.''.

Mr. BINGAMAN. Mr. President, as I indicated, this is an amendment I am offering on behalf of Senator SUNUNU and myself. It is to improve the waiver provisions in the renewable fuels standard in the Daschle-Frist amendment.

The amendment we are offering seeks to give the President the authority to suspend the ethanal mandate—he could suspend it with regard to a particular geographic area in the country—in the event there is a severe supply or price disruption to U.S. gasoline markets. We have a way of determining when that threshold is reached. It provides a path for immediate action to be taken to deal with that price circumstance.

This is not a requirement that the President act. This is merely authority for him to act if he chooses to do so. I think we need to make that point so all Members understand we are not requiring any action by this amendment; we are expanding the waiver authority so that additional authority exists if the President chooses to use it. Ultimately, someone needs to have the authority to take immediate action if there happens to be a crisis, if a crisis comes upon us.

The Daschle-Frist amendment waiver provisions—and this is on page 12 of the underlying Daschle-Frist amendment—those waiver provisions give each State the right to petition the Administrator for a waiver in the event of severe harm to the economy or the environment. The process that is outlined can take up to 90 days. It is not necessarily going to take 90 days. It could

take longer, as there is no enforcement really built in, but it is supposed to take no more than 90 days.

The State files the petition. The Administrator has the 90 days, maximum, to make a determination of whether the petition should be granted. In making that determination, the Secretary is required to give public notice and an opportunity for comment. That is a 3-month period—or up to a 3-month period—for a determination to be made and for the mandate to be suspended.

In a crisis situation, a significant amount of economic or environmental damage could be done during that period while all of this notice and opportunity for comment is occurring. In my view, we cannot afford that. Ninety days is too long a period.

The amendment we are offering does not seek to disturb or to weaken the underlying Daschle-Frist amendment. It simply gives the President the authority to take immediate action to deal with urgent issues that may arise in particular regions. If a State or region experiences a supply disruption which they might experience with regard to ethanol or a price spike resulting from the mandate, and a suspension of the mandate is necessary, then we are giving the President authority to suspend the mandate for a 30-day period. He could renew that for an additional 30 days if he chose to. But that is the essence of our amendment. If the gasoline prices rise more than 10 cents as a result of the mandate, that is when this authority would come into place.

Now, this is not the price of ethanol rising 10 cents; this is the price of gasoline at the pump rising 10 cents because of the mandate to use ethanol as required in the Daschle-Frist amendment. If the price of gas at the pump rises over 10 cents, and the Secretary makes the determination that immediate action is necessary, then the mandate could be suspended for the 30 days in this affected PADD, this Petroleum Administration for Defense District, or in the effected State or region.

What does that 10-cent rise in the price of gasoline per gallon mean? Let me refer to this chart I have in the Chamber.

You can see that ethanol is going to be blended with other petroleum fuel in gasoline, and 10 percent of it is going to be ethanol. So, in fact, if you saw a 50-cent increase in the price of ethanol per gallon, that would mean a 5-cent-per-gallon rise in the price of gasoline. If you saw a $1 increase in the price of ethanol per gallon, that would mean a 10-cent-per-gallon increase in the price of gasoline.

I think this chart makes clear that what we are proposing gives the President the ability to act expeditiously. If there is this kind of $1 increase in the price of ethanol itself, that could translate approximately to a 10-cent increase in gasoline. This is a high threshold. Frankly, I know there are Members of this Senate who would say that should not be 10 cents; we ought to have the President have the authority to act if you have a 3-cent increase or a 2-cent increase or a 5-cent increase, and I might agree with some of that logic.

But the truth is, we have tried to write this in a way that makes it clear that this is not authority we would expect to be invoked or to be available to the President under most circumstances. This is authority which would only be available under extraordinary circumstances.

Today prices are at about $1.15 per gallon. Adjusted for inflation, this is roughly where they were back in 1998. There has been some fluctuation.

This second chart that I have in the Chamber shows what has happened to the price of gasoline from 1998 through the current period. You can see that there has been fluctuation in the price of ethanol, but we have not seen enough fluctuation in the price of ethanol from the average price to trigger this authority to ever take place, so that during this entire period this authority would not have come into place. It is clear we are not setting up some kind of a hair-trigger procedure here which will give the President or the Secretary of Energy the ability to step in at will and act.

The amendment we are proposing is simply a safety valve. As I have said several times, it is not automatic. If there is no disruption in supply, if prices do not spike substantially outside the range shown on this chart, then nothing would happen. However, in the event we do have a problem, we would have in place, with this amendment, a procedure for dealing with it.

The reason I think this amendment is important is because fuel transitions are inherently problematic.

We have a lot of history on which to base that judgment. All previous changes to the reformulated gasoline formula have resulted in severe price volatility in gasoline markets. We don't have to go back very far to see that this is the case. In 1996 and in the year 2000, we saw gasoline prices rise substantially, and both times this resulted in gasoline price spikes of more than 30 cents a gallon in California.

There are previous EIA studies that have been done, but they have not addressed short-term issues. That is what we are talking about, short-term supply disruptions. They either look at the long-term outcomes or act to analyze supply disruptions only after they have occurred.

The mandate we are proposing to put into law with the Frist-Daschle amendment does create substantial uncertainty. That has been discussed in some of the debate that has already occurred. The mandate says we will use 5 billion gallons of ethanol in the Nation's fuel supply by 2012. It bans the use of MTBE beginning in the year 2007. While some would prefer to call it a renewable fuels standard, it is in fact a mandate. All of us understand that. By the nature of a mandate, it creates a substantial amount of uncertainty.

While my colleagues may argue that they have crafted a plan that allows plenty of time for the transition from MTBE to ethanol, I have doubts about whether that is the case. Under the mandate in the Frist-Daschle amendment, it is possible that our motor fuels market will see disruptions in supply and price spikes that, if left unattended, could harm consumers and the economy. Our amendment tries to deal directly with that.

We have to keep in mind the MTBE ban affects supply immediately. Once the bill passes, MTBE will be quickly phased out and banned in 16 States; most importantly, in California and Washington and Arizona on the West Coast and in New York and Connecticut on the East Coast. These States in the Northeast in particular are heavily dependent on gasoline product imports from Europe and South America. Venezuela supplies 8 percent of the gasoline volume on the East Coast. The Venezuelan National Oil Company says a renewable fuels mandate could make it difficult if not impossible to import finished gasoline into the United States as they have been doing.

Most of the East Coast imports come into the New York area and need to be suitable for the reformulated gas markets.

As I have said in several ways, there is a lot of uncertainty that we just do not know the answers to. Let me list some of that again. Then I will defer to my colleague from New Hampshire who is here and wishes to speak on behalf of the amendment as well.

Some of the questions that still exist in my mind as regards this mandate are, No. 1, what if we have a supply shortage when refineries are already producing at capacity? What does that do to the price to the consumer? Second, what if our import capacity declines and prices spike even further? Third, what if there is a drought in the Midwest that affects corn production and therefore affects ethanol production? That could significantly affect the price. And it could get the price outside of this area that is reflected on the chart behind me.

Perhaps we could experience problems in transporting the ethanol or an important element in the refinery infrastructure could be damaged at a key hub. There is any number of scenarios that could lead us to supply disruptions, to price spikes. Under those circumstances, we need to have authority vested with the President to take action. We should not be requiring that he take that action, but we should be giving him the authority. We need to be proactive. We need to look forward and analyze potential problems the U.S. motor fuels market could face in the short term, and we need to do this before the disruption occurs.

I urge our colleagues to carefully consider the amendment. It is good policy to build in such a provision to protect consumers in the event of a crisis. It is a good safety valve to add to the bill. It substantially strengthens the bill. I hope my colleagues will agree and that we can add this as an amendment.

I yield the floor. I see my colleague, my cosponsor from New Hampshire, is in the Chamber waiting to speak.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the Bingaman amendment and I thank my colleague for allowing me to work with him on this initiative. I have expressed concerns about the ethanol mandate in this energy bill before, and the concerns this amendment tries to address are obviously an extension of those concerns.

As we have debated this Energy Bill prior to today, in the work I have done in the House, and the visits I've had back home with the people of New Hampshire, I have always emphasized that to the extent we are debating an energy bill, it ought to be about price and access. It should be about making sure we have available, stable, reliable sources of energy and a diversified supply for consumers, because those stable, reliable sources of energy are so central to economic growth.

At the end of the day, this debate ought to be about access and price. What this amendment attempts to do is to ensure that where the gasoline markets are concerned, consumers are protected on access and on price. We need to make sure that we have, as the Senator from New Mexico described, a safety valve—a way to ensure that if and when the very significant fuels mandate proposed for this bill is imposed on cities, towns, and States across America, there will not be major disruptions in supply that would lead to price spikes, and that consumers not be subjected to higher fuel costs unnecessarily.

There is a waiver provision in the underlying amendment. But we ought to be concerned about that waiver provision because of the 90-day window described by the Senator from New Mexico. This would allow the President and Secretary to act if there is economic harm, but it would allow up to 90 days to do so. Ninety days can be a very long time, as anyone who sat through the price spikes two summers ago will tell you. Gasoline prices spiked up, 25, 50 cents, spiking well over $2 in some places. To the extent that those price spikes could have been avoided, many people would argue the President or the Secretary of Energy should have taken steps to avoid them. That is exactly what this kind of an amendment will allow.

If the cost of ethanol drives those prices up more than 10 cents a gallon, then the President can act with the Secretary and suspend the mandate for 30 days. It is a safety valve. It doesn't take away from the mandate, although I am one who would like to see more done in terms of eliminating the mandate. But, our amendment is a safety valve that allows the President to act. It does not force the President to act, and it does not require him to act. Instead, it gives the President and the Secretary the opportunity to take steps to protect consumers from unreasonable price spikes.

Supporters of the ethanol program, those who would like to see the mandate imposed no matter what the constraints, might say: Well, it is highly unlikely such spikes will occur. We can look at the graph presented by the Senator from New Mexico. It is highly unlikely we would see significant price spikes. Maybe this amendment is unnecessary.

But, Mr. President, we can't predict the future. We don't know with certainty what will or will not happen to the cost of fuel with the 5-billion gallon mandate on ethanol that has been proposed, but we should be prepared.

That is what we are trying to accomplish with this amendment. We could certainly see problems with ethanol production. We don't have the capacity to produce 5 billion gallons today. If the mandate were imposed, we would like to believe we could double the production capacity in a brief amount of time, but we don't know that for sure. We could have problems with ethanol production. Frankly, we are likely to have problems with ethanol distribution. They may not be huge problems, but ethanol has to be trucked or shipped around the country. It cannot be distributed through the existing pipeline system we use for gasoline in parts of the country.

So there are going to be new demands on the logistics governing our distribution system for gasoline. That could certainly have a big impact on prices. The Senator from New Mexico talked about the issue of importing gasoline from places such as Venezuela—there is no certainty that we would be able to continue to import finished gasoline; we might have to import the raw blend stock to be mixed with ethanol in the United States.

There is no guarantee of the reliability of those imports. And, of course, we may have unusual spikes in demand because of the MTBE bans that are likely to go into effect if and when this legislation becomes law. I come from a State where there has been strong support for banning the use of MTBE. Even more important, I would certainly like to see a provision in the bill—one that was proposed the other day by the Senator from California, Mrs. FEINSTEIN—to allow States to waive the requirement for this mandate, so that States could be free to meet the Clean Air Act without having to use MTBE or without having to use ethanol.

But the point is, there are uncertainties about the future price of gasoline. Those uncertainties are made greater by the potential 5-billion-gallon ethanol mandate in the bill. Our amendment would provide a safety valve so that if there were price spikes, the President and the Secretary could act in consumers' interests.

Despite my concerns about the mandate and all the other concerns I might have about this Energy bill, I think at the end of the day we should be looking to ensure that the bill protects consumers. This amendment does that. I think it is common sense.

I say to my colleagues, you can support the ethanol program and still support this amendment that protects consumers. Also, you can certainly oppose the ethanol program and support this amendment that protects consumers.

I hope my colleagues will join Senator BINGAMAN and me in doing the right thing for taxpayers and for consumers by supporting this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I come to the floor to speak in opposition to the Bingaman amendment. I must say as I begin, however, that there is no one in the caucus—and, I argue, in the Senate today—who knows more about the issues relating to energy than does my colleague from New Mexico, Senator BINGAMAN. He has been an outstanding leader, and I have enjoyed working with him on these issues now for many years. I recall so vividly his masterful work in getting us a bill that generated some 88 votes, if I recall, last year. That was after about 8 weeks of work. So it is not easy to take these issues or to move this legislation. He deserves great credit for the work he has done.

I take issue with this amendment for several reasons. I have had a chance to look at the amendment itself. There are phrases on line 9 and on line 2 of page 2 that are of particular concern to me. I will read the pertinent passages of the amendment, and I will explain my concern.

First, I have a little explanatory comment. Obviously, the distinguished Senator from New Mexico is interested in providing greater authority to the Secretary to suspend the requirements of the bill. Then he lists those instances in his amendment where the requirements of the bill would be lifted. It is in these areas that I find my initial concern, and then I will address some other concerns I have.

On line 9, page 1, it says:

Application of the requirements of paragraph (2) in the District will result, or has

resulted, in an increase in the average cost of gasoline to the end users in the District of ten cents per gallon or more.

Line 2, page 2, that he can suspend the requirements of the bill if, in the estimation of the Secretary of Energy:

a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

The phrase that troubles me is ''will result.'' We all would like to be able to anticipate the future. But I could easily see a Secretary who has opposition to renewable fuels, opposition to any real requirement that we move to find replacements for gasoline; or, for that matter, you could put this in a larger context, if we were talking about the renewable portfolio standard, to wind, solar, biomass, or any other renewable fuel, where you could see a Secretary announce: You know what. I have made a decision. I have made a decision that this will result at some point in the future in a cost increase, and the Senator here would set as the threshold 10 cents a gallon. But it will happen, and on that basis I am going to suspend the law.

First, the declarative authority on the part of the Secretary as a result of his ability to predict—weather men are wrong, politicians are wrong, and Secretaries could be wrong. Yet we would give him the authority, based on his judgment and his prediction that somehow he will know we are going to exceed 10 cents a gallon and, on that basis, suspend the law, take an action to suspend the law.

The second concern I have is the good government concern. If we are going to suspend the law, it seems to me we ought to have an opportunity to have comment, to have others express themselves on whether this will result in a price increase. As an advocate of good government, generally when we pass legislation, anytime we designate authority to somebody else, we say, look, you cannot do this without some ability to be heard. You have to be heard. There has to be a process before we give dictatorial powers to somebody to change the law.

That is exactly what our bill does. Our bill says that in those instances when some economic disruption might occur, No. 1, there has to be a demonstration that it has occurred. No prediction that it might happen. It has to happen so we know with what we are dealing.

Secondly we say: If we are going to suspend a law passed by the U.S. Congress and signed into law by the President of the United States, there has to be a good government procedure, and that procedure simply says there has to be notice, there has to be an opportunity to be heard, and then a decision has to be made.

Then we even go beyond that. We say a decision has to be made within 90 days. At one point, in a previous version of this bill, we said it had to be done in 180 days. Some said that was too long a period. So we have already cut that in half. Then it said no later than 90 days. That is not the threshold to start the decisionmaking process. That is the threshold to end it.

Advocates of good government, I would think, would say that is a pretty good way to do it. If we are going to have price spikes—and I will get to that in just a minute—then it seems to us you ought to give somebody an opportunity to waive the requirements of law. That is understandable. We can do that. But to say, first, we are going to allow that person to make this decision based on what he thinks is going to happen, and then, secondly, allow him to make a decision based on what he thinks is going to happen without any good government application of the law, an opportunity to be heard, an opportunity to make some judgment based on facts, is an awfully troubling assertion or proposition to me.

Having said that, the Department of Energy, in January of last year, just a little over a year ago, completed a report on this very issue. I have not known the Department of Energy necessarily to be a cheerleader for ethanol. They have not been out there leading the pack. But they were asked: What analysis can you provide us with regard to this very concern? Here is their conclusion:

No major infrastructure barriers exist to expand ethanol to 5 billion gallons per year comparable to the legislation before us today.

The Energy Information Agency said after their careful analysis in concert with this report:

The cost of establishing a renewable fuels standard is less than half a penny per gallon for all gasoline.

That is not an assertion by the Senator from South Dakota. That is not the ethanol industry. That is the Federal Government in its analysis of the implications of what it is we are doing with this legislation—a half a penny per gallon for all gasoline.

In March of this year, the California Energy Commission analysis said it cannot establish any attributable increase in the price of gasoline based on the cost or availability of ethanol and the requirements under which they currently are living.

Mr. President, first, if you listen to our own analysis, the Government agencies that have provided their most objective review of the circumstances, we are talking about half a penny per gallon for all gasoline. We are talking about the California Energy Commission—and I might note, as I said yesterday, 65 percent of all the gasoline sold in California today has ethanol. It is going to go to 80 percent by summer. And we have the California Energy Commission saying they cannot find any tangible connection between the price of ethanol and the price of gasoline. But if, for whatever reason, it might happen, we say: Let's give the Secretary the authority. Let's make sure we are not going to hold consumers hostage to some sort of unexpected price hike, but let's, No. 1, make sure it happens, rather than give the Secretary this ability to predict and make some assertion it might happen. And, secondly, let's use the good government practices we have always used to ensure if we are going to change the law for whatever period of time, that we do so with the opportunity for Americans to be heard. So I hope we oppose this amendment.

I end where I started. The Senator from New Mexico deserves great credit for all he has done to bring us to this point. I respect him immensely and differ with him on this amendment. We could not be in better hands. I appreciate his cooperation on so many of these issues as we move forward. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851, AS MODIFIED

Mr. BINGAMAN. Mr. President, I very much appreciate the comments of the leader. I know of his strong commitment to this underlying amendment. I will say what everyone in the Senate knows, which is his reputation, a well-earned reputation, for straight dealing. He indicated to me before I offered the amendment that he would be compelled to oppose it, and I certainly understand. I am anxious to accommodate some of the concerns he has raised.

With that in mind, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 18, after line 15, insert the following:

''(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

''(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

''(i) application of the requirements of paragraph (2) in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

''(ii) a significant interruption in the supply of renewable fuel in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

''(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.''.

Mr. BINGAMAN. Mr. President, let me explain what I did with the modification. I dealt with the issue Senator DASCHLE raised about his concern that

the language in the previous amendment, as I offered it with Senator SUNUNU, allowed the Secretary to act on the basis of a prediction about what was going to happen. That language was in the bill, and I just modified the bill to provide that the President—let me clarify that nothing in this amendment gives the Secretary authority to act. This amendment only gives the President authority to act. The President can only act on the basis of a determination made by his or her Secretary of Energy.

Now, with the modification, it would be a determination made by his or her Secretary of Energy that this ethanol mandate, in fact, has resulted in an increase in the average cost of gasoline to end users or it has resulted in a significant interruption or has resulted in an increase in the average cost by at least 10 cents per gallon as a result of the mandate.

In response to that concern Senator DASCHLE raised, I want to be clear that we have dealt with that in the modification I have just sent to the desk.

Let me also address briefly the other issues Senator DASCHLE raised.

He indicated the need for this is not there because, in fact, the Energy Information Agency in the Department of Energy has said this mandate will result in an increase in the price of gas per gallon of less than one-half of 1 cent per gallon, and the California Energy Commission has also concluded that there is no appreciable increase that will result from this mandate.

First of all, if you look into the analyses that were done both by the Department of Energy and the California Energy Commission, they were looking over the long term and saying over the long term there will not be, in their view, a substantial increase in the price of gasoline as a result of this mandate. That may well be true. Our amendment does not deal with the long term. Our amendment tries to deal with the short term, and that is where there is a price spike, where there is a supply disruption that causes the price to go up an additional 10 cents per gallon because of the ethanol mandate, if that occurs, and it may well not occur. So there is a difference between the studies that they did, which are long term, and the issue we are trying to deal with, which is short term.

I also point out that another sort of flaw in the argument, at least in my view, is that we are now saying we do not need to put this extra safety valve in the legislation because we have a prediction by the Energy Information Agency and we have a prediction by the California Energy Commission that this will not be needed down the road. It may well not be needed, and certainly I am not here to predict that it will be needed. I am just saying this is a good insurance policy. This is a good safety valve.

The Energy Information Agency has been known to make mistakes in their predictions. As to the California Energy Commission, although I am not totally familiar with all of their work, I would venture to say they have probably made a few mistakes in their predictions. I do not know exactly where they were on their predictions with regard to the price of electricity in California a few years ago, but they may well have missed the mark in predicting what that price was going to be, and they might well have wished there was some similar authority to this in place that could have been exercised or had been exercised when that crisis hit.

So I think this is good government practice, and clearly under most circumstances the appropriate course is to give public notice, to have opportunity for comment and hearings, have all the sides, all the interest groups come in and give their point of view. That is a good course. But if the price of ethanol has gone up substantially or there has been a supply disruption or there has been something that has occurred that has caused the price of gasoline to jump more than 10 cents that is directly traceable to this mandate, I believe the wise course is for us to give authority to the President to take action if he or she decides to take action.

As I say, there is nothing in this amendment that requires anyone to do anything. This amendment merely gives people authority to take action if a crisis occurs, if a price spike occurs, if they determine that action is appropriate.

It is possible, in some future administration, that there will be a Secretary of Energy who is opposed to ethanol perhaps, but I assume that the American people are going to elect Presidents in the future who reflect their views on most issues. If they do not reflect their views, then of course the voters have the opportunity to hold them accountable when there is a follow-on election.

Clearly, I think we are mandating a substantial increase in the use of ethanol. I am not opposing that in this amendment, but I am saying let us at least be a little bit humble about our own ability to predict what might occur in the future. If, in fact, there is a significant price spike because of some problem in transitioning to this new fuel mixture, if there is some price spike as a result of interruptions in supply, then let's have the President, with the authority, deal with the situation, and let's not just say, okay, we are going to require that they go through the normal hoops, give public notice and comments, have hearings, and all of that. I think there is certainly a time for all of that, but there is also a time to take action. When the American people elect a President, they expect the President to have authority to act when the circumstance requires. That is what our amendment would do, and we hope very much it will be agreed to.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator join me in asking for the yeas and nays on his amendment?

Mr. BINGAMAN. I am glad to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Let me ask, does Senator REID know if there is another Senator who has an amendment?

Mr. REID. Senator SCHUMER is due any minute to offer an amendment on this subject.

Mr. DOMENICI. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken to the two managers of the bill. We have been dealing now for the second day on the ethanol section. What we would like all Members to hear, if anyone has any desire to offer an amendment on the ethanol section, is they should let their respective Cloakrooms know immediately. The knowledge we have at this time is Senator BOXER has two amendments, Senator SCHUMER has one amendment, Senator CLINTON has one amendment, and Senator FEINSTEIN has two amendments.

If there are amendments other than these that I have just enumerated—BOXER, TWO; SCHUMER, one; CLINTON, one; FEINSTEIN, two—they should let the cloakrooms know. It is my understanding Senator NICKLES may or may not offer an amendment but he is on the list.

Mr. DOMENICI. Should we put NICKLES on the list?

We think he will come off.

Mr. REID. He is on the list. If anyone else wants to offer an amendment, let us know immediately. Otherwise we are going to enter into an agreement that the amendments I have just listed will be the only ones in order on the ethanol section.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from New Mexico.

Mr. DOMENICI. Might we do it this way, so there will be a bit of finality. It is 10 minutes to 5. Could we enter into an agreement that that is it, unless some Senator contacts you or Senator BINGAMAN or myself by 5 o'clock?

Mr. REID. We should give people a little bit of time.

Mr. DOMENICI. That is plenty, 10 minutes. At 5:30?

Mr. REID. I personally would like to get off this section. We hope to have a vote, it is my understanding, by 5:15. We would know as soon as that vote is completed.

Mr. DOMENICI. For now we are going with the fact this is all we are

aware of. We hope Senators understand we are perilously close to making that a consent agreement but we have not yet, just in deference to somebody who might still come up with a new idea regarding this subject.

Mr. REID. If the Senator will yield, I have spoken to Senator FEINSTEIN. She is willing to offer one of her amendments tonight, as soon as the vote is completed. What we will try to do is have slots available, either tonight or first thing in the morning, to finish these amendments.

Mr. DOMENICI. I understand. To give her a little more time, I understand we could have two votes. What we will tell the Senate shortly, about LIHEAP, which may meet with your approval, Senator BINGAMAN—the idea would be to bring it back immediately following a vote on your amendment. It would make the pending business the LIHEAP amendments, both of them, at which time we would have a vote on the Domenici amendment that was offered in behalf of the chairman of the committee, and there would be a vote. Immediately following that vote there would be a vote, if required, on the LIHEAP amendment.

Mr. BINGAMAN. Madam President, in response to the question, my understanding is Senator CANTWELL, from Washington, did want to speak on this LIHEAP issue. I don't feel comfortable just agreeing we are going to lock her out of that opportunity. I think we have been advising people that the LIHEAP issue had been put aside for some period of time.

Until we can consult with her, at least, and find out—as I understand it, the Senator is suggesting we go ahead and go to a vote on the Gregg amendment?

Mr. DOMENICI. The Gregg amendment, yes.

Mr. BINGAMAN. That would essentially replace the LIHEAP provisions with a sense of the Senate.

Mr. DOMENICI. Right.

Mr. BINGAMAN. I am saying before I agree to that specific time I would like to be sure to protect Senator CANTWELL.

Mr. DOMENICI. I wonder if we could agree to vote on the Bingaman amendment and then say, when that vote has been completed and we finish it, there would be 10 minutes for debate, at which time I will give 5 of that to the Senator you just described, for her discussion, or 10, whatever you would like, after which we would have a vote? That gives you what you need and it sets up at least two votes and a disposition of your LIHEAP.

Mr. REID. If the Senator will yield, that may be appropriate, but we need to check with her first.

Mr. DOMENICI. All right. Could we just make sure everybody understands we are prepared to move, soon, to bring the LIHEAP issue back on the calendar where it belongs, and to dispose of it this evening?

With that, I assume we will proceed, Senator, to vote on your amendment, if that is all right with you.

Mr. BINGAMAN. Madam President, in response, I have no problem with proceeding to a vote on my amendment on ethanol at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851

Mr. DOMENICI. Madam President, there has been ample argument in opposition to the Bingaman amendment. The Senator from New Mexico, the manager of the bill, would merely like to say, while I accept the argument of the distinguished junior Senator from New Mexico, it seems to this Senator from New Mexico that to adopt the amendment truly creates an unworkable situation with reference to the source, supply, and the management of petroleum needs in the United States. That is all I have to say. I believe there is ample flexibility in the underlying bill. I do not believe we ought to make it more difficult to turn the spigot on and off with reference to the impact of ethanol on the gasoline supply in the country.

I believe it is almost unworkable, for any President to decide, for instance, what caused the increase and to turn that on and off with reference to the supply and refining capacity and the like.

With that, I yield the floor. I am prepared to vote up or down on the Bingaman amendment to the ethanol amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. I am going to suggest the absence a quorum for about 10 minutes. Senators are being put on notice during that period of time that we are going to vote shortly. That is why we are having a 10-minute quorum call at this time. I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Madam President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—37

Akaka	Hatch	Rockefeller
Allard	Hollings	Santorum
Allen	Inouye	Schumer
Bennett	Jeffords	Sessions
Bingaman	Kennedy	Shelby
Boxer	Kyl	Smith
Cantwell	Lautenberg	Snowe
Clinton	Leahy	Specter
Collins	McCain	Sununu
Cornyn	Murray	Warner
Ensign	Nelson (FL)	Wyden
Feinstein	Nickles	
Gregg	Reed	

NAYS—58

Alexander	Dayton	Landrieu
Baucus	DeWine	Levin
Bayh	Dodd	Lincoln
Biden	Dole	Lott
Bond	Domenici	Lugar
Breaux	Dorgan	McConnell
Brownback	Durbin	Mikulski
Bunning	Edwards	Miller
Burns	Enzi	Murkowski
Byrd	Feingold	Nelson (NE)
Campbell	Fitzgerald	Pryor
Carper	Frist	Reid
Chafee	Graham (SC)	Roberts
Chambliss	Grassley	Sarbanes
Cochran	Hagel	Stabenow
Coleman	Harkin	Stevens
Conrad	Hutchison	Talent
Corzine	Inhofe	Thomas
Craig	Johnson	
Daschle	Kohl	

NOT VOTING—5

Crapo	Kerry	Voinovich
Graham (FL)	Lieberman	

The amendment (No. 851) was rejected.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Madam President, I say to fellow Senators, we are going to have a unanimous-consent request that will pertain to ethanol. There will be no further votes this evening. We will have a unanimous-consent request regarding three amendments on ethanol that will be entered into shortly. All three will be voted on tomorrow, and that will dispose of the ethanol second-degree amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. 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. REID. After visiting with the two managers of the bill, the next amendment that will be offered on this Frist-

Daschle amendment is one by the Senator from New York on behalf of himself and Senator CLINTON. The agreement on that is that there will be 20 minutes equally divided. That basically is what would happen on this amendment. This is a second-degree amendment. So that is all the protection they need.

I ask unanimous consent that Senator SCHUMER be recognized to offer his amendment, that there be 20 minutes equally divided on this amendment, and that the vote would occur sometime tomorrow, which will be subject to the two leaders.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DOMENICI. Do we have the rest of the consent ready?

Mr. REID. He is not quite ready yet.

Mr. DOMENICI. Does the Senator think we should wait now and do it or let Senator SCHUMER begin?

Just so everybody understands, we do intend to have a consent that disposes of all three amendments, with votes on all three, Schumer and two others. But that consent agreement will come along shortly.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 853 TO AMENDMENT NO. 850

Mr. SCHUMER. I have an amendment at the desk. I ask unanimous consent that Senator CLINTON be added as a cosponsor.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. CLINTON, proposes an amendment numbered 853 to amendment No. 850.

Mr. SCHUMER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program)

On page 4, strike lines 6 through 15 and insert the following:

''(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

Mr. SCHUMER. Madam President, I rise today to offer an amendment that would modify the renewable fuels provision of this amendment and limit it to Petroleum Administration Defense Districts II and III where corn and ethanol are most naturally available.

The objection that those of us from the coasts and the Rocky Mountain areas have with this amendment is very simple. While corn is plentiful in the Middle West, as this chart shows, and ethanol will be a good additive for gasoline in terms of cleaner air, in terms of oxidation, it will not work on the coasts. First, we do not have the corn available. It has to be shipped. It has to be made into ethanol and then shipped. Since ethanol is combustible, shipping is expensive. It will raise prices for us. We do not know how much. There is a dispute. But when there is a better way to do it that will not raise any gasoline prices, there is no reason we should not be for this.

So this amendment would basically be very simple. It would say that PADDs II and III, the corn-growing areas of the country which produce most of the ethanol, would, indeed, still have the mandate before them, but it would allow PADDs I and IV and V to be exempt.

This body has no reason not to exempt. We have already exempted Alaska and Hawaii because they are far away. The issue is not the amount of water or land that must be traversed; it is how far the ethanol has to be transported, and it has to be transported quite a long distance to get to these other areas.

So I join with my colleague, Senator CLINTON, to offer this amendment and to say the main reason we are against this is very simple: There are cheaper ways to do this. This will raise the price of gasoline, and it will be an unfair burden, an unfair tax, on many of the people who live in the two coastal areas of this country and in the Rocky Mountain States.

Every one of my colleagues from the PADD IV, PADD V, and PADD I areas are not representing their constituents unless they vote for this amendment because the benefit for the few corn growers in our area will be far exceeded by the detriment to every driver in the area in terms of increased gasoline prices.

Some say it will not raise prices much. Most of the studies are admittedly divided on that, but there is too much evidence that says they will. If there is a better way to do it that does not require a mandate, why not? I say to my free market colleagues on the other side of the aisle, it is very hypocritical to be for the free market except when it benefits a product in their State. To force ethanol on areas that could do it better in other ways is not free market.

Ethanol is already subsidized dramatically. I have supported money for our corn growers, even though we have very few in New York. But if we are going to do it, it ought to come out of the Treasury, not out of the pockets of drivers throughout the Nation. We are going to be making a major mistake. We will come back 3, 4, 5 years from now, if we pass the Frist-Daschle amendment, and we will regret it.

Remember the catastrophic tax? This is the same type of thing. I do not want any of my colleagues to say they did not know, because we are giving them warning loudly and clearly that the chances that this will raise gasoline prices significantly are too high to risk it, particularly when there are other ways to require the clean burning of fuels other than ethanol.

So for my colleague from Tennessee and for my colleague from South Dakota, who are both fine people, we are not exempting their areas. If they want to do it there, that is fine. It is not going to cost them much. It will help their corn growers and not cost their drivers much. But for all the people on the east coast, the west coast, and the Rocky Mountain States, this makes a huge difference.

I urge my colleagues to support this amendment, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that the following be the only remaining second-degree amendments to No. 850 and that they be related to ethanol: No. 1, Schumer, which we are hearing now, 20 minutes equally divided; Senator BOXER, 1 hour equally divided on two amendments. I further ask unanimous consent that following debate on the Schumer amendment this evening, the amendment be temporarily set aside. I further ask consent that when the Senate resumes consideration of the Energy bill on Thursday, Senator BOXER be recognized—at that time, she be recognized in order to offer her first amendment.

Finally, I ask unanimous consent that following debate on the above listed amendments, they be temporarily set aside and the votes occur in relation to the amendments in the order offered at a time determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Democratic assistant leader.

Mr. REID. I ask that there be 2 minutes equally divided between the votes.

The PRESIDING OFFICER. Is there objection to modifying the unanimous consent request?

Mr. DOMENICI. I do not want to object, but I want to ask a question because I am rereading what I just read. It does not seem to me that it says there is a second Boxer amendment.

Mr. REID. Yes, she has two. It does say that.

Mr. DOMENICI. It says Senator BOXER be recognized to offer her first amendment.

Finally, I ask unanimous consent that following the debate on the above listed amendments—it does not say her second amendment.

Mr. REID. We want to make sure she gets to offer her second amendment.

Mr. DOMENICI. All right.

Mr. REID. Madam President, Senator BOXER has indicated she would be willing to come anytime in the morning. It

is my understanding, after having spoken to the managers of the bill, that she would need to be here at approximately 10 a.m. tomorrow.

Mr. DOMENICI. That is about right.

Mr. REID. We will go into session at 9:30. Staff should advise Senator BOXER to be here at 10.

The PRESIDING OFFICER. Is there objection to the request?

Mr. REID. Madam President, maybe I did not make it clear, because it was not clear, that we are going to have three votes. I assumed we would go right into the first vote and not need the 2 minutes, but we are going to do this later, so Senator SCHUMER would also need the 2 minutes as with the two Boxer amendments.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New York has 5 minutes remaining.

Mr. DOMENICI. I don't see anyone here who wants to argue in opposition to you. We have already voted. I know the Senator from New York has great, innovative capacity and that he has proudly come up with an amendment the likes of which the Senate has never seen or heard, but I have an inclination that it is similar to what we have voted heretofore; I don't believe it has been offered to do anything other than cause significant mischief to the ethanol bill which is before the Senate, which I understand has very broad support.

So my argument would merely be, in all deference, to suggest that enough is enough, and just as we voted heretofore in opposition to the other amendments, we follow suit and vote against the amendment of the distinguished Senator from New York.

I only used 3 minutes and I yield back any other time in opposition. I thank the Senator for being generous in only using a small amount of the Senate's time this evening. I do mean the latter seriously.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I conclude, first, one difference with this amendment—it has the support of the ranking Democrat on the Energy and Natural Resources Committee, which the others did not. Second, it affects all of the coastal States, not just one or two.

On the other amendments there was a general opt-out. Those who advocate ethanol would say every State could opt out and we would not have an ethanol program. Here, the main States that care about it in PADDs II and III, half of the States in the country or less, would not be allowed to opt out. It would be cheaper for them.

I say to my good friend, ''mischief''? We are creating mischief with this amendment? My goodness, the amendment my good friend the chairman of the Energy and Natural Resources Committee is creating affecting the drivers in more than half the country is enormous, all to help the corn growers and to help the ethanol industry. That is the kind of mischief that people do not like about Washington.

They are saying, you are telling me, Mr. John Q. Smith of New York, Miss Mary E. Jones of Oregon, Miss Young Teenager who just learned to drive from Denver, CO, they must use ethanol even if it costs more.

I see my good friend from Pennsylvania, one of the great upholders of free market principles—except when it comes to steel and corn.

Let's be realistic here.

Mr. SANTORUM. If the Senator from New York would yield, if he checks my vote on the last 2 amendments he would find I am a great defender of the free market principle and have joined the Senator from New York in support of those.

Mr. SCHUMER. I retract my remarks. I should not have assumed the worst.

Mr. DOMENICI. Will the Senator yield?

Mr. SCHUMER. I say to my friend from New Mexico who also upholds free market principles that this is not a free market bill. This is the opposite. Even the Wall Street Journal editorial page has come out against this proposal.

Can't we form a nice little coalition of the States poorly affected, the States that are hurt by this, plus all those who believe in the great free market, like my good friend from Pennsylvania on the issue of corn?

Mr. DOMENICI. I remind the Senator, in response to the Senator from New Mexico and his remarks about this being more of the same and enough is enough and his comment, one thing is different, and that is that the ranking minority member of the Energy Committee was on his amendment, I remind the Senator that same Senator has offered his own amendment and it did not get enough votes. If you get as many votes as he got, you are doing quite well. I don't know that you can expect more by saying he is on it since he has tried his best and failed already.

Mr. SCHUMER. Reclaiming my time, I simply say to my friend from New Mexico, the underlying is so bad and so egregious it is worth trying and trying again.

You know the old song: what made you think that ram could punch a hole in the dam? Everyone knows a ram can't punch a hole in the dam, but he had high hopes. He had high hopes, high, apple pie-in-the-sky hopes.

That is what we have here. We know if we persist, because we are right, we can do it, just like the ad, that could not move a banana tree plant in the same aforementioned song.

We are going to keep trying. We know it is an uphill fight. We do not think that is because we are wrong. We think that is because there is a lot of power on the other side. I guess our lack of strength and votes thus far is somewhat made up for in the passion we felt about this issue in these amendments.

If my colleague would like to conclude, I yield him whatever time remains.

Mr. DOMENICI. I am anxiously awaiting for you to decide you have used your time up. Have you?

Mr. SCHUMER. I ask the President if I have.

The PRESIDING OFFICER. The Senator has 54 seconds.

Mr. SCHUMER. In deference to my good friend from New Mexico, and in hopes that he will see the error of his ways, I yield back those 54 seconds.

Mr. DOMENICI. I am so thrilled. That is the first act of generosity that has occurred with reference to the chairman, who has been trying to get this bill completed. I am very thrilled.

Tomorrow we will have three votes, as I indicated, starting sometime after 10 o'clock. They will all be on ethanol. We have a bill with all kinds of things in it and we will just be finishing the subject matter of both votes on ethanol.

I do thank the minority managers for their efforts, in particular Senator REID, in trying to narrow down the number of amendments on the Democratic side, which they have done.

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. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate be in a period of morning business and Senators be permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

ENDANGERED SPECIES FUNDING ACT

Mr. ENZI. Mr. President, there is no question that the goals of the Endangered Species Act are noble. Wyoming residents understand the desire to maintain a healthy environment and to manage and protect wildlife. In fact, it is a business we have been in for generations. The fact that today's private lands are the primary habitat for a more abundant range of wildlife than can be found on Federal public lands is a strong testament to my Wyoming's residents' belief in protecting wildlife and their willingness to put those beliefs in action.

It was the State of Wyoming, not the Federal Government, that took action to find the believed extinct black-footed ferret. The State then used its own

money to build a facility that was able to nurse the ferret back into existence. As a result of the State's unilateral efforts we now have several populations of black-footed ferrets spread across several States.

Unfortunately, the ESA has moved beyond its goals of recovery species and had become a tool to control development, to shut down small businesses, and to impose costs—in the form of unfunded mandates—on States, local governments and private individuals.

Then there are those other costs, the ones that can't be put into exact dollar figures but which seem to drain the already limited resources of private land owners. Whether it is the grizzly bear, black-footed ferret, Canada lynx, Preble's meadow jumping mouse, gray wolf, whooping crane, bald eagle, western snowy plover, sage grouse, Wyoming toad, Colorado pikeminnow, razorback sucker, Colorado butterfly plant, or a flower called the Ute Ladies' tresses, Wyoming residents have been forced to invest valuable man hours and personal property to ensure these plants, fish and animals are managed according to national priorities as set by non-resident Federal agencies.

It is only fair that Federal dollars be provided to pay for Federal priorities.

Imagine, as a home owner, that an endangered species is discovered in your yard. What if you were then denied the use of your garden, back yard and driveway, couldn't mow or pull any weeds and were told, oh, yes, you have to change jobs too. You'd be on the phone to your lawyer, your governor, your Senator and the President. And all of them would say, ''It's the law and you are not entitled to a dime of compensation.'' Now how would you feel about the Endangered Species Act?

Granted, a farm or ranch is larger than your garden or back yard, but it is often the sole source of support for some of our Nation's hardworking families—and to have acres taken away and out of use without compensation would appear to violate the Constitution! My bill merely provides for just compensation for this, a Federal priority and mandate.

My bill would guarantee funding for implementing the ESA while requiring the Federal Government to pay for all the costs relating to the establishment of State management plans, monitoring, consultation and administration, surveys, conservation agreements, land acquisitions, losses from predation, losses in value to real or personal property or any other cost imposed for mitigating management of a species covered by the ESA.

When they see the real costs of these regulations and their impact on communities, the American public will, for the first time, realize what it costs to declare a species as endangered. It's one thing to dictate how someone else or another community spends its resources, and it's quite another to face those costs and lost opportunities yourself.

There should be no question in anyone's mind that the Endangered Species Act is an unfunded mandate. For far too many years states, local governments and individual property owners have borne the brunt of implementing the Federal Endangered Species Act. They stagger beneath the momentous weight of having to pay for the mismanagement and policy decisions of federal bureaucracies.

One of the biggest problems with this statute is that the people forcing implementation have no real perspective on what it does or how it impacts states and local communities. It is very easy for them to sit back in their protected communities, surrounded by granite walls and pavement, and dictate to the West that our herds of cows and flocks of sheep are needed to feed the wolves they transplanted here, or that species preservation is more important than providing jobs for the community and putting food on the table. It's easy for them because they don't have to live with the results of their decisions. It doesn't cost them anything and they have nothing to lose. The only investment most Americans make in the Endangered Species Act is rhetoric.

I love Wyoming and the plants and animals that populate it. I would hate to see anything happen that would change the ability of Wyoming and individuals to continue managing its land with the kind of productivity that we now have.

The reality is, however, that the Endangered Species Act has become more of a hindrance than a help. Not one species has been recovered because of the rules and regulations imposed by this statute. What has had the biggest impact has been the people on the ground who are not allowed to make personal choices on how they manage their own property. If we continue to impose the costs and expenses on local landowners and communities, there will come a day when they are no longer there to make the wise and well informed management decisions that will make a real difference in the future existence of our Nation's endangered species.

I hope my colleagues will consider this bill and the costs it puts on individuals and recognize that the Endangered Species Act is a Federal priority and, as such, it should be a Federal cost, not a personal cost.

I yield the floor.

COMMEMORATING THE 100TH ANNIVERSARY OF THE HISTORIC FRANKLIN HOTEL

Mr. DASCHLE. Mr. President, I would like to congratulate my dear friend Bill Walsh on the 100th anniversary of the Historic Franklin Hotel in Deadwood, SD.

The Franklin Hotel is truly a piece of living history and a jewel of the Black Hills. Throughout the decades, the Franklin has accommodated Presidents and celebrities, including Teddy Roosevelt, William Taft, John Wayne, and the great Babe Ruth. In addition to being a much-celebrated destination for visitors to the Black Hills, the Franklin has also served as a cornerstone for the community of Deadwood. The Franklin was a source of comfort for city dwellers during the Great Depression, and hosted the first radio broadcast in the State of South Dakota.

Today, the Franklin continues to be a place of celebration, as it accommodates thousands of tourists in the Black Hills each year. From viewing the Days of '76 Parade on the veranda, to celebrating St. Patrick's Day in Durty Nelly's, to a grand New Year's Eve celebration, the Franklin continues to be a source of great entertainment and a place where special memories are made daily.

The Historic Franklin Hotel is a true reminder of our rich Western heritage. Today, on its 100th anniversary, the task of maintaining and preserving this rich cultural treasure rests on the shoulders of Bill Walsh. If founder Harris Franklin were alive today, he would be proud of Bill's dedication to the preservation of this historic landmark. I extend my best wishes to Bill and the Franklin Hotel's Board of Directors, Jo Roebuck Pearson, Mike Trucano, Taffy Tucker, and Orville Bryan.

Congratulations to all of you as you celebrate this extraordinary milestone. We look forward to the next 100 years.

RELEASE OF AUNG SAN SUU KYI

Mr. LUGAR. Mr. President, today I rise to affirm the call from Secretary of State Powell that military leaders in Burma release Aung San Suu Kyi from continued ''protective custody.''

The reimposition of custody of Daw Aung San Suu Kyi and the denial of requests by United States and other officials to meet with her and assure her good health and well-being are unconscionable. She should be released immediately and unconditionally. In addition to the release of other National League for Democracy leaders who have been arrested, I also call upon the government of Burma to allow the NLD to reopen its offices throughout the country.

The only hope for democracy in Burma will be found in dialogue among the National League for Democracy, the State Peace and Development Council and the ethnic nationalities. The arrest of Aung San Suu Kyi is a major setback to meaningful reform, and raises serious questions about whether the current ruling junta can be trusted to live up to any of its promises. The United States must continue to support Daw Aung San Suu Kyi and the NLD.

I am pleased that the Bush administration, in coordination with the United Nations Security Council and other members of the international community, is ''considering all measures available in our efforts to foster this transition to democracy.''

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, 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 on April 10, 2003. A day after taking part in the national Day of Silence to promote school safety for gay, lesbian, bisexual, and transgendered students, 16-year-old Caitlin Meuse was savagely attacked in Concord, MA. According to police, the attack may have been related to her participation in the event at her high school. Meuse had been struck by a blunt object such as a baseball bat or a tire iron. Knocked unconscious and bleeding from the head, Caitlin was found lying in the street by a neighbor near her home. She was held in intensive care at the hospital for 2 days and was treated for a head injury, missing front teeth, a fractured nose, deep cuts and severe facial swelling.

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.

PREVENT ALL CIGARETTE TRAFFICKING ACT OF 2003

Mr. KOHL. Mr. President, I rise today in support of the Prevent All Cigarette Trafficking Act, ''PACT Act'' of 2003. This legislation addressed the growing problem of cigarette smuggling, and the connection between these activities and terrorist funding. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, 10 cigarette smuggling cases were initiated in 1998. That has grown to approximately 160 in 2002.

Cigarette smuggling can be defined as the movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold. Smugglers buy cigarettes in low-tax States such as North Carolina and Kentucky, and drive or ship the product to high-tax States and sell them on the street, to convenience stores, or to conspirators without paying the required State taxes. Some smugglers affix fraudulent State tax stamps to make it appear they have paid the State taxes that are due. The profits for cigarettes smuggling can be enormous. In North Carolina, a pack of cigarettes is taxed 5 cents. In New York, the State tax is $1.50 and in New York City, an additional $1.50 a pack city tax is levied.

It is clear that cigarette trafficking is becoming a method of terrorist financing. In an investigation last month, the AFT arrested 17 individuals who are alleged to have smuggled more than $20 million worth of cigarettes. The ring allegedly purchased cigarettes in Virginia, where the state tax is 3 cents and resold them in California without paying the California tax, which is 87 cents. In another recent investigation, the AFT disrupted a cigarette smuggling scheme between North Carolina and Michigan participants allegedly smuggled at least $8 million worth of cigarettes and sent the proceeds to Hezbollah to support terrorist activities.

The Internet is contributing to the smuggling problem because many Internet cigarette retailers are not paying the required taxes when shipments are sent to buyers in various States. It is impossible to know what happens to these ill-gotten gains. Currently, there are hundreds of tobacco retailers on the Internet claiming to sell tax-free cigarettes. Several openly proclaim on their websites that they do not report internet tobacco sales to any State's tax administrator. This is a flagrant violation of the law in every State. A recent Government Accounting Office report advised that States will lose approximately $1.5 billion in tax revenues by the year 2005 if the current state of Internet tobacco sales continues. More than ever, state governments need these tax dollars.

Compounding the problem, counterfeit cigarettes, on which smugglers have paid no taxes, are becoming more and more common. In 2001, the U.S. Customs Service made 24 seizures of counterfeit cigarettes. In 2002, they made 255 seizures. Phillip Morris estimates that 100 billion counterfeit cigarettes are produced in China alone.

The PACT Act will combat tobacco smuggling in a number of ways. First, in order to assist law enforcement and fight terrorism funding, this legislation will make violations of the Jenkins Act a felony thereby encouraging more investigations and prosecutions. The Jenkins Act, 18 U.S.C. 375, requires any person who sells and ships cigarettes across State lines to anyone other than a licensed distributor, to report the sale to the buyer's State tobacco tax administrator, thus allowing State and local governments to collect the taxes that are lawfully due. The current penalty for violating the Jenkins Act is a misdemeanor.

In my State of Wisconsin, in 2001, State authorities referred a Jenkins Act violation to the U.S. Attorney who said that this was a matter that should be handled administratively. However, Wisconsin and most States do not have remedies for these violations and they have little recourse against vendors.

This legislation also amends the Jenkins Act by explicitly expanding the definition of ''sales'' to include sales to a consumer via the mails, telephone, or the Internet. It will also require both sellers and shippers to submit the required reports, even when sales are to a licensed distributor. Finally, the ''PACT Act'' will empower State Attorneys General, and persons holding a Federal permit to manufacture or import cigarettes, to bring civil actions in Federal court to restrain violations of the Jenkins Act and to seek civil damages for the losses they have incurred. This will allow State Attorneys General to stop violators of this Federal law from operating as well as recoup their tax losses.

The PACT Act also strengthens the Contraband Cigarette Trafficking Act (''CCTA''), 18 U.S.C. 2342, which makes it unlawful for any person to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes. Under the CCTA, contraband cigarettes is defined as 60,000 cigarettes or more which bear no tax stamp. This legislation will lower the threshold from 60,000 to 10,000 in order for smuggled cigarettes to be considered ''contraband,'' thereby allowing ATF to open more investigations and seek more Federal prosecutions of cigarette smugglers.

Finally, the PACT Act will grant ATF the ability to utilize funds earned during undercover operations to offset expenses that are incurred during those investigations. This will make the ATF's powers more comparable to those of other investigative agencies such as that the FBI and DEA, may use non-appropriated funds to make undercover purchases and pay other investigative expenses. ATF needs this authority in part because of the huge costs associated with purchasing tens of thousands of cigarettes in undercover investigations.

Cigarette smuggling is increasing and must be addressed. Enhancing the criminal laws to reduce cigarette smuggling will help deny terrorists a needed source of funding and help our States collect their revenue.

ADDITIONAL STATEMENTS

HONORING THE GIRL SCOUTS WHO HAVE RECEIVED THE SILVER AND GOLD AWARDS

● Mr. CHAFEE. Mr. President, I rise today to honor the Girl Scouts in Rhode Island who have received the Silver and Gold Awards for 2002.

I praise all of the hard work the girls have done throughout the year to receive their respective awards.

Mr. Girl Scout Gold Award is the highest and most prestigious award a girl can earn in girl scouting. A girl who has earned the Girl Scout Gold Award can look forward to greater access to college scholarships, paid internships, and community awards.

I ask that the list of the girls receiving the awards be printed in the RECORD.

The list follows.

GOLD AWARD RECIPIENTS

Allison Arden, Erin Blackbird, Stephanie Bobola, Laura Cochran, Rachel Cooper,

Marie De Noia, Jillian Dean, Kellie Deschene, Mary Dolan, Feliscia Facenda, Amanda Fandetti, Sarah Gautreau, Milena Gianfrancesco, and Melissa Gibb.

Allison Gibbs, Rachel Glidden, Heather Hopkins, Kimberly McCarthy, Meghan McDermott, Maria Ousterhout, Jessica Piemonte, Brittany Rousseau, Martha Seeger, Brittany Smith, Meredith Uhl, Clara Weinstock, April Whiting, and Stacia Wierzbicki.

SILVER AWARD RECIPIENTS

Jenna Alessandro, Danielle Almeida, Ludovica Almeida, Whitney Anderson, Heather Arzoomanian, Lauren Asermely, Amanda Ayrassran, Ashley Badeau, Rebecca Bessette, Lauren Bray, Caroline Canning, Sara Caron, Julie Correia, Gina Cosimano, Meagan Covino, Kara Creelman, Katherine Crossley, Amanda Crough, Shaina Curran, Jacqueline Cyr, Brenna De Cotis, and Justine De Cotis.

Danielle Dube, Katie Flynn, Lauren Gainor, Sarah Gardner, Christa Gignac, Julie Gillard, Kristen Girard, Jennifer Gregson, Julie Hall, Rebecca Hamel, Nicole Henderson, Lee Ann Hennessey, Hannah Hughes, Cailiin Humphreys, Alex Innocenti, Meaghan Kennedy, Alexandra Klara, Keeley Klitz, Elizabeth Kubiak, Emily Lonardo, Christina Lorenzo, and Sarah Lozy.

Jessica Martin, Lauren McCormick, Molly McKeen, Kasie McMahon, Peggy McQuaid, Amanda Mitchell, Ashley Mitchell, Ashley Mogayzel, Danielle Morin, Danielle Mott, Amy Mullen, Miranda Nero, Shaina O'Malley, Diana Otto, Lauren Palmer, Brianna Petty, Hanna Phelan, Ashley Pincins, Stephanie Pitassi, Brittany Pope, Allison Powell, and Amanda Ricci.

Genie Rudolph, Lauren Ruggieri, Laura Saltzman, Kara Schnabel, Amanda Shurtleff, Katelyn Singleton, Molly Smith, Kirsten Stickel, Katherine Swiczewicz, Molly Tierney, Andrea Tomasso, Lauren Turgeon, Marissa Varin, Kayla Wall, Christina Washington, Kayla Wilcox, Katie Williams, Jessica Woolmington, Taylor Woolmington, Amanda Wordell, Jessika Wordell.●

HONORING QUINCY JONES

● Ms. CANTWELL. Mr. President, 2003 is the officially designated Year of the Blues. As we now look to music and the arts to guide us through trying times, it is an honor to pay tribute to an international monument to music: Quincy Delight Jones, Jr. and his passion for music education.

He is a veritable Renaissance Man, an orchestrator, arranger, conductor, composer, magazine publisher, executive, writer—and music, film and television producer. In his far-flung enterprises, he is the very modern model of a major music mogul. It will take another artist decades to approach his record 27 Grammy Awards and Kennedy Center Honors. And it can be said without exaggeration that the music of Quincy Jones is otherworldly: Apollo 11 astronaut Buzz Aldrin chose the Quincy Jones-Frank Sinatra rendition of ''Fly Me to the Moon'' as the first song to be played on lunar soil.

Quincy Jones's own musical odyssey began earnest in Seattle, where his family had moved to seek better job opportunities in the industrial boom of World War II America. Still trapped in poverty, Quincy and his brother broke into a Seattle recreation hall in search of free meal, but stumbled upon an upright piano. Merely riffing on the ivory keys summoned pleasure in an instant. Playing the piano, he wrote later, enabled him to ''hope and cope.''

Early on Quincy Jones could straddle styles of music—and the egos of musicians. In Seattle, as a student in integrated schools and a band member with Ray Charles playing gigs at black and white venues, he learned to gracefully balance the cusp between commerce and art. He is, as Duke Ellington would say, ''beyond category.''

Quincy, says arranger Bill Mathieu, is ''a culminator . . . his music contains nearly everything of value that has been done before.'' He was—and is—an innovator, able as Washington University Professor Gerald Early wrote, to shape the world artistically, breaking down barriers and moving across boundaries. ''Jones has become a virtual epoch in American popular cultural history, a person of such importance and achievement that is difficult to imagine the era without him.''

His greatest contribution to our times may be as a passionate proselytizer for music education in the classroom. Half a century ago, in his first forays abroad, Quincy made the startling discovery that people around the globe knew and cherished American music—sometimes more than American themselves did. So in his early twenties, even as he was inventing new music, he made it his mission to teach and preserve the legacy of our musical heritage.

Music consists of only 12 notes, yet in its infinite varieties it beguiles, bewitches and beckons us. It can, as Leonard Bernstein observed, name the unnamble and communicate the unknowable. Music not only entertains and uplifts—it edifies and empowers. To know the history of American music is to grasp the history of America.

Duke Ellington divided the entire musical opus into two categories: Good and Bad. Thomas Jefferson, perhaps the most lyrical of the founding fathers and himself a composer, believed not only in public education, but that music and musical training was an essential component of good citizenship.

President John F. Kennedy knew that arts were good for the nation, good for the soul. ''The life of the arts far from being an interruption, a distraction, in the life of a nation, is close to the center of a nation's purpose—and is a test of the quality of a nation's civilization.''

Widely lauded children's television programming such as Sesame Street and Mr. Roger's Neighborhood have long discovered that the lessons of learning and of life are best realized when music is attached to them. As the late, beloved Fred Rogers often claimed about his early piano playing, ''By the time I was five-years-old, I could laugh or be very angry through the ends of my fingers.''

''If you don't get kids in kindergarten'' cautions Fred Anton, the CEO of Warner Bros. Publications, ''you won't get them later in high school. If you can reach children when they are young, music will stay with them forever.'' To that end, Warner Bros. has spent four years bringing together pioneers in music, linguistics, the sciences and fine arts and asked them to reinvigorate music education. Music education, from pre-K through high school, benefits everyone, says Anton, not just future virtuosos: ''You are going to develop critical thinking skills and better team players. And this won't be the dreary music programs of 20 or 40 years ago. This is for today's kids.''

A classic musical piece such as ''Follow the Drinking Gourd'' incorporates the new thinking. Children learn that in the Civil War era slaves sang code songs to each other, passing along messages of where to escape and find safe houses. The Drinking Gourd was the North Star. By teaching the kids the story—the ''Behind the Music'' vignette—it brings them into the song, while at the same time teaches impart lessons in history, social studies, and even astronomy.

Whether a genius such as Quincy Jones or an enthusiastic student embracing early violin lessons, artists at all levels savor the undiluted joy of the musical mind. It is the flow experience, where passion and precision unite, and one loses track of time and space. In a musical mode, dreamers dream and the impossible seems possible.

Music stirs our creative impulses—and it invariably contributes to our math, linguistic and science learning. The most ardent champion of music education today would indubitably be Albert Einstein. When asked about the theory of relativity, he explained, ''It occurred to me by intuition, and music was the driving force behind that intuition. My discovery was the result of musical perception.''

Harvard University's Dr. Howard Gardner, whose landmark research in Mind Intelligences was first published 20 years ago, asserts that all of us are gifted with music in the brain, an intelligence that when tapped—especially when we are young—generates bountiful lifetime rewards in all of our other academic and social endeavors.

We have empirical data linking music education to higher test scores, lower school dropout rates, higher cognitive skills and an increased ability for students to analyze and evaluate information. A University of California School for Medicine San Francisco paper concluded that learning to play an instrument ''refines the development of the brain and entire neuromuscular system.''

Other brain research contends that music and arts activities develop the intellect, lead to higher test results in mathematics, science and history and strengthens synapses and spatial reasoning in all brain systems.

Students exposed to music education are more disciplined, dexterous, coordinated, creative and self-assured. They

listen better, learn better, write better and speak better. Or as Charlie Parker would have succinctly put it, ''They get in the groove.''

Yet despite the overwhelming scientific and anecdotal evidence showcasting the benefits of music, music education programs throughout the country are in peril. Some fine arts education budgets have been drastically cut; others have been eliminated entirely. The consequences will harm both our music industry and concert halls, but even more seriously our nation's youth.

As Dr. Jean Houston implored 15 years ago, long before the latest rounds in budget cuts, ''Children without access to an arts program are actually damaging their brain. They are not being exposed to non-verbal modalities which help them learn skills like reading, writing and math much more easily.''

Which is why Quincy Jones, Warner Bros. Publications, and other titans of the music world are joining the battle. The fight to initiate and restore arts and music education to our schools needs a volunteer army of teachers, researchers, parents, elected officials, school boards and legislators in formation with the arts industries and artists themselves.

For the Year of the Blues, Seattle's Experience Music Project is partnering with the Blues Foundation in Memphis and PBS for a multi-media project that will include a television series, The Blues, executive produced by Martin Scorsese, a public radio series, a comprehensive Web site and education program, a companion book, DVDS and boxed CD set, and a traveling interactive exhibit.

Today's advanced multimedia technology will seek to capture the spirit and times of the blues, an era when at myriad clubs jazz greats would come in after working hours and fold into jam sessions. Guests, and the musicians themselves, were treated to wild flights of fantasy and improvisation. On any given night the likes of Sydney Bechet, Jack Teagarden, Louis and Lil Armstrong, and Bud Freeman would sit together and play the music they felt. It was the dawn of great female artists: Dinah Washington, Billie Holliday and Bessie Smith.

Music in all its incarnations is one of the most eloquent and memorable reflections of our loud and boisterous democracy. Jazz and the blues represented the vibrant merger of African music, plantation songs, ragtime and the plaintive yearnings of what was then known as hillbilly music. It follows that from jazz, the rivers of rock and roll, hip-hop and rap flowed.

The genuis of Quincy Jones is his ability to siphon off music from all eras and seemingly reinvent it. It is as if he were a scientist, extrapolating findings from all disciplines and effortlessly merging them into brand new medical breakthroughs. The challenge for educators is to build upon existing layers of history, knowledge and research to structure a new paradigm, deftly blending the elements to produce the finest school system in the world.

Artists such as Quincy Jones have a gift for revering music's past, while keenly anticipating its future. For as Nadia Boulanger, possibly the greatest music teacher of the 20th century said, ''A person's music can be no more or less than they are as a human being.''●

● Mr. WYDEN. Mr. President, I rise today to pay tribute to Ann Reiner from Portland, OR, a former member of the Oncology Nursing Society's Board of Directors. Ann has been helping individuals with cancer and their families for 20 years. Currently, Ann is the Program Director for Cancer Services and the Director of Outreach and Education for the Cancer Institute at the Oregon Health and Science University, OHSU. Ann is also an Instructor at the School of Nursing at OHSU.

Since 1983, Ann has been a member of the Oncology Nursing Society and most recently stepped down from serving on its Board of Directors. The Oncology Nursing Society, the largest professional oncology group in the United States composed of more than 30,000 nurses and other health professionals, 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.

Ann Reiner has received numerous awards for her work on behalf of individuals with cancer, including a Doctoral Degree in Cancer Nursing Scholarship from the American Cancer Society and a Fellow at the Oncology Nursing Society's Inaugural Leadership Development Institute. In addition, Ann is a member of the Institutional Review Board at OSHU, a member of the Breast and Cervical Cancer Program Medical Advisory Committee with the Oregon Department of Health, and a member and coordinator for the Portland area Citywide Annual Skin Cancer Screening.

A number of studies and articles that Ann has written on quality cancer care and the nursing shortage have been published in distinguished publications such as the Cancer Prevention, Detection and Control: A Nursing Perspective, Puget Sound Chapter Oncology Nursing Society Quarterly, Manual of Patient Care Standards, Blood, The Cancer Experience: Nursing Diagnosis and Management, Journal of Nursing Quality Assurance, and the Regional Oncology Nurses' Quarterly. Since the 1980s, Ann has given over seventy presentations and has presented thirty papers to national audiences on a host of cancer care, health, and nursing shortage issues.

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, like Ann, are on the front lines of the provision of quality cancer care for individuals with cancer each and everyday. Nurses are involved in the care of a cancer patient from the beginning through the end of treatment. Oncology nurses are the front-line providers of care by administering chemotherapy, managing patient therapies and side effects, working with insurance companies to ensure that patients receive the appropriate treatment, and provide 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 coupled with an inadequate nursing workforce, our Nation could quickly face a cancer care crises of serious proportion, limiting access to quality cancer care, particularly in traditionally underserved areas. Without an adequate supply of nurses there will not be enough qualified oncology nurses to provide quality cancer care to a growing population of people in need. I was proud to support the passage of the Nurse Reinvestment Act in the 107th Congress. This important legislation expanded and implemented programs 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 Ann Reiner and the Oncology Nursing Society for all of their 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. I wish Ann and the Oncology Nursing Society the best of luck in all of their endeavors.●

HONORING A MOMENT IN HISTORY: FIFTY YEARS SINCE MAN FIRST REACHED THE ROOF OF THE WORLD

Mrs. FEINSTEIN. Mr. President, May 29, 2003 marks a true milestone, a triumph of the human spirit. On that day, 50 years earlier, two young men—Edmund Hillary and Tenzing Norgay—became the first to reach the highest point on earth, the fabled summit of Mt. Everest.

At 29,028 feet above sea level, Everest had defied 15 earlier attempts, including the doomed expedition of George Mallory, in 1924.

Some have called Everest the Third Pole, after the North Pole, first reached in 1909, and the South Pole, reached in 1911.

Small wonder, then, that these two intrepid climbers—the lanky beekeeper

from New Zealand and the sprightly Sherpa born in Tibet—became instant celebrities back in 1953, and have since evolved into legendary figures.

The son of a yak herder, Tenzing Norgay, who died in 1986, became the first humbly born Asian to rise to global fame entirely through his own efforts and sheer willpower. In many ways his story has a strong American flavor to it—with enough determination and hard work, anyone can achieve anything.

Norgay spoke 13 languages but could neither read nor write. He always told his children: ''I climbed Everest so you wouldn't have to.'' His son, Norbu, now a resident of San Francisco, took these words to heart. College became his Everest.

Equally extraordinary is how Hillary and Norgay used their fame not for personal gain, but as champions of their people and, later, to help and protect the unique culture of the Sherpas.

For nearly 25 years now, I have been honored to consider Sir Edmund Hillary my friend. In September of 1981, he was with my husband when he fulfilled a dream: entering the beautiful Kanshung valley, in an attempt to climb the east face of Everest from Tibet.

In concert with the American Himalayan Foundation, Sir Edmund's Himalayan Trust, which was established in 1962, has been leading the effort to build schools, bridges, hospitals, and micro hydro plants, out of his deep and lasting affection for the Sherpa people.

To date, they have built 27 schools where once there were none. I am not talking about just funding alone—Sir Edmund actually took part in the actual construction of these and other buildings. Here is a man who puts the divots back. Just ask the Sherpa children who grew up tending yaks who are now doctors, pilots and investment bankers.

The Himalayan Trust has also built two hospitals, one in Khunde and one in Paphlu, and 11 village clinics that provide health care for the Sherpa communities and trekkers alike.

The Trust has worked to combat the deforestation of the Khumbu, caused largely by tourism, by planting more than 1 million trees, to restore the sacred monasteries at Tengbouche and Thame—central sites for the spirituality of the Sherpas, and in the establishment, in 1976, of the Sagarmatha National Park. Sagarmatha is the Nepali name for Mount Everest.

At 83 years old, New Zealand's former High Commissioner to India is still going strong. For half a century now he has been one of the enduring figures of our time.

He has taught me and so many others about the simple yet majestic power of the Himalayas and the marvelous but far too often forgotten people whose ancient culture is tied so closely to those amazing mountains.

Being the first to reach the top of the world would ensure anyone's name in the history books—and Hillary and Norgay achieved that the moment news spread of their heroic accomplishment.

But I believe had they not been the men they were—soft spoken and down to earth, devoted to actions and example, to helping others rather than themselves—then they would have ended up as mere footnotes.

Instead, the names of Hillary and Norgay remain an inspiration to people around the world. And I am absolutely certain that the same will be true 50 years from now, when it comes time to celebrate the 100th anniversary, and for many other anniversaries to follow.

MESSAGE FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

MEASURE REFERRED

The following joint resolution was read the first time and the second times by unanimous consent, and referred as indicated:

H.J. Res. 4. Joint resolution proposing an amendment to Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

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–2476. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Utah: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7505–1)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2477. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District (FRL 7505–5)'' received on June 1, 2003; to the Committee on Energy and Natural Resources.

EC–2478. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District (FRL 7495–4)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2479. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee; Approval of Revisions to the Tennessee Implementation Plan (FRL 7506–8)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2480. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to Maintenance Plan for Northern Kentucky (FRL 7505–3)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2481. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Georgia Update of Materials Incorporated by Reference (FRL 7500–9)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2482. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Removal of Alternative Emission Reduction Limitations (FRL 7504–6)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2483. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulation to Prevent and Control Particulate Matter Air Pollution From Manufacturing Processes and Associated Operations (FRL 7503–9)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2484. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulations to Prevent and Control Air Pollution from the Emission of Sulfur Oxides (FRL 7500–2)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2485. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to the Control of Volatile Organic Compounds from Chemical Production and Polytetrafluoroethylene Installations (FRL 7503–7)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2486. A communication from the Acting Principal Deputy Associate Administrator,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; State Implementation Plan Correction (FRL 7503–4)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2487. A communication from the Inspector General, Environmental Protection Agency, transmitting, pursuant to law, the Annual Report of the Office Inspector General work in the Environmental Protection Agency's Superfund program for Fiscal Year 2002; to the Committee on Environment and Public Works.

EC–2488. A communication from the Director, Office of Congressional Affairs, Office of the General Counsel, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''General License for the Import of Major Nuclear Reactor Components (RIN 3150–AH21)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2489. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Nonessential Experimental Population Status and Reintroduction of Black-Footed Ferrets in South-Central South Dakota (1018–AI60)'' received on May 20, 2003; to the Committee on Environment and Public Works.

EC–2490. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal-Aid Highway Systems (RIN 2125–AD74)'' received on June 1, 2003; to the Committee on Environment and Public Works.

EC–2491. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency (EPA), transmitting, the issuance of several documents that are not regulations that are related to EPA regulatory programs, received on May 27, 2003; to the Committee on Environment and Public Works .

EC–2492. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions, and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Section, Section 112(g) and 112(j)'' received on May 27, 2003; to the Committee on Environment and Public Works .

EC–2493. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Chemical Recovery combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (FRL 7502–7)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2494. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Small Municipal Waste Combustion Units (FRL 7503–2)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2495. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont, Negative Declaration (FRL 7502–1)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2496. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of the Clean Air Act, Section 112(I), Authority for Hazardous Air Pollutants: Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1998: State New Hampshire Department of Environmental Services (FRL 7490–6)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2497. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Blacktop Emissions Trading Program for Nine Western States and Eligible Indian Tribes Within the Geographic Area (FRL 7504–4)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2498. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Stationary Gas Turbines (FRL 7502–4)'' received on May 27, 2003; to the Committee on Environment and Public Works.

EC–2499. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule 13b2–2 under the Securities Exchange Act of 1934, Representatives and conduct in connection with the preparation of required reports and documents (RIN 3235–AI67)'' received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs .

EC–2500. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Interpretation of Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934 (Exchange Act Release No. 47910)'' received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2501. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Regulation CC (Availability of Funds and Collection of Checks) (Doc No. R–1150)'' received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2502. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992 and Kosovo in Executive Order 13088 on June 9, 1998, received on May 27, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2503. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to transactions involving U.S. exports to Morocco, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2504. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to transactions involving U.S. exports to Taiwan, received on June 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2505. A communication from the Attorney/Advisor, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Telecommunications Relay Services and the Americans with Disabilities Act 1990 (CC Doc. No. 90–571, FCC 02–269)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2506. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Schools and Libraries Universal Service Support Mechanism (CC Doc. 02–6, FCC 03–101)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2507. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Learjet Model 45 Airplanes; Docket no. 2003–NM–88 (2120–AA64)(2003–0174)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2508. 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 (98)' Amdt. No. 3055 (2120–AA65)(2003–0021)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2509. 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 (31); Amdt. No. 3056 (2120–AA65)(2003–0022)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2510. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Various Surplus Military Airplanes Manufactured by the Consolidated, Consolidated Vultee, and Corvair; Docket no. 2003–NM–23 (2120–AA64)(2003–0173)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2511. 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 (29); Amdt No. 3053 (2120–AA65)(2003–0023)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2512. 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 Airspace at Richfield Municipal airports, Richfield, UT; Docket No. FAA–01–ANM–16 (2120–AA66) (2003–0079)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2513. 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 (26); Amdt No. 3054 (2120–AA65)(2003–0024)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2514. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Amendment of Class D Airspace; Fome, NY; Docket no. 03–AEA–02 (2120–AA66)(2003–0080)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2515. 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; Herington, KS; Docket no. 03–ACE–10 (2120–AA66)(2003–0083)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2516. 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; Larned, KS; Docket no. 03–ACE–11 (2120–AA66)(2003–0084)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2517. 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 D Airspace; Topeka, Forbes Field, KS; CORRECTION; Docket No. 03–ACE–5 (2120–AA66)(2003–0081)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2518. 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 Airspace; Angel Fire Airport, Angel Fire NM; docket no. 2001–ASW–13 (2120–AA66)(2003–0082)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2519. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Lebanon, MO; Docket no. 03–ACE–6 (2120–AA66)(2003–0089)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2520. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace, Aes, IA; Docket no. 03–ACE–7 (2120–AA66)(2003–0088)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2521. 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; Topeka, Philip Billard Municipal Airport, KS; Docket no. 03–ACE–4 (2120–AA66)(2003–0087)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2522. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace, Ankeny, IA; docket no. 03–ACE–8 (2120–AA66)(2003–0086)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2523. 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; Clarinda, IA; Docket No. 03–ACE–12 (2120–AA66)(2003–0085)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2524. 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 2 Regulations) [COTP Philadelphia 03–005] [CGD01–03–060] (1625–AA00)(2003–0023)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2525. 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 Francisco Bay 03–002] [CGD13–02–020] [CGD13–03–008]'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2526. 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; Mystic River, CT (CGD01–03–047)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2527. 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; Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey (1625–AA08)(2003–0007)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2528. 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 Regulation; SLR; Delaware River, PEA Patch Island to Delaware City, Delaware (CGD05–03–013)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2529. A communication from the Deputy Assistant, Operations, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Correction to cross reference in the Regulatory text of 50 CFR part 679.20 paragraph redesignations (0679)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2530. 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 ''Fisheries of the Northeastern United States, Scup Fishery; Gear Restricted Area Exemptions Program (RIN 0648–AQ30)'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2531. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure prohibiting directed fishing of polluck in the West Yakutat District of the Gulf of Alaska (GOA), Effective from 1200 hours Alaska local time (A.L.t.) on April 27, 2003 through 2400 hours A.L.t., December 31, 2003'' received on May 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2532. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies; Mitigation of Orbital Debris (IB Doc. No. 02–34 and 02–54)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2533. A communication from the Under Secretary of Transportation for Security, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report relative to fulfilling the requirements of Section 423(b) of the Homeland Security Act, received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2534. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the 2003 Annual Report of the Supplemental Security Income Program, received on June 1, 2003; to the Committee on Finance.

EC–2535. A communication from the Secretary of the Health and Human Services, transmitting, pursuant to law, the Report to Congress on state payment limitations for Medicare cost for Medicare cost sharing, received on June 1, 2003; to the Committee on Finance.

EC–2536. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Long-Term Care Hospitable: Annual Payment Rate Updates and Policy Changes (RIN 0938–AL92)'' received on June 1, 2003; to the Committee on Finance.

EC–2537. 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 355—Change Circumstances (Rev. Rul. 2003–55)'' received on May 21, 2003; to the Committee on Finance.

EC–2538. 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 355 Requirement—Going own way (Rev. Rul. 2003–52)'' received on May 21, 2003; to the Committee on Finance.

EC–2539. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Time for Making Certain Plan Amendments (Rev. Proc. 2002–73)'' received on May 21, 2003; to the Committee on Finance.

EC–2540. 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 2003–14)'' received on May 21, 2003; to the Committee on Finance.

EC–2541. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cosmetic Procedures and Medical Care Under 213 (Revenue Ruling 2003–57)'' received on May 21, 2003; to the Committee on Finance.

EC–2542. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Earned Income Credit and Tribal Child Placements (Notice 2003–28)'' received on May 21, 2003; to the Committee on Finance.

EC–2543. 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—June 2003 (Rev. Rul 2003–60)'' received on May 21, 2003; to the Committee on Finance.

EC–2544. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting,

pursuant to law, the report of a rule entitled ''Commercial Revitalization Deduction (Rev. Proc. 2003–38)'' received on May 21, 2003; to the Committee on Finance.

EC–2545. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the Fiscal Year 2002 Accounting of Drug Control Funds, received on June 1, 2003; to the Committee on the Judiciary.

EC–2546. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled ''First Interim Report on the Informatics for Diabetes Education and Telemedicine (IDEATel) Demonstrations'' received on May 21, 2003; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS—May 29, 2003

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 1160. An original bill to authorize Millennium Challenge assistance, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. LUGAR:

S. 1161. An original bill to authorize appropriations for foreign assistance programs for fiscal year 2004, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

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. ENZI:

S. 1178. A bill to amend the Endangered Species Act of 1973 to require the Federal Government to assume all costs relating to implementation of and compliance with that Act; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1179. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. BAUCUS):

S. 1180. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. AKAKA):

S. 1181. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. SPECTER, Mr. KENNEDY, Ms. MIKULSKI, Mr. KYL, Mr. DASCHLE, Mr. SANTORUM, and Mr. BROWNBACK):

S. 1182. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on Foreign Relations.

By Mr. KYL (for himself and Mr. WYDEN):

S. 1183. A bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes; to the Committee on Foreign Relations.

By Mr. SMITH (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. FITZGERALD, and Mr. LAUTENBERG):

S. 1184. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THOMAS (for himself, Mr. HARKIN, Mr. DOMENICI, Mr. BINGAMAN, Mr. ROBERTS, Mr. DAYTON, Mr. SMITH, Ms. CANTWELL, Mr. INOUYE, Mr. BURNS, Mr. JOHNSON, Mr. ENZI, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. HAGEL, and Mr. CONRAD):

S. 1185. A bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for medicare beneficiaries who reside in rural areas, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS:

S. 1186. A bill to provide for a reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. CLINTON:

S. 1187. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require that ready-to-eat meat or poultry products that are not produced under a scientifically validated program to address Listeria monocytogenes be required to bear a label advising pregnant women and other at-risk consumers of the recommendations of the Department of Agriculture and the Food and Drug Administration regarding consumption of ready-to-eat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRYOR (for himself, Mr. KENNEDY, Mr. EDWARDS, Mrs. LINCOLN, Mr. GRAHAM of Florida, Mr . REED, Mr. BINGAMAN, Mr. LEAHY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. DURBIN, Mr. BAUCUS, Mr. CARPER, and Mrs. MURRAY):

S. Res. 159. A resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. CRAIG, Ms. LANDRIEU, Ms. CANTWELL, and Mr. DEWINE):

S. Con. Res. 48. A concurrent resolution supporting the goals and ideals of ''National Epilepsy Awareness Month'' and urging funding for epilepsy research and service programs; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. WYDEN, Mr. COCHRAN, Mr. CARPER, Mr. INOUYE, Mr. BREAUX, Mr. SUNUNU , Mrs. BOXER, Mr. AKAKA, Mr. REED, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, and Mrs. FEINSTEIN):

S. Con. Res. 49. A concurrent resolution designating the week of June 9, 2003, as National Oceans Week and urging the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 104

At the request of Mr. HOLLINGS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 104, a bill to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 221

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 221, a bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) 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. 281

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 281, a bill 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, and for other purposes.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 392

At the request of Mr. REID, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 459

At the request of Mr. LEAHY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor 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. 518

At the request of Ms. COLLINS, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 560

At the request of Mr. CRAIG, the name of the Senator from Missouri (Mr. TALENT) 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 name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 632

At the request of Mr. CRAIG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease.

S. 641

At the request of Mrs. LINCOLN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Carolina (Mr. HOLLINGS) 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. 652

At the request of Mr. CHAFEE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 780

At the request of Mr. LOTT, the names of the Senator from Missouri (Mr. BOND) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 816

At the request of Mr. CONRAD, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

S. 852

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Michigan (Ms. STABENOW) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1027

At the request of Mr. NELSON of Nebraska, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1027, a bill to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.

S. 1076

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1082

At the request of Mr. BROWNBACK, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1082, a bill to provide support for democracy in Iran.

S. 1152

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1152, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

S. 1162

At the request of Mrs. LINCOLN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1162

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1162, supra.

S. 1172

At the request of Mr. FRIST, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1173

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1173, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1174

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1174, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 1179. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I come to the floor today to introduce the Medicare Chronic Care Improvement Act of 2003. For the last three decades, the Medicare program has fulfilled our promise to care for older Americans who have spent a lifetime working and contributing to our Nation's economy. Currently, 41 million seniors depend on Medicare for critical health care assistance. Those seniors have been asking Congress for many years to strengthen Medicare. This Congress, we must respond by taking action. We must enact legislation this year that fills the gaps in Medicare.

When Congress and President Johnson designed the Medicare program in 1965, they could not have foreseen the health care system that exists today. New technology, advances in research and an aging population have changed both what beneficiaries need and the system that is responding to those needs. One of the unforseen implications of these changes is a growing number of Americans living with chronic conditions.

In 2000, over 45 percent of Americans had a chronic condition. That number continues to grow and, by 2020, more than 48 percent or 157 million Americans, will have at least one chronic condition. Chronic conditions encompass an array of health conditions that are persistent, recurring, and cannot be cured. They include severely impairing conditions like Alzheimer's disease, congestive heart failure, chronic obstructive pulmonary disease, diabetes, depression, hypertension, and arthritis.

Treating serious and disabling chronic conditions is the highest cost and fastest growing segment of health care. People with chronic conditions represent 78 percent of all health care spending. These people are the heaviest users of home health care visits, prescriptions, physician visits, and inpatient stays.

As we grow older, the chances of developing a chronic condition increase. Thus, it should be no surprise that nearly 80 percent of Medicare beneficiaries have at least one chronic condition and two-thirds have two or more chronic conditions. However, the Medicare fee-for-service program does not currently cover many of the services needed to provide quality care to beneficiaries who are managing complex chronic conditions.

To meet the needs of these individuals, our Medicare fee-for-service system must reflect a person-centered, system-oriented approach to care. Payers and providers who serve the same person must be empowered to work together to help people with chronic conditions prevent, delay, or minimize disease and disability progression and maximize their health and well being.

That is why I am here to reintroduce a much needed solution—the Medicare Chronic Care Improvement Act of 2003. This bill establishes a comprehensive plan to improve and strengthen the Medicare fee-for-service and Medicare+Choice systems by generating better health outcomes for beneficiaries with chronic conditions and increasing efficiency.

This bill would achieve these results by, first, helping to prevent, delay, and minimize the progression of chronic conditions by authorizing the Secretary of Health and Human Services to expand coverage of preventive health benefits. The bill permits providers to waive deductibles and co-payments for preventive and wellness services currently covered by Medicare and streamlines the process of approving new preventive benefits.

Second, this bill provides a person-centered, system-oriented approach to care for this extremely vulnerable segment of our population by expanding Medicare coverage to include assessment, care-coordination, self-management services, and patient and family caregiver education and counseling.

For more detail, I am also entering a section-by-section bill summary into the CONGRESSIONAL RECORD following this statement.

The Medicare Chronic Care Improvement Act provides a comprehensive solution to improving the quality of life and health for millions of Americans who are struggling with serious and disabling chronic conditions. Not only that, it has the potential to save the Medicare program money, by better managing and treating chronic conditions before costly complications result. That is good for seniors and good for Medicare—a win-win situation.

It is time to step up to the plate and fulfill our obligation to our Nation's most vulnerable citizens. Improving Medicare is the right thing to do, but only if we do it the right way. I believe that this bill is a critical component of the right recipe for strengthening the Medicare program for today and tomorrow's beneficiaries. Unlike the administration's Medicare reform plan, the Medicare Chronic Care Improvement Act gives beneficiaries better care while maintaining consumer choice and improving the program's efficiency. Because these are the results that West Virginians want, I will fight to include the provisions of this bill in any Medicare reform package that moves through the Finance Committee or the Senate floor.

I would like the record to reflect that the following groups publically support this legislation: Alzheimer's Association; American Geriatrics Society; Center for Medicare Advocacy; Families USA; and Medicare Rights Center.

National Chronic Care Consortium, representing such organizations as: Aging and Disability Services Administration, State of Washington (Olympia, WA); Aging in America, Inc (Bronx, NY); Albert Einstein Healthcare Network (Philadelphia, PA); Area Agency on Aging 10B Inc. (Akron, OH); Baylor Health Care System (Dallas, TX); Benjamin Rose (Cleveland, OH); Beth Abraham Family of Health Services (Bronx, NY); Blue Cross & Blue Shield of Minnesota (Eagan, MN); Carle Foundation Hospital-Health Systems Research Center (Mahomet, IL); Catholic Health Initiatives (Parker, CO); Centura Health (Denver, CO); Community Health Partnership, Inc. (Eau Claire, WI); Fairview Health Services/ Enbenezer (Minneapolis, MN); Halleland Health Consulting (Minneapolis, MN); Hebrew Home and Hospital (Hartford, CT); Highmark Blue Cross Blue Shield (Pittsburgh, PA); Inglis Innovative Services (Philadelphia, PA); Lancaster General Hospital (Lancaster, PA); Masonicare (Wallingford, CT); Mercy Medical Center—North Iowa (Mason City, IA); MetroHealth System (Cleveland, OH); Metropolitan Jewish Health System (Brooklyn, NY); Minnesota Senior Health Options (MSHO) (St. Paul, MN); Motion Picture and Television Fund (Woodland Hills, CA); Northeast Health (Troy, NY); Presbyterian SeniorCare (Pittsburgh, PA); Saint Michael's Hospital (Stevens Point, WI); SCAN (Long Beach, CA); Sierra Health Services (Las Vegas, NV); Summa Health System (Akron, OH); Sutter Health (Sacramento, CA); Total Longterm Care, Inc. (Denver, CO); Upstate NY Network of the U.S. Dept. of Veterans Affairs, VISN 2 (Albany, NY); ViaHealth (Rochester, NY); Visiting Nurse Service of New York (New York, NY); Volunteers of America National Services (Eden Prairie, MN); and Wisconsin Partnership Program at Community Living Alliance (Madison, WI).

I ask unanimous consent that the text of the bill and the summary be printed in the RECORD.

There being no objection, the bill was ordered to be pirnted in the RECORD, as follows:

S. 1179

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Chronic Care Improvement Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.

Subtitle A—Improving Access to Preventive Services

Sec. 101. Elimination of deductibles and coinsurance for existing preventive health benefits.

Sec. 102. Institute of Medicine medicare prevention benefit study and report.

Sec. 103. Authority to administratively provide for coverage of additional preventive benefits.

Sec. 104. Coverage of an initial preventive physical examination.
Subtitle B—Medicare Coverage for Care Coordination and Assessment Services
Sec. 111. Care coordination and assessment services.
Sec. 112. Care coordination and assessment services and quality improvement program in Medicare+Choice plans.
Sec. 113. Improving chronic care coordination through information technology.
Subtitle C—Additional Provisions
Sec. 121. Review of coverage standards.
TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE
Sec. 201. Institute of Medicine medicare chronic condition care improvement study and report.
TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.
Subtitle A—Improving Access to Preventive Services

SEC. 101. ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR EXISTING PREVENTIVE HEALTH BENEFITS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after subsection (o) the following new subsection:

''(p) DEDUCTIBLES AND COINSURANCE WAIVED FOR PREVENTIVE HEALTH ITEMS AND SERVICES.—The Secretary shall not require the payment of any deductible or coinsurance under subsection (a) or (b), respectively, of any individual enrolled for coverage under this part for any of the following preventive health items and services:

''(1) Blood-testing strips, lancets, and blood glucose monitors for individuals with diabetes described in section 1861(n).

''(2) Diabetes outpatient self-management training services (as defined in section 1861(qq)(1)).

''(3) Pneumococcal, influenza, and hepatitis B vaccines and administration described in section 1861(s)(10).

''(4) Screening mammography (as defined in section 1861(jj)).

''(5) Screening pap smear and screening pelvic exam (as defined in paragraphs (1) and (2) of section 1861(nn), respectively).

''(6) Bone mass measurement (as defined in section 1861(rr)(1)).

''(7) Prostate cancer screening test (as defined in section 1861(oo)(1)).

''(8) Colorectal cancer screening test (as defined in section 1861(pp)(1)).

''(9) Screening for glaucoma (as defined in section 1861(uu)).

''(10) Medical nutrition therapy services (as defined in section 1861(vv)(1)).''.

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1833(a)(1)(B) of the Social Security Act (42 U.S.C. 1395l(a)(1)(B)) is amended to read as follows: ''(B) with respect to preventive health items and services described in subsection (p), the amounts paid shall be 100 percent of the fee schedule or other basis of payment under this title for the particular item or service,''.

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after ''1861(s)(10)(A)'' the following: '', preventive health items and services described in section 1833(p),''.

(c) WAIVER OF APPLICATION OF DEDUCTIBLE.—Section 1833(b)(1) of the Social Security Act (42 U.S.C. 1395l(b)(1)) is amended to read as follows: ''(1) such deductible shall not apply with respect to preventive health items and services described in subsection (p),''.

(d) ADDING ''LANCET'' TO DEFINITION OF DME.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by striking ''blood-testing strips and blood glucose monitors'' and inserting ''blood-testing strips, lancets, and blood glucose monitors''.

(e) CONFORMING AMENDMENTS.—

(1) ELIMINATION OF COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting ''or which are described in subsection (p)'' after ''assignment-related basis''.

(2) ELIMINATION OF COINSURANCE FOR CERTAIN DME.—Section 1834(a)(1)(A) of the Social Security Act (42 U.S.C. 1395m(a)(1)(A)) is amended by inserting ''(or 100 percent, in the case of such an item described in section 1833(p))'' after ''80 percent''.

(3) ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) is amended—

(A) in paragraph (2)(C)—

(i) by striking ''(C) FACILITY PAYMENT LIMIT.—'' and all that follows through ''Notwithstanding subsections'' and inserting the following:

''(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections'';

(ii) by striking ''(I) in accordance'' and inserting the following:

''(i) in accordance'';

(iii) by striking ''(II) are performed'' and all that follows through ''payment under'' and inserting the following:

''(ii) are performed in an ambulatory surgical center or hospital outpatient department,

payment under''; and

(iv) by striking clause (ii); and

(B) in paragraph (3)(C)—

(i) by striking ''(C) FACILITY PAYMENT LIMIT.—'' and all that follows through ''Notwithstanding subsections'' and inserting the following:

''(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections''; and

(ii) by striking clause (ii).

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004.

SEC. 102. INSTITUTE OF MEDICINE MEDICARE PREVENTION BENEFIT STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of current literature and best practices in the field of health promotion and disease prevention among medicare beneficiaries, including the issues described in paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall include an assessment of—

(A) whether each health promotion and disease prevention benefit covered under the medicare program is medically effective (as defined in subsection (d)(3));

(B) utilization by medicare beneficiaries of such benefits (including any barriers to or incentives to increase utilization);

(C) quality of life issues associated with such benefits; and

(D) whether health promotion and disease prevention benefits that are not covered under the medicare program that would affect all medicare beneficiaries are likely to be medically effective (as so defined).

(b) REPORTS.—

(1) THREE-YEAR REPORT.—On the date that is 3 years after the date of enactment of this Act, and each successive 3-year anniversary thereafter, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains—

(A) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(B) the recommendations for legislation described in paragraph (3).

(2) INTERIM REPORT BASED ON NEW GUIDELINES.—If the United States Preventive Services Task Force or the Task Force on Community Preventive Services establishes new guidelines regarding preventive health benefits for medicare beneficiaries more than 1 year prior to the date that a report described in paragraph (1) is due to be submitted to the President, then not later than 6 months after the date such new guidelines are established, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains a detailed description of such new guidelines. Such report may also contain recommendations for legislation described in paragraph (3).

(3) RECOMMENDATIONS FOR LEGISLATION.—The Institute of Medicine of the National Academy of Sciences, in consultation with the United States Preventive Services Task Force and the Task Force on Community Preventive Services, shall develop recommendations in legislative form that—

(A) prioritize the preventive health benefits under the medicare program; and

(B) modify such benefits, including adding new benefits under such program, based on the study conducted under subsection (a).

(c) TRANSMISSION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), on the day that is 6 months after the date on which the report described in paragraph (1) of subsection (b) (or paragraph (2) of such subsection if the report contains recommendations in legislative form described in subsection (b)(3)) is submitted to the President, the President shall transmit the report and recommendations to Congress.

(2) REGULATORY ACTION BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.—If the Secretary of Health and Human Services has exercised the authority under section 103(a) to adopt by regulation one or more of the recommendations under subsection (b)(3), the President shall only submit to Congress those recommendations under subsection (b)(3) that have not been adopted by the Secretary.

(3) DELIVERY.—Copies of the report and recommendations in legislative form required to be transmitted to Congress under paragraph (1) shall be delivered—

(A) to both Houses of Congress on the same day;

(B) to the Clerk of the House of Representatives if the House is not in session; and

(C) to the Secretary of the Senate if the Senate is not in session.

(d) DEFINITION OF MEDICALLY EFFECTIVE.—In this section, the term ''medically effective'' means, with respect to a benefit or technique, that the benefit or technique has been—

(1) subject to peer review;

(2) described in scientific journals; and

(3) determined to achieve an intended goal under normal programmatic conditions.

SEC. 103. AUTHORITY TO ADMINISTRATIVELY PROVIDE FOR COVERAGE OF ADDITIONAL PREVENTIVE BENEFITS.

(a) IN GENERAL.—The Secretary of Health and Human Services may by regulation adopt any or all of the legislative recommendations developed by the Institute of Medicine of the National Academy of Sciences, in consultation with the United

States Preventive Services Task Force and the Task Force on Community Preventive Services in a report under section 102(b)(3) (relating to prioritizing and modifying preventive health benefits under the medicare program and the addition of new preventive benefits), consistent with subsection (b).

(b) ELIMINATION OF COST-SHARING.—With respect to items and services furnished under the medicare program that the Secretary has incorporated by regulation under subsection (a), the provisions of section 1833(p) of the Social Security Act (relating to elimination of cost-sharing for preventive benefits), as added by section 101(a), shall apply to those items and services in the same manner as such section applies to the items and services described in paragraphs (1) through (10) of such section.

SEC. 104. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by inserting ''and'' at the end; and

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

''(W) an initial preventive physical examination (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Initial Preventive Physical Examination

''(ww) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination with the goal of health promotion and disease detection and includes a history and physical exam, a health risk appraisal, and health risk counseling, and laboratory tests or other items and services as determined by the Secretary in consultation with the United States Preventive Services Task Force.''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(6)'', and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))''.

(2) COINSURANCE.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''.

(d) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(e) OTHER CONFORMING AMENDMENTS.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an initial preventive physical examination (as defined in section 1861(ww)), which is performed not later than 6 months after the date the individual's first coverage period begins under part B;''; and

(2) in paragraph (7), by striking ''or (H)'' and inserting ''(H), or (J)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

Subtitle B—Medicare Coverage for Care Coordination and Assessment Services

SEC. 111. CARE COORDINATION AND ASSESSMENT SERVICES.

(a) SERVICES AUTHORIZED.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''CARE COORDINATION AND ASSESSMENT SERVICES

''SEC. 1897. (a) PURPOSE.—

''(1) IN GENERAL.—The purpose of this section is to provide the appropriate level and mix of follow-up care to an individual with a chronic condition who qualifies as an eligible beneficiary (as defined in paragraph (2)).

''(2) ELIGIBLE BENEFICIARY DEFINED.—In this section, the term 'eligible beneficiary' means a beneficiary who—

''(A) has a serious and disabling chronic condition (as defined in subsection(f)(1)); or

''(B) has four or more chronic conditions (as defined in subsection (f)(4)).

''(b) ELECTION OF CARE COORDINATION AND ASSESSMENT SERVICES.—

''(1) IN GENERAL.—On or after January 1, 2005, an eligible beneficiary may elect to receive care coordination services in accordance with the provisions of this section under which, in appropriate circumstances, the eligible beneficiary has health care services covered under this title managed and coordinated by a care coordinator who is qualified under subsection (e) to furnish care coordination services under this section.

''(2) REVOCATION OF ELECTION.—An eligible beneficiary who has made an election under paragraph (1) may revoke that election at any time.

''(c) OUTREACH.—The Secretary shall provide for the wide dissemination of information to beneficiaries and providers of services, physicians, practitioners, and suppliers with respect to the availability of and requirements for care coordination services under this section.

''(d) CARE COORDINATION AND ASSESSMENT SERVICES DESCRIBED.—Care coordination services under this section shall include the following:

''(1) BASIC CARE COORDINATION AND ASSESSMENT SERVICES.—Except as otherwise provided in this section, eligible beneficiaries who have made an election under this section shall receive the following services:

''(A)(i) An initial assessment of an individual's medical condition, functional and cognitive capacity, and environmental and psychosocial needs.

''(ii) Annual assessments after the initial assessment performed under clause (i), unless the physician or care coordinator of the individual determines that additional assessments are required due to sentinel health events or changes in the health status of the individual that may require changes in the plan of care developed for the individual.

''(B) The development of an initial plan of care, and subsequent appropriate revisions to that plan of care.

''(C) The management of, and referral for, medical and other health services, including multidisciplinary care conferences and coordination with other providers.

''(D) The monitoring and management of medications.

''(E) Patient education and counseling services.

''(F) Family caregiver education and counseling services.

''(G) Self-management services, including health education and risk appraisal to identify behavioral risk factors through self-assessment.

''(H) Consultations by telephone with physicians and other appropriate health care professionals, including 24-hour access to a care coordinator.

''(I) Coordination with the principal caregiver in the home.

''(J) The managing and facilitating of transitions among health care professionals and across settings of care, including the following:

''(i) The pursuit the treatment option elected by the individual.

''(ii) The inclusion of any advance directive executed by the individual in the medical file of the individual.

''(K) Activities that facilitate continuity of care and patient adherence to plans of care.

''(L) Information about, and referral to, community-based services, including patient and family caregiver education and counseling about such services, and facilitating access to such services when elected.

''(M) Information about, and referral to, hospice services and palliative care, including patient and family caregiver education and counseling about hospice services and palliative care, and facilitating transition to hospice when elected.

''(N) Such other medical and health care services for which payment would not otherwise be made under this title as the Secretary determines to be appropriate for effective care coordination, including the additional items and services as described in paragraph (2).

''(2) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to eligible beneficiaries who have made an election under this section (subject to an assessment by the care coordinator of an individual beneficiary's circumstances and need for such benefits) in order to encourage the receipt of, or to improve the effectiveness of, care coordination services.

''(e) CARE COORDINATORS.—

''(1) REQUIREMENT FOR CERTIFICATION.—

''(A) IN GENERAL.—In order to be qualified to furnish care coordination and assessment services under this section, an individual or entity shall be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) who has been certified for a period (as provided in subparagraph (B)) by the Secretary, or by an organization recognized by the Secretary, as having met such criteria as the Secretary may establish for the furnishing of care coordination under this section (which may include experience in the provision of care coordination or primary care physician's services).

''(B) PERIOD OF CERTIFICATION.—The period of certification for an individual referred to in subparagraph (A) is as follows:

''(i) A one-year period for each of the first three years of participation under this section.

''(ii) A three-year period thereafter.

''(2) ADDITIONAL REQUIREMENTS.—

''(A) SUBMISSION OF DATA.—A care coordinator shall comply with such data collection and reporting requirements as the Secretary determines necessary to assess the effect of care coordination on health outcomes.

''(B) PARTICIPATION IN QUALITY IMPROVEMENT PROGRAM.—A care coordinator shall participate in the quality improvement program under paragraph (3).

''(C) ADDITIONAL TERMS.—A care coordinator shall comply with such other terms and conditions as the Secretary may specify.

''(3) QUALITY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish a chronic care quality assurance program to monitor and improve clinical outcomes for beneficiaries with chronic conditions.

''(B) ELEMENTS OF PROGRAM.—Under the program, the Secretary shall—

''(i) establish standards to measure—

''(I) quality and performance of the care of chronic conditions;

''(II) the continuity and coordination of care that eligible beneficiaries under this section receive; and

''(III) both underutilization and overutilization of services;

''(ii) provide to care coordinators periodic reports on their performance on such measures; and

''(iii) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of care coordination options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate).

''(C) REVIEW OF CLAIMS.—

''(i) IN GENERAL.—Subject to clause (ii), under the program the Secretary shall make available to care coordinators claims data relating to a beneficiary for whom the coordinator coordinates care under this section for the coordinator's review and subsequent appropriate follow-up action.

''(ii) AUTHORIZATION.—Data may only be provided to a care coordinator under clause (i) if the eligible beneficiary involved has given written authorization for such information to be so provided.

''(4) LIMITATION ON NUMBER OF CARE COORDINATORS.—Payment may only be made under this section for care coordination services furnished during a period to one care coordinator with respect to an eligible beneficiary.

''(5) PAYMENT FOR SERVICES.—

''(A) IN GENERAL.—The Secretary shall establish payment terms and conditions and payment rates for basic care coordination and assessment services described in subsection (d).

''(B) PAYMENT METHODOLOGY.—Payment under this section shall be made in a manner that bundles payment for all care coordination and assessment services furnished during a period, as specified by the Secretary.

''(C) CODES.—The Secretary may establish new billing codes to carry out the provisions of this paragraph.

''(f) DEFINITIONS.—In this section:

''(1) SERIOUS AND DISABLING CHRONIC CONDITION.—The term 'serious and disabling chronic condition' means, with respect to an individual, that the individual has at least one chronic condition and a licensed health care practitioner has certified within the preceding 12-month period that—

''(A) the individual has a level of disability such that the individual is unable to perform (without substantial assistance from another individual) for a period of at least 90 days due to a loss of functional capacity—

''(i) at least 2 activities of daily living; or

''(ii) such number of instrumental activities of daily living that is equivalent (as determined by the Secretary) to the level of disability described in clause (i);

''(B) the individual has a level of disability equivalent (as determined by the Secretary) to the level of disability described in subparagraph (A); or

''(C) the individual requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

''(2) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means each of the following:

''(A) Eating.

''(B) Toileting.

''(C) Transferring.

''(D) Bathing.

''(E) Dressing.

''(F) Continence.

''(3) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' means each of the following:

''(A) Medication management.

''(B) Meal preparation.

''(C) Shopping.

''(D) Housekeeping.

''(E) Laundry.

''(F) Money management.

''(G) Telephone use.

''(H) Transportation use.

''(4) CHRONIC CONDITION.—The term 'chronic condition' means an illness, functional limitation, or cognitive impairment that—

''(A) lasts, or is expected to last, at least one year;

''(B) limits what a person can do; and

''(C) requires on-going medical care.

''(5) BENEFICIARY.—The term 'beneficiary' means an individual entitled to benefits under part A and enrolled under part B, including an individual enrolled under the Medicare+Choice program under part C.''.

(b) COVERAGE OF CARE COORDINATION AND ASSESSMENT SERVICES AS A PART B MEDICAL SERVICE.—

(1) IN GENERAL.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(A) in the second sentence, by redesignating paragraphs (16) and (17) as clauses (i) and (ii); and

(B) in the first sentence—

(i) by striking ''and'' at the end of paragraph (14);

(ii) by striking the period at the end of paragraph (15) and inserting ''; and''; and

(iii) by adding after paragraph (15) the following new paragraph:

''(16) care coordination and assessment services furnished by a care coordinator in accordance with section 1897.''.

(2) CONFORMING AMENDMENTS.—Sections 1864(a) 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are each amended by striking ''paragraphs (16) and (17)'' each place it appears and inserting ''clauses (i) and (ii) of the second sentence''.

(3) PART B COINSURANCE AND DEDUCTIBLE NOT APPLICABLE TO CARE COORDINATION AND ASSESSMENT SERVICES.—

(A) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking ''and'' at the end of subparagraph (T); and

(ii) by inserting before the final semicolon '', and (V) with respect to care coordination and assessment services described in section 1861(s)(16) that are furnished by, or coordinated through, a care coordinator, the amounts paid shall be 100 percent of the payment amount established under section 1897''.

(B) DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(i) by striking ''and'' at the end of paragraph (5); and

(ii) by inserting before the final period '', and (7) such deductible shall not apply with respect to care coordination and assessment services (as described in section 1861(s)(16))''.

(C) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)), as amended by section 101(b)(2), is further amended by inserting after ''section 1833(p),'' the following: ''with respect to care coordination and assessment services (as described in section 1861(s)(16)),''.

SEC. 112. CARE COORDINATION AND ASSESSMENT SERVICES AND QUALITY IMPROVEMENT PROGRAM IN MEDICARE+CHOICE PLANS.

Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w–22(e)(1)) is amended by inserting before the period at the end the following: '', including a quality improvement program for coordinated care services referred to in section 1897(e)(3)''.

SEC. 113. IMPROVING CHRONIC CARE COORDINATION THROUGH INFORMATION TECHNOLOGY.

(a) TECHNOLOGY IMPROVEMENT GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereinafter in this section referred to as the ''Secretary'') shall make grants to eligible entities to enable such entities to develop, implement, or train personnel in the use of standardized clinical information technology systems designed to—

(A) improve the coordination and quality of care furnished to medicare beneficiaries with chronic conditions; and

(B) increase administrative efficiencies of such entities.

(2) CARE COORDINATORS AS ELIGIBLE ENTITIES.—In this section, an eligible entity is a care coordinator who furnishes care coordination services to medicare beneficiaries under section 1897 of the Social Security Act.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a care coordinator shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the clinical information technology system that the care coordinator intends to implement using amounts received under the grant;

(2) provide assurances that are satisfactory to the Secretary that such system, for which amounts are to be expended under the grant, conforms to the standards established by the Secretary under part C of title XI of the Social Security Act, and such other standards as the Secretary may specify; and

(3) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the project for which the grant is made; and

(B) ensure that funding provided under the grant is expended for the purposes for which it is made.

(c) MATCHING REQUIREMENT.—The Secretary may not make a grant to a care coordinator under subsection (a) unless that care coordinator agrees that, with respect to the costs to be incurred by the care coordinator in carrying out the activities for which the grant is being awarded, the care coordinator will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to $1 for each $1 of Federal funds provided under the grant.

(d) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than 18 months after the first grant has been made under this section, the Secretary shall submit an initial report to Congress containing the information referred to in paragraph (3) as well as any recommendations with respect to grants under this section.

(2) FINAL REPORT.—Not later than 6 months after the last grant has been awarded (as determined by the Secretary) under this section, the Secretary shall submit a final report to Congress containing the information referred to in paragraph (2) as well as any recommendations with respect to grants under this section.

(3) CONTENTS OF REPORT.—The reports under this subsection shall include the following:

(A) A description of the number and nature of grants made under this section.

(B) An evaluation of—

(i) improvements in the coordination and quality of care furnished to beneficiaries with chronic conditions; and

(ii) increases in administrative efficiencies of care coordinators.

(e) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2005, 2006, and 2007, there are authorized to be appropriated to the Secretary $10,000,000 to carry out the program under this section.

Subtitle C—Additional Provisions

SEC. 121. REVIEW OF COVERAGE STANDARDS.

(a) REVIEW.—With respect to determinations under section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) (relating to whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury for purposes of payment under title XVIII of such Act), the Secretary of Health and Human Services shall conduct a review of—

(1) regulations, policies, procedures, and instructions of the Centers for Medicare & Medicaid Services for making those determinations; and

(2) policies, procedures, local medical review policies, manual instructions, interpretative rules, statements of policy, and guidelines of general applicability of fiscal intermediaries (under section 1816 of the Social Security Act (42 U.S.C. 1395h)) and carriers under section 1842 of such Act (42 U.S.C. 1395u) for making those determinations.

(b) MODIFICATION.—Insofar as the Secretary determines that the Centers for Medicare & Medicaid Services, a fiscal intermediary, or a carrier has misapplied such standard by requiring that the item or service improve the condition of the patient with respect to such illness or injury, the Secretary shall take such corrective measures as are appropriate to ensure the Centers, intermediary, or carrier (as the case may be) applies the proper standard for making such determinations.

(c) REPORT.—On the date that is 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the review conducted under subsection (a);

(2) a detailed statement of the modifications made under subsection (b); and

(3) recommendations to avoid misapplication of the standard in the future.

TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

SEC. 201. INSTITUTE OF MEDICINE MEDICARE CHRONIC CONDITION CARE IMPROVEMENT STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of the medicare program to identify—

(i) factors that facilitate provision of effective care (including, where appropriate, hospice care) for medicare beneficiaries with chronic conditions; and

(ii) factors that impede provision of such care for such beneficiaries,

including the issues studied under paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall—

(A) identify inconsistent clinical, financial, or administrative requirements across provider and supplier settings or professional services with respect to medicare beneficiaries;

(B) identify requirements under the program imposed by law or regulation that—

(i) promote costshifting across providers and suppliers;

(ii) impede provision of effective, seamless transitions across health care settings, such as between hospitals, skilled nursing facilities, home health services, hospice care, and care in the home;

(iii) impose unnecessary burdens on such beneficiaries and their family caregivers;

(iv) impede the establishment of administrative information systems to track health status, utilization, cost, and quality data across providers and suppliers and provider settings;

(v) impede the establishment of clinical information systems that support continuity of care across settings and over time; or

(vi) impede the alignment of financial incentives among the medicare program, the medicaid program, and group health plans and providers and suppliers that furnish services to the same beneficiary.

(b) REPORT.—On the date that is 18 months after the date of enactment of this Act, the Institute of Medicine of the National Academy of Sciences shall submit to Congress and the Secretary of Health and Human Services a report that contains—

(1) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(2) recommendations to improve provision of effective care for medicare beneficiaries with chronic conditions.

By Mr. SANTORUM (for himself and Mr. BAUCUS):

S. 1180. A bill to amend the Internal Revenue Code of 1986 to modify to work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join Senator BAUCUS in the introduction of the Encouraging Work Act of 2003. The Work Opportunity Tax Credit, WOTC, and Welfare-to-Work Tax Credit, W-t-W, are tax incentives that encouraging employers to hire public assistance recipients and other individuals with barriers to employment. The combination of Welfare Reform passed by Congress in 1996 and the assistance to employers found in the WOTC and W-t-W has enabled expanded opportunity for many Americans. Yet more can be done.

Under present law, WOTC provides a 40 percent tax credit on the first $6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120–399 hours. W-t-W provides a 35 percent tax credit on the first $10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first $10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,200,000 previously dependent persons to find jobs.

Eligibility is limited to: 1. recipients of Temporary, Assistance to Needy Families, TANF, in 9 of the 18 months ending on the hiring date; 2. individuals receiving Supplemental Security Income, SSI, benefits; 3. disabled individuals with vocational rehabilitation referrals; 4. veterans on food stamps; 5. individuals aged 18–24 in households receiving food stamp benefits; 6. qualified summer youth employees: 7. low-income ex-felons; and 8. individuals ages 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive, offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals, and a retention incentive, providing a higher reward for those who stay longer on the job.

Without action by Congress WOTC and W-t-W will expire on December 31, 2003. After seven years of experience with these programs, their value has been well demonstrated. In 2001, the GAO issued a report that indicated that employers have significantly changed their hiring practices because of WOTC. With the resources provided by WOTC, employers have provided job mentors, lengthened training periods, engaged in recruiting outreach, and listed jobs or requested referrals from public agencies or partnerships. WOTC and W-t-W have become a true public-private partnership in which the Department of Labor, the Internal Revenue Service, the states, and employers have forged excellent working relationships.

But the challenges for employers and those looking for better opportunities are real. The job skills of eligible persons leaving welfare are sometimes limited, and the costs of recruiting, training, and supervising low-skilled individuals cause many employers to look elsewhere for employees. The weak economy and rising unemployment give employers more hiring options. WOTC and W-t-W are proven incentives for encouraging employers to seek employees from the targeted groups.

Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. This is particularly true during periods of high unemployment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers.

The Administration's FY 2004 budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and

credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees and $6,000 for other target groups ($3,000 for summer youth). In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The Administration's FY 2004 budget proposes to eliminate the family income attribution rule.

Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the ''food stamp category'' would greatly improve the job prospects for many absentee fathers and other ''at risk'' males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

The Work Opportunity Credit and Welfare-to-Work Credit have been successful in moving traditionally hard-to-employ persons off welfare and into the workforce, where they contribute to our economy. However, employer participation in these important programs can be increased, particularly among small and medium-sized employers. This is due to the complexity of the credits and the fact that they are both only temporary provisions of the tax code subject to renewal every year or two. Small, medium, and even some large employers find it difficult to justify developing the necessary infrastructure to administer and participate in these programs when their continued existence beyond one or two years is constantly in question.

This legislation will remedy this problem by combining WOTC and W-t-W into one, more easily administered tax credit, and by making it a permanent part of the tax code. Many organizations including the National Council of Chain Restaurants, National Retail Federation, Food Marketing Institute, National Association of Convenience Stores, National Restaurant Association, American Hotel & Lodging Association, National Roofing Contractors Association, National Association of Chain Drug Stores, American Nursery and Landscape Association, and the American Health Care Association support this legislation. Representatives Amo Houghton, R–NY, and Charles Rangel, D–NY, have introduced identical legislation in the House of Representatives. I urge my colleagues to join us in supporting this legislation.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator SANTORUM, and my other Senate colleagues in introducing legislation to permanently extend and improve upon the Work Opportunity and the Welfare-to-Work tax credits. During this year's debate on the Jobs and Growth Tax Reconciliation Act, I voted to extend these tax credits were not included in the final conference agreement, but I continue to strongly support the passage of legislation this year to make these credits permanent and make several reforms in the programs to improve their effectiveness.

Over the past seven years, the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work, W-t-W, tax credit have helped over 2.2 million public assistance dependent individuals enter the workforce. Both of these important programs are scheduled to expire on December 31, 2003. These hiring tax incentives have clearly demonstrated their effectiveness in helping to level the job selection playing field for low-skilled individuals by providing employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment, and this is particularly critical during periods of high unemployment. The weak economy and rising unemployment give employers many more hiring options because of the larger pool of experienced laid-off workers. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals reaching their welfare eligibility ceiling this year.

Because of the costs involved in setting up and administering a WOTC/W-t-W program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

WOTC provides employers with a graduated tax credit equal to 25-percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working over 400 hours. The W-t-W tax credit is geared toward long term welfare recipients and provides a 35-percent tax credit on the first $10,000 in wages during the first year of employment and a 50-percent credit on the first $10,000 for those who stay on the job a second year.

In my own State of Montana many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC/W-t-W program, however, are low-income families, under the Food Stamp Program and the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, program, and also low income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during the past 18 months, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC/TANF recipients, and 52 U.S. veterans.

The bill we are introducing provides for a permanent program extension of the two credits. After seven years of experience with WOTC and W-t-W, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

The bill also includes a proposal to simplify the programs by combining them into one credit and making the rules for computing the combined credits simpler. This would be accomplished by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under present work opportunity tax credit would apply to W-t-W employees. THe maximum amount of eligible wages would continue to be $10,000 for W-t-W employees. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. Because of the program's eligibility criteria, over 80 percent of those hired are women leaving welfare. Since men generally are not eligible for TANF benefits, the fathers of children on welfare receive little help in finding work, even though they often face even greater barriers to work than women

on welfare. We propose to help absentee fathers find work and provide the resources to assume their family responsibilities by opening up WOTC eligibility to anyone 39 years old or younger in families receiving food stamps or residing in enterprise zones or empowerment communities. Raising the eligibility limits in these two categories will extend eligibility to hundreds of thousands of at-risk men.

I urge my colleagues to support this important piece of legislation.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. AKAKA):

S. 1181. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce along with Senators LAUTENBERG and AKAKA the Youth Financial Literacy Act to call attention to an important issue in education: teaching students the basic principles of financial literacy to prepare them to be responsible consumers. This legislation will give young Americans the tools they need to succeed in this ever-changing economy.

Today, it is as important for young people to learn about staying out of debt, maintaining good credit and building up their savings as it is for them to learn about geography, science and history.

Far too many of our youth enter adulthood lacking basic financial literacy skills, not knowing how to budget their wages or salaries or build personal savings. A recent survey by the non-profit JumpStart Coalition reveals that the only 21 percent of students between the ages of 16 and 22 say they have taken a personal finance course at school. The study also found that when high school seniors were tested on basic financial literacy, they answered a mere 50.2 percent of the questions correctly. That, is simply not acceptable.

Providing financial education to our nation's young people must be a priority. Indeed it is time for our schools to make a more concerted effort to prepare our children for success in new ways including their future financial decision-making.

I am not alone in advocating the importance of financial literacy. Federal Reserve Chairman Alan Greenspan has said, ''Improving basic financial education at the elementary and secondary school levels is essential to providing a foundation for financial literacy that can help prevent younger people from making poor financial decisions.''

Today, I hope to elevate the discussion of this issue by introducing the Youth Financial Education Act, which would provide $100 million in grants to states to help them develop and implement financial education programs in elementary and secondary schools, including helping to prepare teachers to provide financial education. It would also establish a national clearinghouse for instructional materials and information regarding model financial education programs.

I am happy to report that in my state of New Jersey many have already started the ball rolling on financial literacy education. My State allows local schools the option of offering financial education in high school, and the New Jersey Coalition for Financial Education is working with the New Jersey Department of Education to develop and implement core curriculum standards. I believe it is time for our Nation to follow suit and begin to focus on the financial literacy education of all young Americans.

We must not sit idly by while so many of our children lack financial literacy. So I ask for my colleagues to join me in support of the Youth Financial Literacy Act, which will ensure that our next generation is prepared to meet the challenges of the new economy.

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. 1181

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

SECTION 1. PROMOTING YOUTH FINANCIAL LITERACY.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

''PART D—PROMOTING YOUTH FINANCIAL LITERACY

''SEC. 4401. SHORT TITLE AND FINDINGS.

''(a) SHORT TITLE.—This part may be cited as the 'Youth Financial Education Act'.

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

''(1) In order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy. All young adults should have the educational tools necessary to make informed financial decisions.

''(2) Despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs. A nationwide survey conducted in 2002 by the Jump$tart Coalition for Personal Financial Literacy examined the financial knowledge of 4,024 12th graders. On average, survey respondents answered only 50 percent of the questions correctly. This figure is down from the 52 percent average score in 2000 and the 57 percent average score in 1997.

''(3) An evaluation by the National Endowment for Financial Education High School Financial Planning Program undertaken jointly with the United States Department of Agriculture Cooperative State Research, Education, and Extension Service demonstrates that as little as 10 hours of classroom instruction can impart substantial knowledge and affect significant change in how teens handle their money.

''(4) State educational leaders have recognized the importance of providing a basic financial education to students in kindergarten through grade 12 by integrating financial education into State educational standards, but by 2002 only 4 States required students to complete a course that covered personal finance before graduating from high school.

''(5) Teacher training and professional development are critical to achieving youth financial literacy. Teachers confirm the need for professional development in personal finance education. In a survey by the National Institute for Consumer Education, 77 percent of a State's economics teachers revealed that they had never had a college course in personal finance.

''(6) Personal financial education helps prepare students for the workforce and for financial independence by developing their sense of individual responsibility, improving their life skills, and providing them with a thorough understanding of consumer economics that will benefit them for their entire lives.

''(7) Financial education integrates instruction in valuable life skills with instruction in economics, including income and taxes, money management, investment and spending, and the importance of personal savings.

''(8) The consumers and investors of tomorrow are in our schools today. The teaching of personal finance should be encouraged at all levels of our Nation's educational system, from kindergarten through grade 12.

''SEC. 4402. STATE GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants to State educational agencies to develop and integrate youth financial education programs for students in elementary schools and secondary schools.

''(b) STATE PLAN.—

''(1) APPROVED STATE PLAN REQUIRED.—To be eligible to receive a grant under this section, a State educational agency shall submit an application that includes a State plan, described in paragraph (2), that is approved by the Secretary.

''(2) STATE PLAN CONTENTS.—The State plan referred to in paragraph (1) shall include—

''(A) a description of how the State educational agency will use grant funds;

''(B) a description of how the programs supported by a grant will be coordinated with other relevant Federal, State, regional, and local programs; and

''(C) a description of how the State educational agency will evaluate program performance.

''(c) ALLOCATION OF FUNDS.—

''(1) ALLOCATION FACTORS.—Except as otherwise provided in paragraph (2), the Secretary shall allocate the amounts made available to carry out this section pursuant to subsection (a) to each State according to the relative populations in all the States of students in kindergarten through grade 12, as determined by the Secretary based on the most recent satisfactory data.

''(2) MINIMUM ALLOCATION.—Subject to the availability of appropriations and notwithstanding paragraph (1), a State that has submitted a plan under subsection (b) that is approved by the Secretary shall be allocated an amount that is not less than $500,000 for a fiscal year.

''(3) REALLOCATION.—In any fiscal year an allocation under this subsection—

''(A) for a State that has not submitted a plan under subsection (b); or

''(B) for a State whose plan submitted under subsection (b) has been disapproved by the Secretary;

shall be reallocated to States with approved plans under this section in accordance with paragraph (1).

''(d) USE OF GRANT FUNDS.—

''(1) REQUIRED USES.—A grant made to a State educational agency under this part shall be used—

''(A) to provide funds to local educational agencies and public schools to carry out financial education programs for students in kindergarten through grade 12 based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, and investing;

''(B) to carry out professional development programs to prepare teachers and administrators for financial education; and

''(C) to monitor and evaluate programs supported under subparagraphs (A) and (B).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under subsection (a) may use not more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out this section.

''(e) REPORT TO THE SECRETARY.—Each State educational agency receiving a grant under this section shall transmit a report to the Secretary with respect to each fiscal year for which a grant is received. The report shall describe the programs supported by the grant and the results of the State educational agency's monitoring and evaluation of such programs.

''SEC. 4403. CLEARINGHOUSE.

''(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary shall make a grant to, or execute a contract with, an eligible entity with substantial experience in the field of financial education, such as the Jump$tart Coalition for Personal Financial Literacy, to establish, operate, and maintain a national clearinghouse (in this part referred to as the 'Clearinghouse') for instructional materials and information regarding model financial education programs and best practices.

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a national nonprofit organization with a proven record of—

''(1) cataloging youth financial literacy materials; and

''(2) providing support services and materials to schools and other organizations that work to promote youth financial literacy.

''(c) APPLICATION.—An eligible entity desiring to establish, operate, and maintain the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

''(d) BASIS AND TERM.—The Secretary shall make the grant or contract authorized under subsection (a) on a competitive, merit basis for a term of 5 years.

''(e) USE OF FUNDS.—The Clearinghouse shall use the funds provided under a grant or contract made under subsection (a)—

''(1) to maintain a repository of instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens, for use by States, localities, and the general public;

''(2) to disseminate to States, localities, and the general public, through electronic and other means, instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens; and

''(3) to the extent that resources allow, to provide technical assistance to States, localities, and the general public on the design, establishment, and implementation of financial education programs for elementary schools and secondary schools, including kindergartens.

''(f) CONSULTATION.—The chief executive officer of the eligible entity selected to establish and operate the Clearinghouse shall consult with the Department of the Treasury and the Securities Exchange Commission with respect to its activities under subsection (e).

''(g) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops financial education programs and instructional materials for such programs shall submit to the Clearinghouse information on the programs and copies of the materials.

''(h) APPLICATION OF COPYRIGHT LAWS.—In carrying out this section the Clearinghouse shall comply with the provisions of title 17 of the United States Code.

''SEC. 4404. EVALUATION AND REPORT.

''(a) PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the performance of programs assisted under sections 4402 and 4403.

''(b) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under subsection (a), the Secretary shall evaluate programs assisted under sections 4402 and 4403—

''(1) to judge their performance and effectiveness;

''(2) to identify which of the programs represent the best practices of entities developing financial education programs for students in kindergarten through grade 12; and

''(3) to identify which of the programs may be replicated and used to provide technical assistance to States, localities, and the general public.

''(c) REPORT.—For each fiscal year for which there are appropriations under section 4407(a), the Secretary shall transmit a report to Congress describing the status of the implementation of this part. The report shall include the results of the evaluation required under subsection (b) and a description of the programs supported under section 4402.

''SEC. 4405. DEFINITIONS.

''In this part:

''(1) FINANCIAL EDUCATION.—The term 'financial education' means educational activities and experiences, planned and supervised by qualified teachers, that enable students to understand basic economic and consumer principals, acquire the skills and knowledge necessary to manage personal and household finances, and develop a range of competencies that will enable them to become responsible consumers in today's complex economy.

''(2) QUALIFIED TEACHER.—The term 'qualified teacher' means a teacher who holds a valid teaching certification or is considered to be qualified by the State educational agency in the State in which the teacher works.

''SEC. 4406. PROHIBITION.

''Nothing in this part shall 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, as a condition of eligibility to receive funds under this part.

''SEC. 4407. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION.—For the purposes of carrying out this part, there are authorized to be appropriated $100,000,000 for each of the fiscal years 2004 through 2008.

''(b) LIMITATION ON FUNDS FOR CLEARINGHOUSE.—The Secretary may use not less than 2 percent and not more than 5 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4403.

''(c) LIMITATION ON FUNDS FOR SECRETARY EVALUATION.—The Secretary may use not more than $200,000 from the amounts appropriated under subsection (a) for each fiscal year to carry out subsections (a) and (b) of section 4404.

''(d) LIMITATION ON ADMINISTRATIVE COSTS.—Except as necessary to carry out subsections (a) and (b) of section 4404 using amounts described in subsection (c) of this section, the Secretary shall not use any portion of the amounts appropriated under subsection (a) for the costs of administering this part.''.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. SPECTER, Mr. KENNEDY, Ms. MIKULSKI, Mr. KYL, Mr. DASCHLE, Mr. SANTORUM, and Mr. BROWNBACK):

S. 1182. A bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on Foreign Relations.

Mr. MCCONNELL. Mr. President, while democracy activists in Burma have been murdered, intimidated and harassed for well over a decade, the blitzkrieg on freedom launched last weekend by the illegitimate State Peace and Development Council—SPDC—killed and injured scores of supporters from the National League for Democracy—NLD.

Democracy leader Aung San Suu Kyi and numerous other activists were brutalized, arrested and today remain held incommunicado. Reports indicate that Suu Kyi is being held in the Yemon military camp, 40 kilometers outside of Rangoon. It is believed she suffers from lacerations to her face and a broken shoulder. The administration should waste no time in gaining access to Suu Kyi to ensure her safety and security.

I have come to the floor every day this week to draw attention to the untenable situation in that country. On Monday, I urged the administration to act promptly and decisively in support of democracy in Burma. The State Department can take specific action without the need for legislation—such as broadening visa restrictions, freezing assets, and downgrading Burma's diplomatic status in Washington.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. MCCONNELL. Yes.

Mr. MCCAIN. I thank the Senator from Kentucky for his advocacy for, not only one of the world's great, courageous figures, but also on behalf of democracy and freedom in a small country far away.

Is the Senator from Kentucky aware of any action, or even any statements being made by our friends in Asia, including ASEAN, and how does he feel about that?

Mr. MCCONNELL. I would say to my friend from Arizona, there will be a regional ASEAN meeting in Phnom Penh on June 18 and 19. Secretary Powell is scheduled to be there. I hope that will be an opportunity to hear from the

other Asian, ASEAN countries, that maybe, for once, they will understand what a pariah regime that is and work with us in a coordinated fashion to impose sanctions that will actually mean something in bringing down the regime.

Mr. MCCAIN. If the Senator will yield for one further question, has the Senator heard about a statement of the Japanese Foreign Minister that basically is saying that everything was pretty well—the status quo was pretty well satisfactory in Burma? And before I ask the Senator to answer the question, I want to say again, I thank him for his advocacy of many years, for the democratic movement in Burma, sometimes known as Myanmar. I thank him and look forward to working with him.

I think the Congress can act, and I hope we can work in concert with the administration.

Mr. MCCONNELL. I thank my friend from Arizona. I understand the Japanese may be reconsidering their statement of yesterday. There could well be a subsequent statement today that might be more pleasing to the Senator from Arizona and myself.

I thank him for being an extraordinary leader on this issue, as well, and for agreeing to cosponsor the bill I am about to introduce.

I also might mention, I had an opportunity to talk with the Deputy Secretary of State and Deputy Secretary of Defense today to encourage them to take a very great interest and recommend the President take a very great interest in this issue. The only way, obviously, we are going to have an impact in Burma is for the United States to use the kind of leadership only it can provide to rally the world around a sanctions regime and tighten the noose around this regime and hopefully this will be the beginning of that effort.

Mr. MCCAIN. I thank my friend.

Mr. MCCONNELL. The White House should utilize all authority at its disposal to immediately sanction the junta, including banning imports from Burma and raising the brutal crackdown on democracy before the U.N. Security Council.

On Tuesday, I appealed to the international community to stand by the people of Burma during their dark hour of need, and called upon the world's democracies to act in support of Suu Kyi and her courageous supporters. Elected representatives cannot stand by idly while democracy in Burma is strangled by the SPDC.

Today, along with my colleagues Senators FEINSTEIN, MCCAIN, LEAHY, SPECTER, KENNEDY, MIKULSKI, KYL, DASCHLE, and SANTORUM, I am introducing the ''Burmese Freedom and Democracy Act of 2003''. This act recognizes that what is needed in Burma is fewer carrots and more sticks.

Among other restrictions that I will describe shortly, the act imposes an import ban on articles produced, mined, manufactured, grown, or assembled in Burma. It prohibits the import of goods to the United States produced by the SPDC, companies in which the junta has a financial interest, and the SPDC's political arm, the Union Solidarity Development Association—USDA.

Lest my colleagues forget, the USDA, under the direction of the junta, orchestrated the recent terror in the townships that left scores dead and Suu Kyi injured. They are Burma's fedayeen.

There are some who discount economic sanctions as a tool to coerce and modify the behavior of repressive nations. According to their argument, sanctions hurt the very people they are intended to help.

Sanctions in Burma will not rape ethnic girls and women, burn down their villages and murder their brothers, husbands, and sons.

Sanctions in Burma will not impress children into the military, drug them, and send them off to dangerous battlefields.

Sanctions in Burma will not use slave labor, nor will they profit from an illicit narcotics trade that wreaks havoc among the region's youth and contributes to an exploding HIV/AIDS rate along Burma's borders.

Finally, sanctions in Burma will not attack peaceful supporters of the NLD or democracy leader Aung San Suu Kyi, nor will they ever take a single life by an act of violence.

The SPDC is guilty of committing the laundry list of heinous crimes that I just described. Every single one of them is an assault on the human rights and dignity of the Burmese people. Burma's junta is as chronic an abuser of human rights as Kim Jong-Il in North Korea—and as was the Taliban in Afghanistan and Saddam Hussein in Iraq.

The fact of the matter is that the import ban will impact a negligible percentage of Burma's population. It will deny Burma the ability to import some $350 million to $470 million worth of goods to the United States—most of which are garments and textiles—thus denying the SPDC legitimate revenue.

Unfortunately, the people of Burma reap almost no benefits from this income. The SPDC is more interested in spending revenue on itself than in investing in the welfare of the people of Burma.

With over one-quarter of Burma's imports currently destined for the United States, the ban will hit the SPDC where it hurts most—in the pocketbook and its public image.

South African Bishop Desmond Tutu, who knows a thing or two about sanctions and repression, said of Burma earlier this week:

> We urge freedom loving governments everywhere to impose sanctions on this illegitimate regime. They worked for us in South Africa. If applied conscientiously, they will work in Burma too. Freeze the assets of the regime and impose stringent travel restrictions on them and their supporters. We need a regime change [in Burma].

I supported sanctions against the apartheid regime in South Africa then, and I support sanctions against the military junta in Burma now.

Sanctions will empower Burma's democrats who have already demonstrated their support for freedom by overwhelmingly electing the NLD in the 1990 elections. These polls were never recognized by the SPDC. Instead, the junta has spent the past decade trying to suffocate the aspirations for democracy by all of Burma's people and imprisoning their leader, Suu Kyi.

In addition to the import ban, the act also freezes the assets of the SPDC in the United States and requires the U.S. to oppose and vote against loans or other assistance proposed for Burma by international financial institutions.

It expands the visa ban to former and present SPDC leadership and the Union Solidarity Development Association and requires coordination with the European Union's visa ban list. Let me be clear that the SPDC leadership includes all officer-level individuals associated with the regime.

Finally, the act requires the Secretary of State to promote greater awareness of the abuses of the SPDC, requires the State Department to more proactively promote awareness of U.S. policy toward Burma, and encourages greater support for Burmese democracy activists.

Let me close with a few words and observations about Daw Aung San Suu Kyi. Over the years, the daughter of the father of Burma's independence has stood squarely between the people of Burma and the thuggish regime. Against great odds and often in great danger, Suu Kyi has consistently and successfully stared down SPDC generals and their military might. She has never wavered—not once—in her support for democracy and the rule of law for Burma.

Our thoughts and prayers continue to be with Suu Kyi and the people she so ably represents. She is obviously the greatest hope for that country.

I ask my colleagues: If America does not stand with Suu Kyi and the NLD now, whither freedom and justice in Burma? Without us, it has no chance.

Pressure, patience and persistence will bring political change to Burma. Suu Kyi knows this in her heart and mind, as we all do. America must lead. And if we do, others will rally.

I thank my friend from New Mexico. I yield the floor and ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I commend the distinguished majority whip for his eloquent statement today and compliment him on his persistence with reference to the cause of freedom and democracy in Burma.

Mr. DASCHLE. Mr. President, for 6 days, Aung San Suu Kyi—the courageous voice of democracy and freedom in Burma—has been in jail. Her crime?

Support for reform and democracy in one of the world's most isolated and repressive countries.

One of the world's great democrats is currently being held by a military junta disingenuously named State Peace and Development Council. Late last week, the Junta announced that it had Suu Kyi in ''protective custody.'' The truth, of course, is that she was beaten with a bamboo pole and detained in an ambush that killed four of her supporters. Several observers noted that her arrest is the latest in a vicious and coordinated attack which has claimed 70 of her supporters.

This is evidence of the junta's deplorable disregard for international standards of decency and for the people it rules. It also tells us what we can expect from the junta. A year ago, after Suu Kyi was released from her 15 year long detention, there was a glimmer of hope for reform and democracy in Burma. Rather than re-engaging the world, however, the junta holds fast to its failed policies of the past.

The Special Envoy from the United Nations is scheduled to travel to Burma this weekend as part of a larger effort to promote democracy. Yet with its actions this past week, the SPDC confirms what we had all feared—and what Suu Kyi warned: the military junta in power in Burma cannot and will not take the necessary steps to bring about democracy and freedom. I hope the UN Envoy will make clear his disappointment, indeed the world's disappointment, with these latest developments.

Given the gravity of this situation in Burma, I am pleased to join with Senators FEINSTEIN and MCCONNELL, among others, in introducing legislation that underscores the depth of our concern and the strength of our resolve in ensuring democracy in Burma. The bill would ban imports from Burma, freeze SPDC assets in this country, tighten the visa ban on Burmese officials, and urge specific diplomatic steps to raise the importance of this issue with our friends in the international community.

In the National Security Strategy, President Bush proclaimed that ''our first imperative is to clarify what we stand for: the United States must defend liberty and justice because these principles are right and true for all people everywhere. No nation owns these aspirations, and no nation is exempt from them . . . We will champion the cause of human dignity and oppose those who resist it.'' The SPDC is doing everything it can to rob the Burmese people of liberty, of justice, and of human dignity. It is time for the Senate to make clear just where the United States stands in the face of this injustice.

Mrs. FEINSTEIN. Mr. President, I rise along with my distinguished colleague from Kentucky, Senator MCCONNELL, to introduce the Burmese Freedom and Democracy Act of 2003, which would establish a complete import ban on all products from Burma.

On May 30, Aung San Suu Kyi and at least 17 officials of the National League for Democracy, NLD, were detained after a clash in the town of Yeu, after reportedly being attacked by members of the Union Solidarity Development Association, a paramilitary organization created by the ruling military junta, the State Peace and Development Council, SPDC.

Four people were killed and 50 injured in the attacks. Aung San Suu Kyi has been officially placed in ''protective custody'', but her whereabouts remain unconfirmed.

Still more disturbing are reports in today's Washington Post that Suu Kyi may have suffered a head wound and a broken arm in the attacks and is possibly being held at a military hospital near Rangoon. The military junta continues to insist that she is in good health and in a ''safe place'', yet they are unwilling to allow independent verification of Suu Kyi's condition.

One year ago the military junta freed Suu Kyi following 19 months of house arrest, while promising cooperation and dialogue toward political accommodation. Had I discussed Burma on the floor of the Senate back then, I would have sounded a note of cautious optimism, echoing Aung San Suu Kyi's own statement that ''it's a new dawn for the country''.

But as the events of May 30 have so tragically illustrated, the SPDC have broken every promise to work towards political dialogue and, in fact, have launched a new campaign of repression.

Given the military regime's utter contempt for the welfare and safety of its people and the repeated and ongoing human rights abuses against Aung San Suu Kyi and the members of the NLD, I now feel we have no choice but to strengthen the sanctions imposed in 1997.

The actions of the SPDC are simply outrageous and I join the State Department, the United Nations and the many voices from around the world in demanding that Suu Kyi and the others be released immediately, and to allow the U.N. Special Rapporteur on Human Rights in Burma to conduct an independent investigation into the attack on Aung San Suu Kyi and her party.

Not content to stop with arresting the leadership of the NLD, the regime has tightened its crackdown on the pro-democracy movement, closing universities and shutting down at least six NLD offices. In addition, two NLD leaders have been arrested on charges of ''subversion''.

Let us recall, the NLD overwhelmingly won Burma's national elections in 1990. The NLD are Burma's rightful leaders, not the military junta which seized power in 1988, crushing a widespread popular uprising.

Such actions are only the tip of the iceberg of the regime's brutality. According to the Council on Foreign Relations Task Force report on Burma, which both the Senator from Kentucky, and I had the honor of serving on, gross human rights violations continue under the SPDC: over 1,300 political prisoners are still in jail; the practice of rape as a form of repression has been sanctioned by the Burmese military; the use of forced labor is widespread; trafficking in young boys and girls as sex slaves is rampant; the government engages in the production and distribution of opium and methamphetamine.

In addition, the report notes that because of SPDC mismanagement, the Burmese economy is in shambles, with poor rice harvests and, most recently, a February 2003 financial crisis sparked by government closure of private deposit companies.

In the face of such brutality it is imperative that the United States take strong and decisive action to express our disapproval of the SPDC and its tactics, and our support of those forces working for peace in Burma.

The United States must act. Although in general I do not support the use of trade embargoes as an effective instrument of foreign policy, in certain circumstances and when faced with certain conditions I believe they are necessary and proper and can, in fact, provide effective leverage.

Burma, I believe, is such a case and an import ban is a proper and much needed step to take.

Our legislation: imposes a complete ban on all imports from Burma until the President determines and certifies to Congress that Burma has made substantial and measurable progress on a number of democracy and human rights issues; allows the President to waive the import ban should he determine and notify Congress that it is in the national security interests of the United States to do so; allows the President to waive any provision of the bill found to be in violation of any international obligations of the U.S. pursuant to World Trade Organization dispute settlement procedures; freezes the assets of the Burmese regime in the United States; directs United States executive directors at international financial institutions to vote against loans to the Burma; expands the visa ban against the past and present leadership of the military junta; encourages the Secretary of State to highlight the abysmal record of the SPDC in the international community, and; authorizes the President to use all available resources to assist democracy activists in Burma.

Both business and labor are united in support of a ban. The American Apparel and Footwear Association, which represents apparel, footwear, and sewn products companies and their suppliers, has called for a ban.

President and CEO Kevin M. Burke stated, ''The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its

people. AAFA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well.''

A number of stores, including Saks, Macy's, Bloomingdales, Ames, and The Gap have already voluntarily stopped importing or selling goods from Burma. The AFL–CIO and other labor groups also support a ban.

In addition, the international Labor Organization, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Such diversity in support of this legislation speaks volumes about the brutality of the SPDC regime and its single-minded unwillingness to take even a modest step towards democracy and national reconciliation.

Currently, Burma exports approximately $400 million in goods per year to the United States. These exports are the regime's major source of foreign currency. Rest assured, the regime will take notice if this bill becomes law.

As events of the past few days have shown, all other avenues have been tried and failed. There is no other resource but to introduce this legislation, that would put pressure on the military junta to cease its violations of human rights and respect the free will of the Burmese people as expressed in the 1990 elections.

We must make a stand on the side of the people of Burma. I urge my colleagues to support this bill.

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. 1182

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 ''Burmese Freedom and Democracy Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's ''Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma'' dated March 28, 2003, the SPDC has become ''more confrontational'' in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its ''strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma'' and called upon the United States Government to ''impose an outright ban on U.S. imports'' of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term ''appropriate congressional committees'' means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives that to do so is in the national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

(c) DURATION OF TRADE BAN.—The President may terminate the restrictions contained in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in subsection (a)(3) have been met.

SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

By Mr. KYL (for himself and Mr. WYDEN):

S. 1183. A bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes; to the Committee on Foreign Relations.

Mr. KYL. Mr. President, I ask unanimous consent that the ''Global Internet Freedom Act of 2003'' be printed in today's CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1183

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Global Internet Freedom Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Freedom of speech, freedom of the press, and freedom of association are fundamental characteristics of a free society. The first amendment to the Constitution of the United States guarantees that ''Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.''. These constitutional provisions guarantee the rights of Americans to communicate and associate with one another without restriction, including unfettered communication and association via the Internet. Article 19 of the United Nation's Universal Declaration of Human Rights explicitly guarantees the freedom to ''receive and impart information and ideas through any media and regardless of frontiers''.

(2) All people have the right to communicate freely with others, and to have unrestricted access to news and information, on the Internet.

(3) With nearly 10 percent of the world's population now online, and more gaining access each day, the Internet stands to become the most powerful engine for democratization and the free exchange of ideas ever invented.

(4) Unrestricted access to news and information on the Internet is a check on repressive rule by authoritarian regimes around the world.

(5) The governments of Burma, Cuba, Laos, North Korea, the People's Republic of China, Saudi Arabia, Syria, and Vietnam, among others, are taking active measures to keep their citizens from freely accessing the Internet and obtaining international political, religious, and economic news and information.

(6) Intergovernmental, nongovernmental, and media organizations have reported the widespread and increasing pattern by authoritarian governments to block, jam, and monitor Internet access and content using methods that include—

(A) firewalls, filters, and ''black boxes'';

(B) surveillance of e-mail messages and message boards;

(C) the use of particular words to identify content to be monitored;

(D) ''stealth blocking'' individuals from visiting websites;

(E) the development of ''black lists'' of users that visit certain websites; and

(F) the denial of access to the Internet.

(7) The transmission of the Voice of America and Radio Free Asia, as well as hundreds of news sources with an Internet presence, are routinely being jammed by repressive governments.

(8) Since the 1940s, the United States has deployed anti-jamming technologies to make Voice of America and other United States Government sponsored broadcasting available to people in nations with governments that seek to block news and information.

(9) The United States Government has thus far commenced only modest steps to fund and deploy technologies to defeat Internet censorship. As of January 2003, the Voice of America and Radio Free Asia have committed a total of $1,000,000 for technology to counter Internet jamming by the People's Republic of China. This technology, which has been successful in attracting 100,000 electronic hits per day from the People's Republic of China, has been relied upon by Voice of America and Radio Free Asia to ensure access to their programming by citizens of the People's Republic of China, but United States Government financial support for the technology has lapsed. In most other countries there is no meaningful United States support for Internet freedom.

(10) The success of United States policy in support of freedom of speech, press, and association requires new initiatives to defeat totalitarian and authoritarian controls on news and information over the Internet.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to adopt an effective and robust global Internet freedom policy;

(2) to establish an office within the International Broadcasting Bureau with the sole mission of countering Internet jamming and blocking by repressive regimes;

(3) to expedite the development and deployment of technology to protect Internet freedom around the world;

(4) to authorize the commitment of a substantial portion of United States international broadcasting resources to the continued development and implementation of technologies to counter the jamming of the Internet;

(5) to utilize the expertise of the private sector in the development and implementation of such technologies, so that the many current technologies used commercially for securing business transactions and providing virtual meeting space can be used to promote democracy and freedom; and

(6) to bring to bear the pressure of the free world on repressive governments guilty of Internet censorship and the intimidation and persecution of their citizens who use the Internet.

SEC. 4. DEVELOPMENT AND DEPLOYMENT OF TECHNOLOGIES TO DEFEAT INTERNET JAMMING AND CENSORSHIP.

(a) ESTABLISHMENT OF OFFICE OF GLOBAL INTERNET FREEDOM.—There is established in the International Broadcasting Bureau the Office of Global Internet Freedom (hereinafter in this section referred to as the ''Office''). The Office shall be headed by a Director who shall develop and implement a comprehensive global strategy to combat state-sponsored and state-directed jamming of the Internet and persecution of those who use the Internet.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $30,000,000 for each of the fiscal years 2004 and 2005.

(c) COOPERATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The head of each department and agency of the United States Government shall cooperate fully with, and assist in the implementation of, the strategy developed by the Director of the Office and

shall make such resources and information available to the Director as is necessary for the achievement of the purposes of this Act.

(d) REPORT TO CONGRESS.—

(1) IN GENERAL.—On March 1 following the date of enactment of this Act, and annually thereafter, the Director of the Office shall submit to Congress a report on the status of state interference with Internet use and of efforts by the United States to counter such interference.

(2) CONTENT.—Each report required by paragraph (1) shall—

(A) list the countries that pursue policies of Internet censorship, blocking, and other abuses;

(B) provide information concerning the government agencies or quasi-governmental organizations that implement Internet censorship; and

(C) describe with the greatest particularity practicable the technological means by which such blocking and other abuses are accomplished.

(3) FORMS OF REPORT.—In the discretion of the Director, a report required by paragraph (1) may be submitted in both a classified and a nonclassified form.

(e) LIMITATION ON AUTHORITY.—Nothing in this Act shall be interpreted to authorize any action by the United States to interfere with foreign national censorship in furtherance of legitimate law enforcement aims that is consistent with the United Nation's Universal Declaration of Human Rights.

SEC. 5. SENSE OF CONGRESS.

It is the sense of Congress that the United States should—

(1) publicly, prominently, and consistently denounce governments that restrict, censor, ban, and block access to information on the Internet;

(2) direct the United States Representative to the United Nations to submit a resolution at the first annual meeting of the United Nations Human Rights Commission after the date of enactment of this Act that condemns all governments that practice Internet censorship and deny individuals the freedom to access and share information; and

(3) deploy, at the earliest practicable date, technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.

By Mr. SMITH (for himself, Mrs CLINTON, Mrs. MURRAY, Mr. FITZGERALD, and Mr. LAUTENBERG):

S. 1184. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SMITH. Mr. President, I rise today to introduce the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act of 2003. In this effort, I am joined by my colleagues: Senator CLINTON from New York, Senator MURRAY from Washington, Senator, LAUTENBERG, from New Jersey and Senator DODD from Connecticut. I appreciate their support for this important legislation.

We are motivated by a desire to achieve justice for Holocaust victims and their families, and we recognize that if such justice is to be attained, the United States must continue to lead the world by example.

The United States has provided leadership in this area ever since American troops liberated the death camps in Nazi Germany. This legislation recognizes that the struggle for justice requires continued American leadership and that the Foundation is the appropriate mechanism for that leadership.

The purpose of this act is to create a public/private Foundation dedicated to supporting research and education in the area of Holocaust-era assets and restitution policy and promoting innovative solutions to restitution issues.

The need for the Foundation arises from the findings of the Presidential advisory Commission on Holocaust Assets in the United States. I was proud to serve as commissioner on that Commission. The Commission identified several policy initiatives that require U.S. leadership, including: creating mechanisms to assist claimants in obtaining resolution of claims; supporting databases of victims' claims for the restitution of personal property; reviewing the degree to which other nations have adhered to agreements reached at international conferences on Holocaust issues; synthesizing the work of other national commissions throughout the world; supporting further research and review of Holocaust-era assets; and disseminating information about restitution programs to survivors and their families.

If the nations of the world are to be convinced of our lasting commitment to justice for Holocaust victims and if continued work on Holocaust assets issues is to be truly effective, the Foundation must have the stamp of the Federal Government. But the Federal Government cannot, and should not, perform these tasks by itself. It will coordinate the efforts of the Federal Government, State governments, the private sector and individuals here, and abroad, to help people locate and identify assets who would otherwise have no ability to do so. It will encourage policy makers to deal with contemporary restitution issues, including how best to treat unclaimed assets.

Each passing day reveals the existence of still unclaimed assets. This bill will create an institution able to provide the academic center of research into this area of continuing importance. It will also show that the United States is willing to ask of itself no less than it asks of the international community.

The restitution of property is part of a larger process of obtaining a measure of justice for the victims of Europe's major human disasters of the 20th century—fascism and communism. Justice for these individuals is long overdue. Having had justice delayed for so long, they are entitled to expect that democratic governments will move promptly to bring closure during their lifetimes.

I ask unanimous consent that the text of the Holocaust Victims' assets, Restitution Policy, and Remembrance Act of 2003 be printed in the RECORD.

S. 1184

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 ''Holocaust Victims' Assets, Restitution Policy, and Remembrance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States should continue to lead the international effort to identify, protect, and return looted assets taken by the Nazis and their collaborators from victims of the Holocaust.

(2) The citizens of the United States should understand exactly how the United States Government dealt with the assets looted from victims of the Nazis that came into its possession.

(3) The United States forces in Europe made extraordinary efforts to locate and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust.

(4) However, the restitution policy formulated by the United States and implemented in the countries in Europe occupied by the United States had many inadequacies and fell short of realizing the goal of returning stolen property to the victims.

(5) As a result of these United States policies and their implementation, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted.

(6) The Presidential Advisory Commission on Holocaust Assets in the United States, established in Public Law 105–186, found the following:

(A) Despite the undertaking by United States agencies to preserve, protect, and return looted assets, United States restitution policy could never fully address the unimaginable dimension and complexity of restituting assets to victims of the Holocaust. Many inadequacies reveal that United States authorities were driven by necessity, and practical concerns of restitution commingled with conflicting interests, priorities, and political considerations. Restitution competed with, and was often subordinated to, the desire to bring American troops home, the need to rebuild devastated European economies, and provide humanitarian assistance to millions of displaced persons, and the Cold War.

(B) With respect to many types of assets, the United States followed international legal tradition and undertook only to restore property to national governments, which it assumed would be responsible for satisfying the claims of their citizens. Because this practice excluded those who no longer had a nation to represent their interests, or who had fallen victim to the Nazi genocide, the United States also designated certain ''successor organizations'' to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of surviving victims. This practice led many assets to be too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations, rather than returned to their rightful owners.

(C) Far more regrettable is the United States failure to adequately assist victims, heirs, and successor organizations to identify victims' assets, instead relying upon them to present their own claims, often within unrealistically short deadlines, with the result that much victim property was never recovered.

(D) Even when property was returned to individual owners or their heirs, it was often only after protracted, cumbersome, and expensive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

(E) While the overall record of the United States is one in which its citizens can legitimately take pride, even the most farsighted

and best-intentioned policies intended to restitute stolen property to its country of origin failed to realize the goal of returning property to the victims who suffered the loss.

(F) In many instances, policy and circumstance combined and led to results that can be improved upon now, to provide a modicum of justice to Holocaust victims and their heirs and in memory of those who did not survive.

(7) The United States Government should promote both the review of Holocaust-era assets in Federal, State, and private institutions, and the return of such assets to victims or their heirs.

(8) The best way to achieve this is to create a single institution to serve as a centralized repository for research and information about Holocaust-era assets.

(9) Enhancing these policies will also assist victims of future armed conflicts around the world.

(10) The Government of the United States has worked to address the consequences of the National Socialist era with other governments and nongovernmental organizations, including the Conference on Jewish Material Claims Against Germany, which has worked since 1951 with the Government of the United States and with other governments to accomplish material restitution of the looted assets of Holocaust victims, wherever those assets were identified, and has played a major role in allocating restitution funds and funds contributed by the United States and other donor countries to the Nazi Persecutee Relief Fund.

SEC. 3. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is established a National Foundation for the Study of Holocaust Assets (in this Act referred to as the ''Foundation'').

(b) PURPOSES.—The purposes of the Foundation are—

(1) to serve as a centralized repository for research and information about Holocaust-era assets by—

(A) compiling and publishing a comprehensive report that integrates and supplements where necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust;

(B) working with the Department of State's Special Envoy for Holocaust Issues to review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-era Assets and the Vilnius International Forum on Holocaust-era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so; and

(C) collecting and disseminating information about restitution programs around the world;

(2) to create tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets and to enable claimants to obtain the speedy resolution of their personal property claims by—

(A) ensuring the implementation of the agreements entered into by the Presidential Advisory Commission on Holocaust Assets in the United States with the American Association of Museums and the Association of Art Museum Directors to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica;

(B) funding grants to museums, libraries, universities, and other institutions that hold Holocaust-era cultural property and adhere to the agreements referred to in subparagraph (A), to conduct provenance research;

(C) encouraging the creation and maintenance of mechanisms such as an Internet-based, searchable portal of Holocaust victims' claims for the restitution of personal property;

(D) funding a cross match of records developed by the 50 States of escheated property from the Holocaust era against databases of victims' names and publicizing the results of this effort;

(E) assisting State governments in the preservation and automation of records of unclaimed property that may include Holocaust-era property; and

(F) regularly publishing lists of Holocaust-era artworks returned to claimants by museums in the United States;

(3) to work with private sector institutions to develop and promote common standards and best practices for research and information gathering on Holocaust-era assets by—

(A) promoting and monitoring banks' implementation of the suggested best practices developed by the Presidential Advisory Commission on Holocaust Assets in the United States and the New York Bankers' Association;

(B) promoting the development of common standards and best practices for research by United States corporations into their records concerning whether they conducted business with Nazi Germany in the period preceding the onset of hostilities in December 1941;

(C) encouraging the International Commission on Holocaust Era Insurance Claims (ICHEIC) to prepare a report on the results of its claims process; and

(D) promoting the study and development of policies regarding the treatment of cultural property in circumstances of armed conflict; and

(4) other purposes the Board considers appropriate.

SEC. 4. BOARD OF DIRECTORS.

(a) MEMBERSHIP AND TERMS.—The Foundation shall have a Board of Directors (in this Act referred to as the ''Board''), which shall consist of 17 members, each of whom shall be a United States citizen.

(b) APPOINTMENT.—Members of the Board shall be appointed as follows:

(1) Nine members of the Board shall be representatives of government departments, agencies and establishments, appointed by the President, by and with the advice and consent of the Senate as follows:

(A) One representative each from the Department of State, Department of Justice, Department of the Treasury, Department of the Army, National Archives and Records Administration, and Library of Congress.

(B) One representative each from the United States Holocaust Memorial Council, National Gallery of Art, and National Foundation on the Arts and Humanities.

(2) Eight members of the Board shall be individuals who have a record of demonstrated leadership relating to the Holocaust or in the fields of commerce, culture, or education, appointed by the President, by and with the advice and consent of the Senate, after consideration of the recommendations of the congressional leadership, as follows:

(A) Two members each shall be appointed after consideration of the recommendations of the Majority Leader of the Senate and after consideration of the recommendations of the Minority Leader of the Senate.

(B) Two members each shall be appointed after consideration of the recommendations of the Speaker of the House of Representatives and after consideration of the recommendations of the Minority Leader of the House of Representatives.

(c) CHAIRMAN.—The President shall appoint a Chair from among the members of the Board.

(d) QUORUM AND VOTING.—A majority of the membership of the Board shall constitute a quorum for the transaction of business. Voting shall be by simple majority of those members voting.

(e) MEETINGS AND CONSULTATIONS.—The Board shall meet at the call of the Chairman at least twice a year. Where appropriate, members of the Board shall consult with relevant agencies of the Federal Government, and with the United States Holocaust Memorial Council and Museum.

(f) REIMBURSEMENTS.—Members of the Board shall serve without pay, but shall be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

SEC. 5. OFFICERS AND EMPLOYEES.

(a) EXECUTIVE DIRECTOR.—The Foundation shall have an Executive Director appointed by the Board and such other officers as the Board may appoint. The Executive Director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(b) EMPLOYEES.—Subject to the approval of the Board, the Foundation may employ such individuals at such rates of compensation as the Executive Director determines appropriate.

(c) VOLUNTEERS.—Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

SEC. 6. FUNCTION AND CORPORATE POWERS.

The Foundation—

(1) may conduct business in the United States and abroad;

(2) shall have its principal offices in the District of Columbia or its environs; and

(3) shall have the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom, or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any real or personal property or income therefrom;

(D) to enter into contracts or other arrangements with public agencies, private organizations, and other persons, and to make such payments as may be necessary to carry out its purposes; and

(E) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 7. REPORTING REQUIREMENTS.

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during that fiscal year, including a full and complete statement of its receipts, expenditures, and investments, and a description of all acquisition and disposal of real property.

SEC. 8. ADMINISTRATIVE SERVICES AND SUPPORT.

The Secretary of the Treasury, the Secretary of Education, the Secretary of State, and the heads of any other Federal agencies may provide personnel, facilities, and other administrative services to the Foundation.

SEC. 9. SUNSET PROVISION.

The Foundation shall exist until September 30, 2013, at which time the Foundation's functions and research materials and products shall be transferred to the United States Holocaust Memorial Museum, or to other appropriate entities, as determined by the Board.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Foundation such

sums as may be necessary to carry out this Act.

(b) LIMITATION.—No funds appropriated to carry out this Act may be used to pay attorneys' fees in the pursuit of private claims.

By Mr. THOMAS (for himself, Mr. HARKIN, Mr. DOMENICI, Mr. BINGAMAN, Mr. ROBERTS, Mr. DAYTON, Mr. SMITH, Ms. CANTWELL, Mr. INOUYE, Mr. BURNS, Mr. JOHNSON, Mr. ENZI, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. HAGEL, and Mr. CONRAD):

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Rural Provider Equity Act of 2003'' with Senator HARKIN and other members of the Senate Rural Health Caucus. This legislation comprehensively addresses the Medicare payment issues of rural physicians, rural health clinics, ambulance providers, home health agencies, community health centers, mental health providers and other critical mid-level clinicians.

The current Medicare program has many payment formula disparities that are biased against rural providers, which result in them being paid significantly less than their urban counterparts for the same services. The geographic inequities that exist within the Medicare program continually put rural providers at a disadvantage and adversely affect seniors; access to a quality health care in these communities.

Many physicians are being forced to limit the number of Medicare patients they serve because of poor reimbursement rates. The ''Rural Providers Equity Act'' is necessary to adequately pay physicians to they can continue caring for the elderly. In addition to establishing a work geographic index of 1.0, physicians practicing in federally designated Health Professional Shortage Areas will automatically start receiving the Medicare ten percent bonus payment to which they are entitled.

In recognition of the difficulties rural and frontier communities face in recruiting and retaining primary care clinicians; this legislation includes a provision providing tax exemptions to National Health Service Corps, NHSC, loan-repayments. The NHSC provides scholarships, loan-repayments, and stipends for clinicians who agree to serve in nationally designated underserved urban and rural communities. In the current NHSC loan program, recipients are given money to offset their tax liabilities. If this money was made available, more clinicians would be able to participate in the program and care for the underserved.

Home health care agencies and ambulance services are critical elements of the continuum of care in rural areas. These providers face unique circumstances in the distances they are required to travel to provide services. The current Medicare payment system does not make adequate adjustments to reflect the reality of rural and frontier health care. The ''Rural Provider Equity Act of 2003'' recognizes the situation of these providers by increasing their Medicare payments to better cover their costs of providing services to seniors.

By caring for folks in underserved areas, rural health clinics and community health centers are a key component of the rural health care delivery system. As not every small town can sustain a hospital, we need to ensure these types of facilities are paid adequately and are provided enough flexibility to meet the health care needs of the communities they serve.

The ''Rural Providers Equity Act of 2003'' also permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services where they live.

Rural seniors are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of this provision will more than double the number of mental health providers available to seniors in my state with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the state.

Health care in rural America is at a critical juncture, and Congress must act now so providers receive this down payment towards Medicare equity to ensure rural seniors continue to have access to the health care services they deserve. I urge all my colleagues interested in rural health to cosponsor the ''Rural Provider Equity Act of 2003.''

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. 1185

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Provider Equity Act of 2003''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. Rural physician reimbursement improvements.
Sec. 3. Physician assistant, nurse practitioner, and clinical nurse specialist improvements.
Sec. 4. Rural health clinic improvements.
Sec. 5. Extension of temporary increase for home health services furnished in a rural area.
Sec. 6. Rural community health center improvements.
Sec. 7. Ensuring appropriate coverage of ambulance services under ambulance fee schedule.
Sec. 8. Rural mental health care accessibility improvements.
Sec. 9. Rural health services research improvements.
Sec. 10. Exclusion for loan payments under National Health Service Corps loan repayment program.
Sec. 11. Virtual pharmacist consultation service demonstration projects.

SEC. 2. RURAL PHYSICIAN REIMBURSEMENT IMPROVEMENTS.

(a) MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.—

(1) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) (42 U.S.C. 1395*l*(m)) is amended—

(A) by inserting ''(1)'' after ''(m)''; and

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

''(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).''.

(2) EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.—The Secretary of Health and Human Services shall establish and implement an ongoing educational program to provide education to physicians under the medicare program on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)).

(3) ONGOING STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.—

(A) ONGOING STUDY.—The Secretary of Health and Human Services shall conduct an ongoing study on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)). Such study shall focus on whether such program increases the access of medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians' services under the medicare program.

(B) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(b) PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraphs (B), (C), and (E)''; and

(2) by adding at the end the following new subparagraph:

''(E) FLOOR FOR WORK GEOGRAPHIC INDICES.—

''(i) IN GENERAL.—After calculating the work geographic indices in subparagraph (A)(iii) for a year (beginning with 2004), the Secretary shall increase the work geographic index for the year to the applicable floor index for the year for any locality for which such geographic index is less than such applicable floor index.

''(ii) APPLICABLE FLOOR INDEX.—For purposes of clause (i), the term 'applicable floor index' means—

''(I) 0.900 for services furnished during 2004;

''(II) 1.000 for services furnished during 2005 and subsequent years.''.

SEC. 3. PHYSICIAN ASSISTANT, NURSE PRACTITIONER, AND CLINICAL NURSE SPECIALIST IMPROVEMENTS.

(a) BROADENING MEDICARE BENEFICIARIES ACCESS TO HOME HEALTH SERVICES AND HOSPICE CARE.—Section 1861(r) (42 U.S.C. 1395f(x)) is amended by adding at the end the following new sentences: ''For purposes of sections 1814(a)(2)(C), 1814(a)(7)(B), 1835(a)(2)(A), 1861(m), 1861(dd), and 1895(c)(1), the term 'physician' includes a nurse practitioner, a clinical nurse specialist, and a physician assistant (as such terms are defined in subsection (aa)(5)) who does not have a direct or indirect employment relationship with the home health agency or hospice program (as the case may be), and is legally authorized to perform the services of a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be) in the jurisdiction in which the services are performed. For purposes of the preceding sentence, the provisions of section 1833(a)(1)(O) shall continue to apply with respect to amounts paid for services furnished by such a nurse practitioner, a clinical nurse specialist, and a physician assistant.''.

(b) SKILLED NURSING FACILITIES.—Section 1819(b)(6) (42 U.S.C. 1395i–3(b)(6)) is amended—

(1) in the paragraph heading, by inserting ''OR NURSE PRACTITIONER'' after ''PHYSICIAN''; and

(2) in subparagraph (A), by inserting ''or nurse practitioner, including approving in writing a recommendation that an individual be admitted to a skilled nursing facility, admitting an individual to a skilled nursing facility, and performing the initial admitting assessment and all visits thereafter'' before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 4. RURAL HEALTH CLINIC IMPROVEMENTS.

(a) IMPROVEMENT IN RURAL HEALTH CLINIC REIMBURSEMENT UNDER MEDICARE.—Section 1833(f) (42 U.S.C. 1395*l*(f)) is amended—

(1) in paragraph (1), by striking '', and'' at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by striking ''in a subsequent year'' and inserting ''in 1989 through 2002''; and

(B) by striking the period at the end and inserting a semicolon; and

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

''(3) in 2003, at $82 per visit; and

''(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.''.

(b) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)) is amended—

(A) in clause (i)(II), by striking ''clauses (ii) and (iii)'' and inserting ''clauses (ii), (iii), and (iv)''; and

(B) by adding at the end the following new clause:

''(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

''(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

''(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were not furnished by an individual affiliated with a rural health clinic or a Federally qualified health center.''.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2003.

SEC. 5. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–533), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(1) in the heading, by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL'';

(2) by striking ''April 1, 2003'' and inserting ''April 1, 2004''; and

(3) by inserting before the period at the end the following: ''(or 5 percent in the case of such services furnished on or after April 1, 2003, and before April 1, 2004)''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–553), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

(c) RETROACTIVE APPLICATION.—The amendments made by this section shall apply with respect to home health services furnished in a rural area on or after April 1, 2003.

SEC. 6. RURAL COMMUNITY HEALTH CENTER IMPROVEMENTS.

(a) DELIVERY OF MEDICARE-COVERED PRIMARY AND PREVENTIVE SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.—

(1) COVERAGE OF MEDICARE-COVERED AMBULATORY SERVICES BY FQHCS.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended to read as follows:

''(3) The term 'Federally qualified health center services' means—

''(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and such other services furnished by a Federally qualified health center for which payment may otherwise be made under this title if such services were furnished by a health care provider or health care professional other than a Federally qualified health center; and

''(B) preventive primary health services that a center is required to provide under section 330 of the Public Health Service Act, when furnished to an individual as a patient of a Federally qualified health center and such services when provided by a health care provider or health care professional employed by or under contract with a Federally qualified health center shall be treated as billable visits for purposes of payment to the Federally qualified health center.''.

(2) ENSURING FQHC REIMBURSEMENT UNDER HOSPITAL AND SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEMS.—Section 1862(a)(14) (42 U.S.C. 1395y(a)) is amended by inserting ''Federally qualified health center services,'' after ''qualified psychologist services,''.

(3) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking ''(other than subsection (h))''.

(4) EFFECTIVE DATES.—The amendments made—

(A) by paragraphs (1) and (2) shall apply to services furnished on or after January 1, 2004; and

(B) by paragraph (3) shall take effect on the date of enactment of this Act.

(b) PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.—

(1) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(G) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(2) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The Secretary of Health and Human Services (in this paragraph referred to as the ''Secretary'') shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(G) of the Social Security Act, as added by paragraph (1), for health center entity arrangements to the antikickback penalties.

(ii) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under clause (i):

(I) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(II) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(III) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(B) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under subparagraph (A)(ii). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public

comment, as is consistent with this paragraph.

SEC. 7. ENSURING APPROPRIATE COVERAGE OF AMBULANCE SERVICES UNDER AMBULANCE FEE SCHEDULE.

(a) AIR AMBULANCE SERVICE.—

(1) COVERAGE.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(A) by redesignating paragraph (8), as added by section 221(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–486), as enacted into law by section 1(a)(6) of Public Law 106–554, as paragraph (9); and

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

''(10) ENSURING APPROPRIATE COVERAGE OF AIR AMBULANCE SERVICES.—

''(A) IN GENERAL.—The regulations described in section 1861(s)(7) shall ensure that air ambulance services (as defined in subparagraph (C)) are reimbursed under this subsection at the air ambulance rate if the air ambulance service—

''(i) is medically necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

''(ii) complies with equipment and crew requirements established by the Secretary.

''(B) MEDICALLY NECESSARY.—An air ambulance service shall be considered to be medically necessary for purposes of subparagraph (A)(i) if such service is requested—

''(i) by a physician or a hospital in accordance with the physician's or hospital's responsibilities under section 1867 (commonly known as the 'Emergency Medical Treatment and Active Labor Act');

''(ii) as a result of a protocol established by a State or regional emergency medical service (EMS) agency;

''(iii) by a physician, nurse practitioner, physician assistant, registered nurse, or emergency medical responder who reasonably determines or certifies that the patient's condition is such that the time needed to transport the individual by land or the lack of an appropriate ground ambulance, significantly increases the medical risks for the individual; or

''(iv) by a Federal or State agency to relocate patients following a natural disaster, an act of war, or a terrorist attack.

''(C) AIR AMBULANCE SERVICES DEFINED.—For purposes of this paragraph, the term 'air ambulance service' means fixed wing and rotary wing air ambulance services.''.

(2) CONFORMING AMENDMENT.—Section 1861(s)(7) (42 U.S.C. 1395x(s)(7)) is amended by inserting '', subject to section 1834(l)(10),'' after ''but''.

(b) GROUND AMBULANCE SERVICE.—

(1) PAYMENT RATES.—

(A) IN GENERAL.—Section 1834(l)(3) (42 U.S.C. 1395m(l)(3)) is amended to read as follows:

''(3) PAYMENT RATES.—

''(A) IN GENERAL.—Subject to any adjustment under subparagraph (B) and paragraph (9) and the full payment of a national mileage rate pursuant to paragraph (2)(E), in establishing such fee schedule, the following rules shall apply:

''(i) PAYMENT RATES IN 2003.—

''(I) GROUND AMBULANCE SERVICES.—In the case of ground ambulance services furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services at a rate based on the average costs (as determined by the Secretary on the basis of the most recent and reliable information available) incurred by full cost ambulance suppliers in providing non-emergency basic life support ambulance services covered under this title, with adjustments to the rates for other ground ambulance service levels to be determined based on the rule established under paragraph (1). For the purposes of the preceding sentence, the term 'full cost ambulance supplier' means a supplier for which volunteers or other unpaid staff comprise less than 20 percent of the supplier's total staff and which receives less than 20 percent of space and other capital assets free of charge.

''(II) OTHER AMBULANCE SERVICES.—In the case of ambulance services not described in subclause (I) that are furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services based on the rule established under paragraph (1).

''(ii) PAYMENT RATES IN SUBSEQUENT YEARS FOR ALL AMBULANCE SERVICES.—In the case of any ambulance service furnished under this part in 2004 or any subsequent year, the Secretary shall set the payment rates under the fee schedule for such service at amounts equal to the payment rate under the fee schedule for that service furnished during the previous year, increased by the percentage increase in the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

''(B) ADJUSTMENT IN RURAL RATES.—For years beginning with 2004, the Secretary, after taking into consideration the recommendations contained in the report submitted under section 221(b)(3) the Medicare, Medicaid, and SCHIP Benefits Improvements and Protection Act of 2000, shall adjust the fee schedule payment rates that would otherwise apply under this subsection for ambulance services provided in low density rural areas based on the increased cost (if any) of providing such services in such areas.''.

(B) CONFORMING AMENDMENT.—Section 221(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–487), as enacted into law by section 1(a)(6) of Public Law 106–554, is repealed.

(2) USE OF MEDICAL CONDITIONS FOR CODING AMBULANCE SERVICES.—Section 1834(l)(7) (42 U.S.C. 1395m(l)(7)) is amended to read as follows:

''(7) CODING SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, in accordance with section 1173(c)(1)(B), establish a system or systems for the coding of claims for ambulance services for which payment is made under this subsection, including a code set specifying the medical condition of the individual who is transported and the level of service that is appropriate for the transportation of an individual with that medical condition.

''(B) MEDICAL CONDITIONS.—The code set established under subparagraph (A) shall—

''(i) take into account the list of medical conditions developed in the course of the negotiated rulemaking process conducted under paragraph (1); and

''(ii) notwithstanding any other provision of law, be adopted as a standard code set under section 1173(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 8. RURAL MENTAL HEALTH CARE ACCESSIBILITY IMPROVEMENTS.

(a) INTERDISCIPLINARY GRANT PROGRAM.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

''SEC. 330L. INTERDISCIPLINARY GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) shall award grants to eligible entities to establish interdisciplinary training programs that include significant mental health training in rural areas for certain health care providers.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public university or other educational institution that provides training for mental health care providers or primary health care providers.

''(2) MENTAL HEALTH CARE PROVIDER.—The term 'mental health care provider' means—

''(A) a physician with postgraduate training in a residency program of psychiatry;

''(B) a licensed psychologist (as defined by the Secretary for purposes of section 1861(ii) of such Act (42 U.S.C. 1395x(ii)));

''(C) a clinical social worker (as defined in section 1861(hh)(1) of such Act (42 U.S.C. 1395x(hh)(1)); or

''(D) a clinical nurse specialist (as defined in section 1861(aa)(5)(B) of such Act (42 U.S.C. 1395x(aa)(5)(B))).

''(3) PRIMARY HEALTH CARE PROVIDER.—The term 'primary health care provider' includes family practice, internal medicine, pediatrics, obstetrics and gynecology, geriatrics, and emergency medicine physicians as well as physician assistants and nurse practitioners.

''(4) RURAL AREA.—The term 'rural area' means a rural area as defined in section 1886(d)(2)(D) of the Social Security Act, or such an area in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), or any other geographical area that the Director designates as a rural area.

''(c) DURATION.—Grants awarded under subsection (a) shall be awarded for a period of 5 years.

''(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to administer an interdisciplinary, side-by-side training program for mental health care providers and primary health care providers, that includes providing, under appropriate supervision, health care services to patients in underserved, rural areas without regard to patients' ability to pay for such services.

''(e) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require, including—

''(1) a description of the activities which the eligible entity intends to carry out using amounts provided under the grant;

''(2) a description of the manner in which the activities funded under the grant will meet the mental health care needs of underserved rural populations within the State; and

''(3) a description of the network agreement with partnering facilities.

''(f) EVALUATIONS; REPORT.—Each eligible entity that receives a grant under this section shall submit to the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) an evaluation describing the programs authorized under this section and any other information that the Director deems appropriate. After receiving such evaluations, the Director shall submit to the appropriate committees of Congress a report describing such evaluations.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

(b) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.—

(1) COVERAGE OF SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (U), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (V)(iii), by inserting ''and'' after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

''(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3));''.

(B) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(ww)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(C) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services and mental health counselor services;''.

(D) AMOUNT OF PAYMENT.—Section 1833(a)(1) (42 U.S.C. 1395*l*(a)(1)) is amended—

(i) by striking ''and (U)'' and inserting ''(U)''; and

(ii) by inserting before the semicolon at the end the following: '', and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)''.

(E) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—

(i) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)), as amended by section 4(b)(1)(B), is amended—

(I) in clause (i)(II), by striking ''clauses (ii), (iii), and (iv)'' and inserting ''clauses (ii), (iii), (iv), and (v)''; and

(II) by adding at the end the following new clause:

''(v) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES.—Services described in this clause are marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in section 1861(ww)(3)).''.

(ii) EFFECTIVE DATE.—The amendments made by clause (i) shall apply to services furnished on or after January 1, 2003.

(F) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

''(viii) A mental health counselor (as defined in section 1861(ww)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1)),'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ww)(2)), or by a mental health counselor (as defined in subsection (ww)(4)),''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or a marriage and family therapist (as defined in subsection (ww)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (ww)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services furnished on or after January 1, 2004.

SEC. 9. RURAL HEALTH SERVICES RESEARCH IMPROVEMENTS.

(a) IN GENERAL.—Section 711(b) (42 U.S.C. 912(b)) is amended—

(1) in paragraph (3), by striking ''and'' after the comma at the end;

(2) in paragraph (4), by striking the period at the end and inserting '', and''; and

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

''(5) have the authority to administer grants to support rural health services research.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2004.

SEC. 10. EXCLUSION FOR LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(e) LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.—Gross income shall not include any amount received under section 338B(g) of the Public Health Service Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received by an individual in taxable years beginning after December 31, 2002.

SEC. 11. VIRTUAL PHARMACIST CONSULTATION SERVICE DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means a demonstration project established by the Secretary under subsection (b)(1).

(2) DRUG.—The term ''drug'' means any drug or biological (as those terms are defined in section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)), regardless of whether payment may be made for such drug or biological under the medicare program.

(3) ELIGIBLE BENEFICIARY.—The term ''eligible beneficiary'' means an individual enrolled under part B of the medicare program for whom a drug is being prescribed.

(4) ELIGIBLE ORIGINATING SITE.—The term ''eligible originating site'' means the site at which a health care provider (as defined by the Secretary) is located at the time a drug is prescribed which may be—

(A) the office of a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))) or a practitioner (as described in section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)));

(B) a rural health clinic (as defined in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)));

(C) a hospital (as defined in section 1861(e) of such Act (42 U.S.C. 1395x(e))) located in a rural area (as defined in section 1886(d)(2) of such Act (42 U.S.C. 1395ww(d)(2)));

(D) a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)));

(E) a community mental health center (as described in section 1861(ff)(2)(B) of such Act (42 U.S.C. 1395x(ff)(2)(B))); or

(F) a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act).

(5) ELIGIBLE PHARMACIST.—The term ''eligible pharmacist'' means a pharmacist who meets such requirements as the Secretary may establish for purposes of the demonstration projects and who is a full-time employee of a school of pharmacy.

(6) MEDICARE PROGRAM.—The term ''medicare program'' means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(8) VIRTUAL PHARMACIST CONSULTATION SERVICE.—The term ''virtual pharmacist consultation service'' means professional consultations furnished by an eligible pharmacist and any additional service specified by the Secretary that is furnished by such a pharmacist.

(b) VIRTUAL PHARMACIST CONSULTATION SERVICE DEMONSTRATION PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects in accordance with the provisions of this section to provide virtual pharmacist consultation services with respect to drugs being prescribed to eligible beneficiaries.

(2) PARTICIPATION.—Any eligible pharmacist located at a school of pharmacy may furnish virtual pharmacist consultation services under the demonstration projects and any eligible originating site that does not have a pharmacist on staff may participate in the demonstration projects on a voluntary basis.

(c) PAYMENT FOR VIRTUAL PHARMACIST CONSULTATION SERVICES.—

(1) IN GENERAL.—The Secretary shall pay for virtual pharmacist consultation services that are furnished via a telecommunications system by an eligible pharmacist with respect to a drug that is being prescribed to an eligible beneficiary.

(2) PAYMENT AMOUNT.—

(A) ELIGIBLE PHARMACISTS AT SCHOOLS OF PHARMACY.—The Secretary shall pay an amount determined by the Secretary for purposes of the demonstration projects to an eligible pharmacist who furnishes a virtual pharmacist consultation service while such pharmacist is located at a school of pharmacy that furnishes a virtual pharmacist consultation service with respect to a drug prescribed to an eligible beneficiary.

(B) FACILITY FEE FOR ELIGIBLE ORIGINATING SITE.—If the Secretary determines that it is appropriate, the Secretary may pay the eligible originating site a facility fee determined by the Secretary for purposes of the demonstration projects which may not exceed the facility fee determined under section 1834(m)(2)(B) of the Social Security Act (42 U.S.C. 1395m(m)(2)(B)).

(3) NO BENEFICIARY CHARGES.—An eligible beneficiary may not be charged any amount by an eligible pharmacist, eligible originating site, the Secretary or any other individual or entity for a virtual pharmacist service furnished under a demonstration project.

(d) CONDUCT OF DEMONSTRATION PROJECTS.—

(1) DEMONSTRATION AREAS.—

(A) IN GENERAL.—The Secretary shall conduct demonstration projects in 5 demonstration areas selected on the basis of proposals submitted under subparagraph (B). Such demonstration areas shall be geographically disparate.

(B) PROPOSALS.—The Secretary shall accept proposals to furnish virtual pharmacist consultation services under the demonstration projects from any school of pharmacy that is able to furnish virtual pharmacist services to an underserved rural area.

(2) DURATION.—The Secretary shall complete the demonstration projects by the date that is 3 years after the date on which the first demonstration project is implemented.

(e) REPORT TO CONGRESS.—Not later than the date that is 6 months after the date on which the demonstration projects end, the Secretary shall submit to Congress a report on the demonstration projects together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(f) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the demonstration projects under this section, including such sums as may be necessary to develop, implement, and evaluate such projects.

By Mrs. CLINTON:

S. 1187. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require that ready-to-eat meat or poultry products that are not produced under a scientifically validated program to address Listeria monocytogenes be required to bear a label advising pregnant women and other at-risk consumers of the recommendations of the Department of Agriculture and the Food and Drug Administration regarding consumption of ready-to-eat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. CLINTON. 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. 1187

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 ''At-Risk Consumer Protection Through Food Safety Labeling Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) consumption of food contaminated with microbial pathogens such as bacteria, parasites, viruses, and their toxins causes an estimated 76,000,000 illnesses, 325,000 hospitalizations, and 5,000 deaths each year in the United States;

(2) Government economists estimate that illnesses from Campylobacter, Salmonella, E. coli O157:H7, E. coli non-O157:H7 STEC, Listeria, and Toxoplasma gondii cause $6,900,000,000 in medical costs, lost productivity, and premature death in the United States each year;

(3) in particular, Listeria monocytogenes is the cause of 2,500 illnesses and 500 deaths annually, with economic costs of $2,300,000,000;

(4) people that face relatively higher risks from foodborne illness and associated complications include the very young, the very old, pregnant women, and the immunocompromised, such as persons with AIDS and cancer;

(5) outbreaks of foodborne illness are becoming increasingly widespread in both geographic area and duration, making detection and containment difficult;

(6) in 1998, following a major listeriosis outbreak from deli meats, many ready-to-eat meat and poultry processors established Listeria testing programs, but others have no Listeria testing and control program at all, giving them an unfair advantage in production costs over firms that are taking steps to protect public health;

(7)(A) in 1989, the Secretary of Agriculture established a performance standard allowing zero tolerance for Listeria monocytogenes that prohibits detectable levels of the pathogen in ready-to-eat meat and poultry products; and

(B) a performance standard for Listeria monocytogenes of nondetectable levels in ready-to-eat meat products—

(i) is appropriate to protect at-risk consumers (including pregnant women) (referred to in this section as ''at-risk consumers'') from severe health consequences or death from exposure to Listeria monocytogenes; and

(ii) is necessary to provide an adequate safety margin for at-risk consumers;

(8) in February 2001, the Secretary of Agriculture proposed regulations establishing performance standards for the production of processed meat and poultry products, including requirements for controlling Listeria monocytogenes, but, in the time since the public comment period closed in September 2001, little progress has been made in finalizing the regulation;

(9) in 2002, an outbreak of foodborne listeriosis linked to ready-to-eat turkey deli meat in Pennsylvania, New York, New Jersey, Delaware, Maryland, Connecticut, and Michigan—

(A) sickened 53 persons;

(B) killed 8 persons; and

(C) caused at least 3 pregnant women to suffer miscarriages or stillbirths;

(10) in a March 21, 2003, speech to the North American Meat Processors, Food Safety and Inspection Service Administrator Dr. Gary McKee said the agency's December 2002 directive outlining Listeria testing procedures for agency inspectors is only an interim measure;

(11) to ensure the safety of at-risk consumers, ready-to-eat meat and poultry products not produced under a scientifically validated program to address Listeria monocytogenes should be required to bear a label advising at-risk consumers of the Government's recommendations not to consume ready-to-eat meat and poultry products without heating the products until steaming hot; and

(12) all data generated through scientifically validated programs to address Listeria monocytogenes should be shared with the Department of Agriculture and used to improve scientific research regarding the safety of ready-to-eat foods.

SEC. 3. READY-TO-EAT MEAT PRODUCTS.

(a) IN GENERAL.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

''(g) READY-TO-EAT MEAT PRODUCTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AT-RISK CONSUMER.—The term 'at-risk consumer' includes a pregnant woman.

''(B) READY-TO-EAT MEAT PRODUCT.—The term 'ready-to-eat meat product' means a meat product that has been processed so that the meat product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

''(2) LABELING REQUIREMENT.—Except as provided in paragraph (3) or (4), a ready-to-eat meat product shall bear a label advising consumers that an at-risk consumer—

''(A) should not consume the ready-to-eat meat product unless the ready-to-eat meat product is heated until steaming hot; or

''(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

''(3) EXEMPTIONS FOR PRODUCERS.—On the motion of the Secretary or on petition of a producer of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat meat product or by order applicable to a particular producer of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

''(A) in the case of a ready-to-eat meat product that the Secretary determines presents a low risk to at-risk consumers, the producer—

''(i) has a scientifically validated program (as determined by the Secretary) to control Listeria monocytogenes; and

''(ii) makes all Listeria control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; or

''(B) in the case of any ready-to-eat meat product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat meat product has a scientifically valid program to address Listeria monocytogenes under which the producer—

''(i) tests food-contact surfaces for Listeria monocytogenes—

''(I) at least once every 2 days of production; and

''(II) if a food-contact surface tests positive—

''(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

''(bb) in accordance with such other regimen as the Secretary may specify;

''(ii) tests the plant environment in the ready-to-eat meat processing area for the Listeria species—

''(I) at least once every 2 days of production; and

''(II) if any part of the plant environment in the ready-to-eat meat processing area tests positive—

''(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

''(bb) in accordance with such other regimen as the Secretary may specify;

''(iii)(I) tests final products for Listeria monocytogenes at least 5 times per month to measure the effectiveness of the Listeria control program; and

''(II) if any food-contact surface tests positive, conducts daily testing of the meat product from the line found to be positive until the surface tests negative for 3 days;

''(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; and

''(v) meets any other requirement that the Secretary may specify.

''(4) EXEMPTIONS FOR DISTRIBUTORS.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat meat product or by order applicable to a particular distributor of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

''(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

''(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

''(5) REPORTS BY THE SECRETARY.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

''(6) PERFORMANCE STANDARD.—A performance standard of the Secretary that provides zero tolerance for detectable levels of Listeria monocytogenes in ready-to-eat meats—

''(A) shall not be modified to permit any detectable level of Listeria monocytogenes in any ready-to-eat meat product; and

''(B) shall be based on scientifically validated testing methods for the detection of Listeria monocytogenes, as determined by the Secretary.''.

(b) MISBRANDING.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) in paragraph (11), by striking ''or'' at the end;

(2) in paragraph (12), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(13) if it is a ready-to-eat meat product that is required to bear a label under section 7(g), and it does not bear such a label.''.

SEC. 4. READY-TO-EAT POULTRY PRODUCTS.

(a) IN GENERAL.—Section 8 of the Poultry Products Inspection Act (21 U.S.C. 457) is amended by adding at the end the following:

''(e) READY-TO-EAT POULTRY PRODUCTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AT-RISK CONSUMER.—The term 'at-risk consumer' includes a pregnant woman.

''(B) READY-TO-EAT POULTRY PRODUCT.—The term 'ready-to-eat poultry product' means a poultry product that has been processed so that the poultry product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

''(2) LABELING REQUIREMENT.—Except as provided in paragraph (3) or (4), a ready-to-eat poultry product shall bear a label advising consumers that an at-risk consumer—

''(A) should not consume the ready-to-eat poultry product unless the ready-to-eat poultry product is heated until steaming hot; or

''(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

''(3) EXEMPTIONS FOR PRODUCERS.—On the motion of the Secretary or on petition of a producer of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat poultry product or by order applicable to a particular producer of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

''(A) in the case of a ready-to-eat poultry product that the Secretary determines presents a low risk to at-risk consumers, the producer—

''(i) has a scientifically validated program (as determined by the Secretary) to control Listeria monocytogenes; and

''(ii) makes all Listeria control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; or

''(B) in the case of any ready-to-eat poultry product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat poultry product has a scientifically valid program to address Listeria monocytogenes under which the producer—

''(i) tests food-contact surfaces for Listeria monocytogenes—

''(I) at least once every 2 days of production; and

''(II) if a food-contact surface tests positive—

''(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

''(bb) in accordance with such other regimen as the Secretary may specify;

''(ii) tests the plant environment in the ready-to-eat poultry processing area for the Listeria species—

''(I) at least once every 2 days of production; and

''(II) if any part of the plant environment in the ready-to-eat poultry processing area tests positive—

''(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

''(bb) in accordance with such other regimen as the Secretary may specify;

''(iii)(I) tests final products for Listeria monocytogenes at least 5 times per month to measure the effectiveness of the Listeria control program; and

''(II) if any food-contact surface tests positive, conducts daily testing of the poultry product from the line found to be positive until the surface tests negative for 3 days;

''(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; and

''(v) meets any other requirement that the Secretary may specify.

''(4) EXEMPTIONS FOR DISTRIBUTORS.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat poultry product or by order applicable to a particular distributor of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

''(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

''(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

''(5) REPORTS BY THE SECRETARY.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

''(6) PERFORMANCE STANDARD.—A performance standard of the Secretary that provides zero tolerance for detectable levels of Listeria monocytogenes in ready-to-eat poultry products—

''(A) shall not be modified to permit any detectable level of Listeria monocytogenes in any ready-to-eat poultry product; and

''(B) shall be based on scientifically validated testing methods for the detection of Listeria monocytogenes, as determined by the Secretary.''.

(b) MISBRANDING.—Section 4(h) of the Poultry Products Inspection Act (21 U.S.C. 453(h)) is amended—

(1) in paragraph (11), by striking ''or'' at the end;

(2) in paragraph (12), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(13) if it is a ready-to-eat poultry product that is required to bear a label under section 8(e), and it does not bear such a label.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 159—EXPRESSING THE SENSE OF THE SENATE THAT THE JUNE 2, 2003, RULING OF THE FEDERAL COMMUNICATIONS COMMISSION WEAKENING THE NATION'S MEDIA OWNERSHIP RULES IS NOT IN THE PUBLIC INTEREST AND SHOULD BE RESCINDED

Mr. PRYOR (for himself, Mr. KENNEDY, Mr. EDWARDS, Mrs. LINCOLN, Mr. GRAHAM of Florida, Mr. REED, Mr. BINGAMAN, Mr. LEAHY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. DURBIN, Mr. BAUCUS, Mr. CARPER, and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 159

Whereas the Federal Communications Commission moved with unreasonable haste in considering the issue of media concentration and did not previously disclose the proposed ownership rule the Commission implemented in its June 2, 2003, ruling on media ownership rules;

Whereas the Commission did not provide an opportunity for the public to review, debate, and comment on the proposed changes prior to the ruling;

Whereas it would have been appropriate for the Commission to include such public review, debate, and comment on the specific provisions of its proposal prior to issuing a ruling with such broad implications;

Whereas there is no indication that the Commission has adequately addressed the impact of the proposed ownership rule changes on industry market share and consumer prices;

Whereas greater media concentration could threaten the diversity of and extent of local content in broadcast programming and news, and has the potential to inhibit or remove local control over such programming;

Whereas, despite the rapid growth of vital Spanish-language media outlets in the past several years, there is no indication that the Commission considered treating Spanish-language media separately for purposes of its broadcast media ownership restrictions, thereby failing to extend to Spanish speakers the same protections afforded members of the English-speaking broadcast community; and

Whereas it is in the public interest to maintain local control and promote diversity in television programming, which the previous ownership rules had been designed to ensure: Now, therefore, be it

Resolved, That it is the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

Mr. PRYOR. Mr. President, lying on the desk before us is a resolution relating to the Federal Communications Commission's June 2, 2003, ruling weakening the Nation's media ownership rules. I say very emphatically that those rules are not in the public interest and should be rescinded. I have laid that on the desk for my colleagues. I encourage all Members to get a copy of that and read it. I respectfully request that if anyone wants to be a cosponsor, I would love to have them cosponsor that today.

As we all know, 2 days ago, the Federal Communications Commission by a vote of 3 to 2 rolled back longstanding rules governing media ownership. This ruling eases the ban on cross-ownership of newspapers, television stations, and radio stations, and allows media corporations to own more outlets locally and nationwide.

The new rules have the potential of placing significant control over what the public sees and hears and reads in the hands of a small number of media conglomerates. Ultimately, having a few entities control a vast percentage of the American media market will stifle the diversity of ideas, viewpoints, and opinions.

It reminds me a little bit of Henry Ford who at one point told his customers that could order any color they wanted as long as it was black. I feel the same way—that we may be getting to that point with regard to our media; that we can see and read and hear anything we want as long as it comes through them.

The diversity of viewpoints is critical to our democracy. It is one of the foundations of American society and the American system of government. One thing we believe very strongly in America is the marketplace of ideas—a free and open and robust marketplace of ideas where people can exchange ideas and concepts freely and openly and not have that go through a national corporate conglomeration.

I am very confident that this proposed rule change sets the stage for homegeniztion—not diversification but homogenization. That is not a good thing for this country. It is not a good thing for our system.

Supporters of the FCC ruling say that the large media mergers do not stifle diversity. What they say is you can turn on cable right now and you get dozens—maybe hundreds—of channels in some systems, or you can turn on a radio station. But let me say this. Is it really diversity when the ideologies, the principles, and the viewpoints are being presented through the myopic lens of a singular, cookie-cutter point of view? I am concerned that is where we are getting to today with this ruling that will rush us headlong into this calamity.

I think if the majority of Americans look at this issue they would understand that it does; that this ruling does not promote diversity but, in fact, limits it.

There is a broad array of special interest groups, of consumer advocates, of civil rights and religious groups, small business, whatever—a broad array of interests—that are opposed. They are opposed to this ruling for very sound reasons. That is why I rise today to offer this resolution.

I also wish to take this moment to publicly support the efforts of Senator TED STEVENS and Senator FRITZ HOLLINGS because they are taking the lead in trying to codify the 35-percent ownership cap. I am not only supportive of their legislation but I am also a cosponsor.

This resolution is in no way competition to that but, in my view, this resolution is a logical extension of their efforts. It is unfortunate that we have to come here today to consider resolutions and legislation on this issue. The frustrations and the hostility out there in the public domain about this ruling and about corporate ownership of media outlets has been exacerbated by the FCC's inability to communicate to the public in rational terms and explain why this proposal is a good idea.

In spite of 2 years of study, we need more time to study this. So far, the advocates of this position have made a very unconvincing case.

One thing we need to understand in this country is that there is a fundamental difference in owning and operating a newspaper and in owning and operating regular television stations. Anyone today, if they chose to, could start a newspaper. All you really need in today's world is the ability to do some desk-top publishing and get out there and have a way to distribute your publication. But to have a radio station or a television station requires a license from the Government. That license is a sacred trust. It is a trust that they are going to have broadcasts in the community interest. They are going to have the programming that the community wants. They are going to play a vital role in our system when it comes to news and information and getting information out to the public which is important for them to have.

One example of the FCC's shortcoming on this issue is the fact that the FCC has made no case for examining the Spanish language media as a separate market. I think everybody in this room understands it is a separate market. But because they have not seen it as a separate market, they look at mergers and acquisitions and their analysis is skewed in favor of the merger and the acquisition.

Thank you, Mr. President and other Members of the Senate, for the indulgence and this time.

I would like to remind everyone that this is out here for everyone to look at. I would very much appreciate as many cosponsors as we could have. I think it is important that the Senate send a very clear message on this topic.

SENATE CONCURRENT RESOLUTION 48—SUPPORTING THE GOALS AND IDEALS OF ''NATIONAL EPILEPSY AWARENESS MONTH'' AND URGING FUNDING FOR EPILEPSY RESEARCH AND SERVICE PROGRAMS

Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. CRAIG, Ms. LANDRIEU, Ms. CANTWELL, and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 48

Whereas epilepsy is a neurological condition that causes seizures and affects 2,300,000 people in the United States;

Whereas a seizure is a disturbance in the electrical activity of the brain, and 1 in every 12 Americans will suffer at least 1 seizure;

Whereas 180,000 new cases of seizures and epilepsy are diagnosed each year, and 3 percent of Americans will develop epilepsy by the time they are 75;

Whereas 41 percent of people who currently have epilepsy experience persistent seizures despite the treatment they are receiving;

Whereas a survey conducted by the Centers for Disease Control and Prevention demonstrated that the hardships imposed by epilepsy are comparable to those imposed by cancer, diabetes, and arthritis;

Whereas epilepsy in older children and adults remains a formidable barrier to leading a normal life by affecting education, employment, marriage, childbearing, and personal fulfillment;

Whereas uncontrollable seizures in a child can create multiple problems affecting the child's development, education, socialization, and daily life activities;

Whereas the social stigma surrounding epilepsy continues to fuel discrimination, and isolates people who suffer from seizure disorders from mainstream life;

Whereas in spite of these formidable obstacles, people with epilepsy can live healthy and productive lives and make significant contributions to society;

Whereas November is an appropriate month to designate as ''National Epilepsy Awareness Month'';

Whereas the designation of a ''National Epilepsy Awareness Month'' would help to focus attention on, and increase understanding of, epilepsy and those people who suffer from it: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of a ''National Epilepsy Awareness Month'';

(2) requests the President to issue a proclamation declaring an annual ''National Epilepsy Awareness Month'';

(3) calls upon the American people to observe ''National Epilepsy Awareness Month'' with appropriate programs and activities;

(4) urges an increase in funding for epilepsy research programs at the National Institutes of Health and at the Centers for Disease Control and Prevention; and

(5) urges that initial funding be provided to the Health Resources and Services Administration of the Department of Health and Human Services to create demonstration projects to serve people with epilepsy who may lack access to adequate medical care for the treatment of such disease.

SENATE CONCURRENT RESOLUTION 49—DESIGNATING THE WEEK OF JUNE 9, 2003, AS NATIONAL OCEANS WEEK AND URGING THE PRESIDENT TO ISSUE A PROCLAMATION CALLING UPON THE PEOPLE OF THE UNITED STATES TO OBSERVE THIS WEEK WITH APPROPRIATE RECOGNITION, PROGRAMS, CEREMONIES, AND ACTIVITIES TO FURTHER OCEAN LITERACY, EDUCATION, AND EXPLORATION

Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. WYDEN, Mr. COCHRAN, Mr. CARPER, Mr. INOUYE, Mr. BREAUX, Mr. SUNUNU, Mrs. BOXER, Mr. AKAKA, Mr. REED, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 49

Whereas 95 percent of the deep ocean is unexplored and unknown, and the ocean is truly the last frontier on Earth for science and civilization;

Whereas the ocean comprises nearly three quarters of the Earth's surface and sustains 80 percent of all life on Earth, including a large part of the Earth's biodiversity;

Whereas the oceans play a critical role in the global water cycle, carbon cycle and in regulating climate; and over 90 percent of the oxygen in the Earth's atmosphere, essential to life on Earth, comes from the world's oceans and rivers;

Whereas the oceans are an important source of food, provide a wealth of other natural products, and the oceans and sea floor contain vast energy and mineral resources that are critical to the economy of the United States and the world;

Whereas the United States has more than 95,000 miles of coastline and more than 50 percent of the population of the United States lives within 50 miles of the ocean or the Great Lakes;

Whereas coastal areas are regions of remarkably high biological productivity, are of considerable importance for a variety of recreational and commercial activities, and provide a vital means of transportation;

Whereas ocean resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends;

Whereas the rich biodiversity of marine organisms provides society with an essential biomedical resource, a promising source of novel compounds with therapeutic potential, and a potentially important contribution to the national economy;

Whereas there exists significant promise for the development of new ocean technologies for stewardship of ocean resources that will contribute to the economy through business and manufacturing innovations and the creation of new jobs;

Whereas the President's Panel on Ocean Exploration recommended to the White House and to the Congress in its Year 2000 final report, ''Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration,'' a 10-year program to launch the first national plan for ocean exploration;

Whereas the Oceans Act of 2000 passed by the United States Congress authorized the establishment of the U.S. Commission on Ocean Policy and directed it to conduct a comprehensive review of present and future ocean programs and activities and provide comprehensive ocean policy recommendations to the Congress and the President by 2003; and

Whereas our oceans are vital to our national security and our national economy, and with America's greatest era of ocean exploration and discovery still ahead: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That it is the sense of the Congress that—

(1) the ocean is of paramount importance to the economic future, environmental quality, and national security of the United States;

(2) the United States has a responsibility to exercise and promote comprehensive stewardship and understanding of the ocean and the living marine resources it contains; and

(3) the week of June 9, 2003, be designated as National Oceans Week and urges the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate recognition, programs, ceremonies, and activities to further ocean literacy, education, and exploration.

Ms. SNOWE. Mr. President, I am pleased to rise today to submit a Senate Concurrent Resolution designating the week of June 9, 2003 as National Oceans Week.

As a Nation with more than 95,000 miles of coastline, the United States is highly dependent on the resources and services of the oceans that affect many important aspects of our lives, often in ways we do not fully realize. As Chair of the Commerce Committee's Subcommittee on Oceans, Fisheries, and Coast Guard, I believe it is important for us to recognize the many benefits that the oceans provide, and I am happy that 19 other Senators are joining me in sponsoring this Senate Concurrent Resolution that formally recognizes the ocean's many benefits.

Our oceans are capable of significant biological productivity that produces food, which provides nourishment for citizens across the globe and sustains fishery dependent communities. Oceans regulate global climate and the cycling of oxygen, carbon, and water in our atmosphere, and oceans provide a vital means of transporting goods between countries and thereby support the global economy. In addition to these biological, physical, and economic benefits, the oceans remain a largely unexplored domain that can enrich our lives in countless other ways. For all these reasons and more, I believe it is important to recognize the many ways we rely upon the oceans.

The capacity of the oceans to supply these resources and services, however, is finite. Much of our nation's attention is currently focused on several recent reports that point to the destructive nature of foreign overfishing, the negative impacts of harmful algal blooms and oil spills, and the coastal habitat loss associated with uncoordinated development activities. Collectively, these and other human impacts can significantly affect how oceans function. We need to be constantly looking for ways to minimize these impacts and help sustain the oceans' productive capacity, which in turn will provide us with the resources that enhance the quality of our lives.

Given the extent to which the United States depends on and uses the oceans, it is incumbent upon us to take a leadership role in ocean science and conservation. We must recognize this responsibility and continue to seek ways to promote comprehensive stewardship and understanding of the ocean and the resources it contains. For this and other reasons, I co-sponsored Senator HOLLINGS' legislation establishing the U.S. Commission on Ocean Policy in 2000, and I look forward to reviewing its recommendations later this year.

The Resolution we are submitting today urges the President to issue a proclamation calling upon the people of the United States to observe the week of June 9, 2003, with appropriate recognition, programs, and activities to further ocean literacy, education, and exploration. During this week on Capitol Hill, I am pleased to be an Honorary Co-host of Capitol Hill Oceans Week, a series of events and discussions designed to facilitate awareness of the oceans within the Congress. As a country, we should use this week to further expand our awareness of the oceans and engage in discussions and activities that will help ocean resource conservation.

I would like to thank my fellow Senators who are joining me in this effort to establish National Oceans Week, and I hope that this week will help contribute to a better awareness of and appreciation for the oceans. It is through such efforts that ocean stewardship can expand and take hold as an important national ethic.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, I am proud to cosponsor this resolution with Senators SNOWE, HOLLINGS, and MCCAIN. In 1998 we recognized the International Year of the Oceans, and it is time we underscore the importance of oceans in our daily lives through an annual celebration of National Oceans Week. The global oceans need our attention now more than ever. Today, we are faced with the challenge of sustainably managing our interactions with the marine environment, in the face of increasing pressures from population growth and a global economy. While we have been making significant progress in this arena, there are constant reminders that we have not yet achieved our goal of supporting ocean-related industries while maintaining high ecological standards.

The recent oil spill of the Bouchard barge in Buzzard's Bay, MA, vividly demonstrates that we must be ever vigilant in striving for the balance between ecological protection and economic growth—as well as the need to balance competing economic interests—in this case, an important local seafood industry with our need for energy. Although we have seen a marked improvement in the safe marine transport of oil since the passage of the Oil Pollution Act in 1990, all possible care must be taken to ensure that we have a system in place that adequately protects our marine environment.

Marine fisheries are also a vitally important component of our coastal economies and culture, especially in the Bay State. We are making progress in restoring our overfished stocks to sustainable levels, and we are committed to staying the course to reduce mortality, improve water quality and restore habitat. But we must press forward to ensure all nations are pulling their weight in providing sustainable fisheries management. Recent reports show international fleets have had a dramatic impact that appears to go largely unchecked. Living marine resources, particularly highly migratory species like tuna and swordfish, know no boundaries, and we cannot tolerate lawlessness by any nation in the management of these stocks.

The Marine Mammal Protection Act has proved to be a very successful conservation tool, bringing numerous species back from the brink of extinction. However, there is still much more to be done. I am particularly familiar with the example of the North Atlantic right whales, one of the most endangered species of marine mammals in the world, with a population of approximately 300 individuals. Unfortunately, our local New England waters are often the areas where these endangered whales literally collide with the fishing industry and the marine transportation industry. The plight of the right whales highlights the importance of working with a wide variety of interests to find solutions that will make a difference.

Congress has already asked a panel of experts to develop a plan of action for our oceans in the Oceans Act of 2000. This federal mandated U.S. Commission on Ocean Policy will help us understand what steps are needed to advance our knowledge and improve our management of the marine environment. Later this year, the Commission will make recommendations on how we can improve our ocean governance, investment and implementation, research, education and marine operations, and stewardship. Despite these great efforts, there is much more to do. Increased public attention to our Nation's ocean issues is essential if we are to make further headway. This is why, today, I am honored to join Senator SNOWE in introducing this resolution to declare the week of June 9, 2003, as National Oceans Week.●

AMENDMENTS SUBMITTED & PROPOSED

SA 847. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 848. Mr. REID (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, supra.

SA 849. Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, supra.

SA 850. Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 851. Mr. BINGAMAN (for himself, Mr. SUNUNU, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

SA 852. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 853. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

TEXT OF AMENDMENTS

SA 847. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. REID, Mr. BINGAMAN, Mr. DURBIN, Ms. CANTWELL, Mr. LEAHY, Mr. SCHUMER, Mr. CORNYN, Mr. INHOFE, Mrs. CLINTON, Mr. KERRY, Mrs. BOXER, Mr. CORZINE, Mr. SUNUNU, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

Subtitle F—Naturalization and Family Protection for Military Members

SEC. 661. SHORT TITLE.

This subtitle may be cited as the ''Naturalization and Family Protection for Military Members Act of 2003''.

SEC. 662. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''three years'' and inserting ''2 years''.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking ''honorable. The'' and inserting ''honorable (the''; and

(ii) by striking ''discharge.'' and inserting ''discharge); and''; and

(B) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''; and

(2) in section 329(b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

SEC. 663. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting ''as a member of the Selected Reserve of the Ready Reserve or'' after ''has served honorably''.

SEC. 664. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) PARENTS.—

(A) IN GENERAL.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) EXCEPTION.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(c) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) TREATMENT AS IMMEDIATE RELATIVES.—

(A) IN GENERAL.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) PETITIONS.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) SELF-PETITIONS.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(d) PARENTS OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) SELF-PETITIONS.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) ADJUSTMENT OF STATUS.—Notwithstanding subsections (a) and (c) of section 245

of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.

(f) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this section, the ground for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply, and notwithstanding any other provision of law, the Secretary of Homeland Security may waive paragraph (6)(A), (7), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) with respect to such an alien if the alien establishes exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.

(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (e); and

(2) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting '', child, or parent'' after ''surviving spouse'';

(2) by inserting '', parent, or child'' after ''whose citizen spouse''; and

(3) by striking ''who was living'' and inserting ''who, in the case of a surviving spouse, was living''.

SEC. 665. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect as if enacted on September 11, 2001.

SA 848. Mr. REID (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. INHOFE, Mr. NELSON of Florida, Mr. JEFFORDS, Ms. COLLINS, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. GRAHAM of South Carolina, Mr. KERRY, and Mr. HAGEL) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VI, add the following:

SEC. ___. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

''§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(e) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date applicable under subsection (d).

SA 849. Mr. DORGAN (for himself, Mr. LOTT, Mr. DURBIN, Mrs. BOXER, Ms. SNOWE, Mr. BINGAMAN, and Ms. MURKOWSKI) proposed an amendment to the bill H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

SEC. ___. REPEAL OF AUTHORITIES AND REQUIREMENTS ON BASE CLOSURE ROUND IN 2005.

(a) REPEAL.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking sections 2906A, 2912, 2913, and 2914.

(b) CONFORMING AMENDMENT.—Section 2904(a)(3) of that Act is amended by striking ''in the 2005 report'' and inserting ''in a report submitted after 2001''.

SA 850. Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of title V, add the following:

Subtitle ___—General Provisions Relating to Renewable Fuels

SEC. 5__1. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes—

''(I) cellulosic biomass ethanol; and

''(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) REGULATIONS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

''(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

''(I) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

''(II) shall not—

''(aa) restrict cases in geographic areas in which renewable fuel may be used; or

''(bb) impose any per-gallon obligation for the use of renewable fuel.

''(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

"Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5,000,000,000 gallons of renewable fuel; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refiners, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

''(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

''(ii) for the generation of an appropriate amount of credits for biodiesel; and

''(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

''(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

''(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

''(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

''(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The 2 periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

''(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

''(i) supplies and prices;

''(ii) blendstock supplies; and

''(iii) supply and distribution system capabilities.

''(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

''(D) WAIVER.—

''(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

''(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

''(9) SMALL REFINERIES.—

''(A) TEMPORARY EXEMPTION.—

''(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

''(ii) EXTENSION OF EXEMPTION.—

''(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

''(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

''(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

''(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

''(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

''(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

''(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2004, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

''(p) RENEWABLE FUEL SAFE HARBOR.—

''(1) IN GENERAL.—

''(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

''(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

''(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

''(B) SAFE HARBOR NOT APPLICABLE.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

''(2) EXCEPTION.—This subsection does not apply to ethers.

''(3) APPLICABILITY.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n), or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

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

''(5) EXCLUSION FROM ETHANOL WAIVER.—

''(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

''(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

''(C) EFFECTIVE DATE.—

''(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

''(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

''(II) 1 year after the date of receipt of the notification.

''(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

''(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

''(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 5_2. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

''SEC. 212. RENEWABLE FUEL.

''(a) DEFINITIONS.—In this section:

''(1) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

''(2) RFG STATE.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(b) SURVEY OF RENEWABLE FUEL MARKET.—

''(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

''(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

''(i) conventional gasoline containing ethanol;

''(ii) reformulated gasoline containing ethanol;

''(iii) conventional gasoline containing renewable fuel; and

''(iv) reformulated gasoline containing renewable fuel; and

''(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

''(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

''(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

''(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

''(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

''(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

''(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

''(B) the prospective earning power of the applicant and the character and value of the

security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

''(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

''(4) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

''(A) meet all applicable Federal and State permitting requirements;

''(B) are most likely to be successful; and

''(C) are located in local markets that have the greatest need for the facility because of—

''(i) the limited availability of land for waste disposal; or

''(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

''(5) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

''(6) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

''(7) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

''(8) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

''(9) FULL FAITH AND CREDIT.—

''(A) IN GENERAL.—The full faith and credit the United States is pledged to the payment of all guarantees made under this subsection.

''(B) CONCLUSIVE EVIDENCE.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

''(C) VALIDITY.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

''(10) REPORTS.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

''(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

''(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

''(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, $4,000,000 for each of fiscal years 2004 through 2006.

''(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

''(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2004 through 2008.

''(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE—

''(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

''(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

''(A) is located in the United States; and

''(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

''(A) $100,000,000 for fiscal year 2004;

''(B) $250,000,000 for fiscal year 2005; and

''(C) $400,000000 for fiscal year 2006.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

''212. Renewable fuels.''.

SEC. 5_3. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

''(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

''(A) the quantity of renewable fuels produced;

''(B) the cost of production;

''(C) the cost of blending and marketing;

''(D) the quantity of renewable fuels blended;

''(E) the quantity of renewable fuels imported; and

''(F) market price data.''.

Subtitle ___—Federal Reformulated Fuels

SEC. 5_1. SHORT TITLE.

This subtitle may be cited as the ''Federal Reformulated Fuels Act of 2003''.

SEC. 5_2. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by inserting ''and section 9010'' before ''if''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

''(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

''(1) by a State (pursuant to section 9003(h)(7)) acting under—

''(A) a program approved under section 9004; or

''(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

''(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

''SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

''In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

''(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended; and

''(2) to carry out section 9010—

''(A) $50,000,000 for fiscal year 2003; and

''(B) $30,000,000 for each of fiscal years 2004 through 2008.''.

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Release prevention and compliance.

''Sec. 9011. Authorization of appropriations.''.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in

the second sentence by striking ''referred to'' and all that follows and inserting ''referred to in subparagraph (A) or (B), or both, of section 9001(2).''.

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

SEC. 5_3. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as ''MTBE'') has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled ''Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline'' and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting ''fuel or fuel additive or'' after ''Administrator any''; and

(B) by striking ''air pollution which'' and inserting ''air pollution, or water pollution, that'';

(2) in paragraph (4)(B), by inserting ''or water quality protection,'' after ''emission control,''; and

(3) by adding at the end the following:

''(5) RESTRICTIONS ON USE OF MTBE.—

''(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

''(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

''(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

''(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

''(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

''(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—

''(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

''(i) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

''(ii) any other fuel additive that meets the criteria specified in subparagraph (B).

''(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

''(i) use of the fuel additive is consistent with this subsection;

''(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

''(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

''(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

''(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

''(I) beginning on the date of enactment of this paragraph; and

''(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

''(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2004 through 2007.''.

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 5_4. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000

(as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

''(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

''(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

''(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.''

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 5_5. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether;

''(II) tertiary amyl methyl ether;

''(III) di-isopropyl ether;

''(IV) tertiary butyl alcohol;

''(V) other ethers and heavy alcohols, as determined by then Administrator;

''(VI) ethanol;

''(VII) iso-octane; and

''(VIII) alkylates; and

''(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

''(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

''(i) the national energy laboratories; and

''(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

SEC. 5_6. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 5_1(a)) is amended by inserting after subsection (p) the following:

''(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.''.

SEC. 5_7. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) OZONE TRANSPORT REGION.—

''(i) APPLICATION OF PROHIBITION.—

''(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

''(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

''(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

''(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

''(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

''(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

''(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

''(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 5_8. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking ''(C) A State'' and inserting the following:

''(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

''(i) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.''.

SEC. 5_9. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

SA 851. Mr. BINGAMAN (for himself, Mr. SUNUNU, and Mrs. FEINSTEIN) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 18, after line 15, insert the following:

''(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

''(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

''(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

''(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

''(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.''.

SA 852. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

Subtitle I—Miscellaneous

SEC. 1195. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking ''12/31/2006'' and inserting ''12/31/2012''.

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2012''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2003.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2003; and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry, shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SA 853. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 4, strike lines 6 through 15 and insert the following:

''(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 12, 2003 in SR–328A at 10:00 a.m. The purpose of this hearing is to discuss the United States Department of Agriculture's (USDA) implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled ''Patient Safety: Instilling Hospitals with a Culture of Continuous Improvement.'' The Subcommittee intends to examine the progress made and obstacles that remain in the health care industry in terms of patient safety through better management, reducing costs and increasing quality.

The hearing will take place on Wednesday, June 11, 2003, at 9 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Joseph V. Kennedy of the Subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEES ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. on FCC Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 4, 2003 at 9:30 a.m. on hold a hearing on Iraq Stabilization and Reconstruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 4, 2003, at 9:30 a.m. for a hearing entitled ''Transforming the Department of Defense Personnel System: Finding the Right Approach.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Proposals to Amend the Indian Reservation Roads Program—S. 281, the Indian Tribal Surface Transportation Improvement Act of 2003, and S. 725, the Tribal Transportation Program Improvement Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 4, 2003 at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Impacts on Tribal Fish and Wildlife Management Programs in the Pacific Northwest.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Solving the Asbestos Litigation Crisis: S. 1125, the Fairness in Asbestos Injury Resolution Act of 2003'' on Wednesday, June 4, 2003, at 10 a.m., in the Hart Senate Office Building Room 216.

Witness List: Professor Laurence H. Tribe, Ralph S. Tyler, Professor of Constitutional Law, Harvard Law School, Cambridge, MA; Jennifer L. Biggs, Tillinghast-Towers Perrin, St. Louis, MO; Dr. Mark A. Peterson, Legal Analysis Systems, Thousands Oaks, CA; Fred Dunbar, Senior Vice President, National Economic Research Associates, New York, NY; Professor Eric D. Green, Boston University School of Law, Boston, MA; Robert Harwick, Chief Economist, Insurance Information Institute, New York, NY; Dr. James D. Crapo, M.D., Department of S/M Pulmonary Sciences/Critical Care Medicine, National Jewish Medical Research Center, Denver, CO; Dr. Laura Stewart Welsh, M.D., Medical Director, Center to Protect Workers Rights, Silver Spring, MD; and Dr. John E. (Jack) Parker, M.D., Department of Medicine, University of West Virginia, Morgantown, WV.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. WARNER. 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 hearing entitled ''SBA Reauthorization: Programming for Success'' and other matters on Wednesday, June 4, 2003, beginning at 2 p.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, June 4 at 10 a.m. to receive testimony regarding S. 391, the Wild Sky Wilderness Act of 2003; S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; H.R. 417, to revoke a public land order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; and S. 924—to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Ms. STABENOW. Mr. President, I ask unanimous consent that Oliver Kim, a fellow in my office, be granted floor privileges today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask unanimous consent that my detailee, James Flood, be granted the privilege of the floor during the duration of debate on S. 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 5, 2003

Mr. DOMENICI. On behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, June 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 10 a.m., with the time under the control of Senator DOLE, provided that at 10 a.m., the Senate resume consideration of S. 14, the Energy bill, and Senator BOXER be recognized as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOMENICI. For the information of all Senators, tomorrow morning Senator DOLE will deliver her maiden speech. When the Senate resumes the Energy bill, Senator BOXER will offer the first of two ethanol amendments. The votes in relation to these amendments, as well as the pending Schumer amendment, will be stacked to occur later in the day. It is hoped that Senators who have additional amendments on any part of this bill would make themselves available to offer those amendments so that further progress can be made on this important legislation.

I would also add, it is hoped we can reach an agreement so that all of the amendments must be filed at the desk by a time certain. We will continue to work toward that agreement.

Having said that, votes will occur tomorrow on amendments to the Energy bill with the hope of making substantial progress.

If there is no further business to come before the Senate——

Mr. REID. If I can interrupt my friend, I ask the Senate adjourn following the appearance of the Senator from Arkansas, Mr. PRYOR, to make a unanimous consent request. Following that, the Senate would adjourn under the previous order.

Mr. DOMENICI. I have no objection.

I repeat to the Senators, we are going to make every effort. The distinguished Senators, Mr. BINGAMAN and Mr. REID, and myself and the distinguished majority leader, we are going to do everything we can to try to get a list of amendments and a date certain for first-degree amendments with reference to this bill.

Having said that, votes are going to occur tomorrow on amendments to the Energy bill with the hope of making substantial progress.

ORDER FOR ADJOURNMENT

Mr. DOMENICI. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator PRYOR as heretofore agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. 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. PRYOR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST

Mr. PRYOR. Mr. President, I ask unanimous consent that the resolution I have at the desk be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. In my capacity as a Senator from Tennessee, on behalf of other Senators, I object.

Mr. PRYOR. Thank you, Mr. President.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:20 p.m., adjourned until Thursday, June 5, 2003, at 9:30 a.m.

EXTENSIONS OF REMARKS

CONGRATULATING SAMMY SOSA OF CHICAGO CUBS FOR HITTING 500 MAJOR LEAGUE HOME RUNS

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 2, 2003

Mr. RANGEL. Mr. Speaker, I rise in support of H. Res. 195, a resolution to congratulate Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs.

There is no doubt that Mr. Sosa's exploits on the baseball diamond will one day earn him a place in Major League Baseball's Hall of Fame in Cooperstown, NY. There is no doubt that his drive and talent make him a role model to scores of American children who one day hope to stare down a fastball in the batter's box of any ballpark.

However, it is his spirit, energy and commitment off the field that has earned him a place in the hearts of citizens all over the world, including those in his native Dominican Republic. Just a couple of weeks after he and Mark McGwire shattered baseball's single season homerun record in 1998, he traveled to the DR to help rebuild the country after it was devastated by Hurricane Gorges. He continues to offer his time and money to provide children with the opportunities that poverty denied him, allowing them to dream that they too can rise above their economic circumstances and reach their potential.

Those in my district, which includes the proud Dominican community of Washington Heights, know that Sammy Sosa isn't the first Dominican to achieve success in the Big Leagues. He follows in the footsteps of trailblazers like Felipe Alou, Joaquin Andujar, George Bell, Rico Carty, Tony Fernandez, Pedro Guerrero, Juan Marichal, and Jose Rijo. He, as well as contemporaries like Pedro Martinez, Manny Ramirez and Alex Rodriguez, remind others of how necessary it is to use fame and fortune to help others.

A CONGRESSIONAL TRIBUTE TO AUDREY FERGUSON, 2002–2003 TEACHER OF THE YEAR

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CLAY. Mr. Speaker, I rise to pay tribute to Ms. Audrey Ferguson, a teacher at the Laclede Elementary School in the St. Louis Public School system and winner of the 2002–2003 Teacher of the Year Award.

Ms. Ferguson is the first teacher from the St. Louis Public Schools to win Missouri's Teacher of the Year Award since its inception 50 years ago. Ms. Ferguson has been teaching for 32 years and has held her current post at Laclede Elementary School for 26 years.

Also, it should be noted that this year Laclede Elementary School received the distinction of being named a Gold Star School, making it one of the top 15 elementary schools in the state of Missouri. So you see, success at the school is more than personal, it is systemic.

Ms. Ferguson's major subject area is mathematics, in grades 1–5. Also, she is certified to teach English and social studies and has certifications for teaching students with learning disabilities, students who are mentally handicapped and students with behavior disorders.

When Ms. Ferguson was 9 years old she was sent to a reading clinic to assist her with her difficulty in reading. In four years she transformed herself from a non-reading student into one who was well on her way to becoming an honor roll student. She chose to follow in the footsteps of the teachers in the reading clinic and became an educator in order to do for others what they had done for her.

In her own words, ''Teachers have been given the awesome responsibility of preparing the Nation's leaders of tomorrow. Teachers must know that they are the gatekeepers of opportunity for millions of children. '' We have the power to open doors that lead to great futures and we have the power to cut off access to the pathways that lead to the top,'' she said.

Ms. Ferguson has received numerous awards—the ''Parent of the Year Award'' from INROADS, St. Louis in 1994; she is listed in the Marquis' Who's Who of American Women, 21st Edition; and was also among the ''100 Women Children's Advocate for 2001'' produced by the Annie Malone Children's Home.

In December of 1981, she published a method of mathematical instruction in the NCTM Arithmetic Teacher's Journal called the ''Stored Ten'' method. Laclede teachers have used her method for many years since.

In addition to her work for the school, Ms. Ferguson has been an involved member of the community. She served as president for the INROADS PSG for one year as well as a membership chairperson for several years; volunteers annually for the United Negro College Fund Walk; and worked on community partnerships such as the ''Laclede Book Buddy Program,'' the ''Laclede Parent Partners Program,'' the ''Laclede Parent Day Trip Program,'' and the ''Laclede Community/School Garden Project.''

Clearly, Ms. Ferguson has acted with great determination in uniting school and community.

Also, Ms. Ferguson has been involved in many workshops and conferences aimed at improving the quality of education, including but not limited to: The Successful Schools Information and Planning Meetings, the MAP Math Training Meetings and the NCTM Conference and the Title I Conference.

As evidence of her unrelenting pursuit of education, she recently received District Recognition for improving Math MAP Scores.

From her beginnings as a student in need of extra help to her current status as a devoted life-long educator, Ms. Ferguson has earned the Teacher of the Year Award through hard work and determination.

Mr. Speaker, please join me in congratulating Ms. Audrey Ferguson and thanking her for her devotion to the children of the St. Louis Public school system and the children of America.

TRIBUTE TO THE CERES, CALIFORNIA CHAPTER OF FUTURE FARMERS OF AMERICA

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CARDOZA. Mr. Speaker, I rise to honor Ceres High School Future Farmers of America as they celebrate their 75th anniversary. The Ceres, California Chapter of Future Farmers of America was chartered into the California Future Farmers of America Association in the 1928. It was the 28th Chapter chartered in the State of California.

After the Chapter became chartered, they became very competitive at local, state and national levels in various competitions winning several and holding titles such as Master Champion throughout their 75 years.

Mr. Speaker, it is with great honor that I stand before my colleagues today to pay tribute to the Ceres High School Future Farmers of America and to their current as well as past members. They have served our community well and are a tremendous asset to Ceres High School. They are our future in agriculture and are very deserving of this recognition.

HONORING MARVIN DAVIES

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Marvin Davies, a longtime civil rights leader in Florida who recently lost his life to cancer.

Davies began his battle for equality at an early age. By the time he was a college student at Florida Agricultural and Mechanical University, Davies was participating in protests with Dr. Martin Luther King Jr. and boycotts in Tallahassee, St. Augustine and Montgomery, Alabama. Chosen as Student of the Year, he graduated from FAMU ranked second in his class.

At age 32, Davies was offered the position of Field Secretary for Florida's NAACP. He served Florida's 138 NAACP branches for seven years and became a leader in the fight for equal opportunities for all Americans in employment, schools, hospitals and all other public places.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

Later, Davies served as a special assistant and advisor to Senator BOB GRAHAM during his terms as Florida Governor and U.S. Senator, and worked as the state coordinator of the Martin Luther King, Jr. Foundation. Throughout his entire career, Davies was a public voice for minorities and improving the lives of young people in minority communities.

However, the people of St. Petersburg will remember him best for his work in our community. In 1968, Davies returned to St. Petersburg in support of city sanitation workers who were on strike for better wages and benefits. He served on the Coalition of African-American Leadership, created following the St. Petersburg city riots in 1996, as well as the Citizens Advisory Commission, appointed by the Clinton Administration to oversee the federal assistance to the city after the civil unrest.

On behalf of the Tampa Bay area, I extend my deepest sympathies to Marvin Davies's family and friends. His life work will never be forgotten.

INTRODUCTION OF THE MEDICARE CHRONIC CARE IMPROVEMENT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. STARK. Mr. Speaker, today I join with several colleagues to introduce the Medicare Chronic Care Improvement Act of 2003. This legislation would strengthen Medicare in the truest sense, by improving the quality of care delivered to Medicare beneficiaries. The bill would make these improvements without forcing beneficiaries to leave the traditional Medicare program and join private insurance plans, and without restricting beneficiaries' choice of doctor, hospital, or other health care provider.

Medicare beneficiaries have significant chronic care needs. Nearly 90 percent of those aged 65 and older have one chronic condition and two thirds have two or more chronic conditions. Beneficiaries with five or more chronic conditions comprise 20 percent of the Medicare population, but they account for an astonishing 66 percent of program spending. On average, Medicare beneficiaries with chronic conditions see eight different physicians regularly.

Unfortunately, Medicare—like the rest of our health care system—is designed around acute care needs. We generally do not adequately compensate providers for on-going care such as the time spent communicating with each other around complex patient needs, monitoring for harmful drug interactions, or teaching patients and caregivers how to better manage their conditions. As a result, these crucial care coordination services are rarely provided.

President Bush and some of my Republican colleagues would have us believe that we can solve this problem by forcing seniors into private insurance plans. Simply put, that claim is ridiculous. The need for chronic care improvements is just as pervasive among private insurers and the rest of the health care system as it is in Medicare. That is why the National Academy of Social Insurance (NASI) Study Panel on Medicare and Chronic Care in the 21st Century concluded earlier this year that, ''Medicare has the potential to refocus its Medicare program—as well as the nation's health care system—and should take a leading role in improving chronic care.''

The Medicare Chronic Care Improvement Act would follow through on that expert recommendation. This bill provides the Medicare improvements that seniors and people with disabilities need by: Improving access to preventive and wellness services; expanding coverage for care coordination and assessment services for Medicare beneficiaries with chronic conditions; implementing a chronic care Quality Improvement Program; providing federal matching grants for clinical information technology systems that improve the coordination and quality of chronic care; ensuring that Medicare beneficiaries are not inappropriately denied coverage for services that are necessary to maintain health or functional status; commissioning an Institute of Medicine study and report on additional ways to ensure effective chronic care.

For more detail, I am entering a section-by-section bill summary into the CONGRESSIONAL RECORD following this statement.

The Medicare Chronic Care Improvement Act is supported by a variety of health organizations representing consumers and providers, including the Alzheimer's Association, the American Geriatrics Society, the Center for Medicare Advocacy, Families USA, the Medicare Rights Center, and the National Chronic Care Consortium.

The Medicare Chronic Care Improvement Act enjoys wide support because it strengthens Medicare for all beneficiaries, whether they are in traditional Medicare or private plans that contract with Medicare. Unlike the President's Medicare ''reform'' plan or plans being developing by Congressional Republicans, the Medicare Chronic Care Improve Act would never force elderly and disabled Americans to give up traditional Medicare in order to get crucial benefits. They will never be forced to choose between the doctors they know and trust and the coverage they need. Those are not real choices and will not improve the quality of care beneficiaries receive.

I urge my colleagues to support real Medicare reform by cosponsoring the Medicare Chronic Care Improvement Act.

MEDICARE CHRONIC CARE IMPROVEMENT ACT OF 2003

Representative Stark and Senator Rockefeller

TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS

Improve Access to Preventive Services: Eliminate all cost-sharing (deductibles and co-insurance) for preventive services that Medicare covers today; Direct the Secretary of Health and Human Services (HHS) to contract with the Institute of Medicine (IOM) to investigate and recommend new Medicare preventive benefits every three years; Streamline Medicare benefit improvements by granting the Secretary the authority to expand Medicare coverage of preventive benefits in accordance with IOM recommendations; Provide coverage for a ''Welcome to Medicare'' initial preventive exam, in which beneficiaries would receive initial preventive screening tests, a physical exam, and discuss prevention and health promotion with their doctors.

Expand Coverage for Care Coordination and Assessment Services: Create a new care coordination benefit for Medicare beneficiaries with chronic conditions; Examples of items and services to be covered include: initial and periodic health assessments; management and referral for medical and other health services; medication management; patient and family caregiver education and counseling; 24-hour access to care coordinators; management of transitions across care settings; information and referral to community-based services and hospice care; other services and benefits specified by the Secretary; Beneficiaries eligible for these benefits include those with either a serious and disabling chronic condition or four or more chronic conditions; Care coordinators (including physicians, physician group practices, or other health care professionals or entities) must be periodically certified and must agree to participate in a quality improvement program.

Implement Chronic Care Quality Improvement Program: Direct the Secretary of HHS to establish a program to monitor and improve clinical outcomes for beneficiaries with chronic conditions. Under this program, the Secretary will establish performance measures, collect data, and provide performance reports to care coordinators and beneficiaries.

Improve Medicare+Choice for Beneficiaries with Chronic Conditions: Require Medicare+Choice plans to provide care coordination services and implement chronic care quality improvement programs.

Improve Chronic Care Coordination through Information Technology: Establish federal matching grants to support clinical information technology systems development, implementation, and training among Medicare-participating care coordinators.

Ensure Proper Medicare Coverage Standards: Direct the Secretary of HHS to review all Medicare coverage policies. The Secretary must ensure that Medicare contractors properly apply the Medicare statute and not demand a showing of improvement to find that items or services are reasonable and necessary.

TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

Recommend Medicare Improvements to Ensure Effective Care for Beneficiaries with Chronic Conditions: Direct the Secretary to contract with the IOM to investigate and identify barriers and facilitators to effective care for Medicare beneficiaries with chronic conditions, including inconsistent clinical, financial, or administrative requirements across care settings. The IOM report must include recommendations to improve the provision of effective care, including seamless transitions across health care settings.

Definitions: ''Chronic condition'' means an illness, functional limitation, or cognitive impairment that is expected to last at least one year, limits what a person can do, and requires on-going medical care; ''Serious and disabling chronic condition(s)'' means the individual has at least one chronic condition and has been certified by a licensed health care practitioner within the preceding 12 months as having a level of disability such that the individual, for at least 90 days, is unable to perform at least 2 ADLs or a number of IADLs or other measure indicating an equivalent level of disability or requiring substantial supervision due to severe cognitive impairment.

HONORING WASHINGTON HEIGHTS' DENISE DE LA NUECES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. RANGEL. Mr. Speaker, I rise to honor Ms. Denise De La Nueces, who last month graduated summa cum laude from Columbia University's undergraduate program.

A first generation daughter of Dominican immigrants, this remarkable young woman overcame numerous challenges, including poverty and a stuttering habit, to become the first Latina salutatorian in the College's 250-year history.

Born and raised in Washington Heights, Ms. De La Nueces attended the neighborhood parochial school of St. Rose of Lima before earning valedictorian honors at Cathedral High School. She entered Columbia in 1999 as one of the first recipients of The New York Times College Scholarship, a program founded to assist promising service-oriented students who have faced financial and other obstacles.

Although highly focused on excelling academically in biology, Ms. De La Nueces carefully balanced her studies with an equally strong commitment to her campus and neighborhood community. She was an active member of cultural organizations, working with students and alumni to develop and maintain the school's Latino mentoring program. She found time to step outside Columbia's walls to volunteer with Project HEALTH, a community-based program that works with physicians, educators, families and local leaders to design and implement curricula that empowers children to take control of their health.

She also found time to tutor at the Double Discovery Center (DDC), a Columbia-based educational nonprofit that works with students from low-income and historically disadvantaged backgrounds. A DDC alumnus herself, Ms. De La Nueces will spend the summer working there before getting her pediatrics career off to a good start at Harvard Medical School this fall.

Ms. De La Nueces' achievements are exceptional, but she is by no means a statistical fluke. Although far too many children of low-income and historically disadvantaged backgrounds are failing to reach their potential in our educational system, each May brings forth a new generation of graduates that under the radar of the media have broken barriers and shattered stereotypes to earn degrees. The challenge for these and other graduates is not only to blaze new paths with their individual success, but also to reach back to their alma maters and provide support within these difficult educational institutions.

In her remarks on graduation day, Ms. De Las Nueces thanked her diverse group of mentors for providing this support. She also thanked them for helping her find a sense of community in the midst of so many differences. ''In them, I have found the desire to improve the world community by looking beyond themselves,'' the Columbia Daily Spectator reported. ''Let us strive to reach beyond ourselves, beyond the small spheres of our individual confines.''

Ms. De La Nueces' experience is an example of how inclusion and diversity can provide opportunities not only for minority students to excel, but also for all members of the student body to be enriched. An example of how leaders and mentors can be found and developed in all communities, if we are willing to invest in their search.

SSM HEALTH CARE IS FIRST HEALTH CARE FIRM IN NATION TO WIN MALCOLM BALDRIGE NATIONAL QUALITY AWARD

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CLAY. Mr. Speaker, I rise today to honor SSM Health Care, the first health care organization in the country to be named a Malcolm Baldrige National Quality Award winner.

As a 2002 award recipient of the prestigious award, SSM was recently honored, along with two other recipients—Motorola, for manufacturing; and Branch-Smith Printing Division, for small business—during a ceremony in Alexandria, VA in May, 2003.

Named for the late Commerce Secretary in the Reagan Cabinet, the award is given by the U.S. Department of Commerce and as you know, is the top honor a U.S. company can receive for quality management and quality achievement in the categories of manufacturing, service, small business, education and health care.

Normally presented by the President of the United States, this year Vice President DICK CHENEY did the honors.

In a message from President George W. Bush, the Chief Executive said: ''As we embrace new opportunities and face new challenges, these organizations are setting an example of quality and excellence that helps strengthen our Nation and points the way to a brighter, more prosperous future for all.''

In his remarks, Secretary of Commerce Donald L. Evans noted that SSM, which is sponsored by the St. Louis-based Franciscan Sisters of Mary, is a role model of world-class excellence and has achieved extraordinary results.

''The men and women of this organization represent the highest ethical standards in public responsibility and corporate stewardship,'' Evans said. ''I am particularly pleased to join the President in announcing a first-time winner for health care. The three 2002 Baldrige Award winners are role models of world-class excellence, and they have achieved extraordinary results.''

Dick Davidson, President of The Foundation for the Malcolm Baldrige National Quality Award, also joined in praise of SSM.

''The clearest path to success for any organization is the one that embraces quality principles and the continuous improvement that they can unlock,'' Davidson said. ''The Malcolm Baldrige National Quality Award highlights those organizations in business, health care and education that have followed this path and, in doing so, have set the standard for excellence in quality processes and results. The Foundation salutes the recipients of the 2002 Award and is pleased to continue its support of the Award.''

Sister Mary Jean Ryan, President and CEO of SSM, and Sister Jacqueline Motzel, SSM Chairperson, received the award.

Sister Ryan said: ''This Award is a wonderful recognition of the excellent performance of our employees and physicians and of their strong commitment to their mission—to reveal the healing presence of God through our exceptional health care services.''

In competing for the award, SSM staff submitted a 50-page application and last October were subjected to comprehensive site visits at the corporate office and its facilities in four states. The visits took place at all hours of the day, and were meant to clarify and verify information included in the application.

Baldrige examiners spoke with more than 800 employees and physicians, systemwide, and measured performance in seven areas: leadership, strategic planning, customer and market focus, information and analysis, human resources focus, process management and business results.

An example of the SSM success model is its employees. Comprised of a workforce of 82 percent women employees, among the hospitals many achievements has been to reduce employee turnover from a rate of 21 percent in 1999 to 13 percent in 2002.

Mr. Speaker, I am especially proud of SSM Health Care for receiving this honor. A not-for-profit Catholic health care system, it provides primary, secondary and tertiary health care services by way of 21 acute care hospitals and three nursing homes in four states—Missouri, Illinois, Wisconsin and Oklahoma—which it owns or manages.

Nearly 5000 affiliated physicians and 22,200 employees work together to provide a wide range of services, including: inpatient, outpatient, emergency, ambulatory, physician practices, residential and skilled nursing.

The Foundation for the Malcolm Baldrige National Quality Award was created to provide the private sector a means of accomplishing better employee relations, higher productivity, greater customer satisfaction, increased market share and improved operating performance.

As a recipient of this most prestigious award, SSM Health Care joins the company of other winners, including: Boeing Airlift and Tanker Programs, Merrill Lynch Credit Corp., Xerox Business Services, AT&T Consumer Communications Services, Eastman Chemical Co., the Ritz-Carlton Hotel, Express Corp., Cadillac Motor Car Division, Motorola Inc., and Westinghouse Electric Corp.

In addition to winning a Baldrige Award, SSM Health Care is also the 2003 Missouri Industry of the Year, in the large company classification. That award, sponsored by the Associated Industries of Missouri and the Mid-Missouri Business Journal, annually recognizes the best and brightest Missouri businesses that are working to make Missouri a better place to live and work.

Also, SSM Health Care was a Missouri Quality Award recipient in 1999.

Through a series of 2003 Baldrige Sharing Dates—June 18, August 20, October 23 and December 18—the SSM staff is sharing its winning techniques with other executives from all industries to learn first-hand from the top SSM leaders. I urge any organization on a quest for success to consider looking at the SSM Health Care model. It has proven its success, not only to its patients, its staff and St. Louis, but also to the nation.

In an April 9 column by Washington Post reporter David S. Broder noted SSM's success,

something which ''Congress and the press were too busy with other things to notice.'' Calling SSM ''A Beacon for Better Health Care,'' Broder observed how SSM was proving that good medicine is also an economic asset and how Sister Ryan began as a nurse and rose into management.

In his remarks, Broder offered this quote: ''We are living proof that health care in the United States is capable of improving, despite many predictions to the contrary. We are proof that large and complex health care organizations can push themselves to step out of their comfort zones to exceptional results. And the more of us that commit to performance excellence, the greater will be our ability to deliver health care breathtakingly better than it's ever been done before. The nation deserves no less.''

''Those words,'' Broder said, ''and the performance behind them, deserve more attention than Washington gave them last week.''

Today, Mr. Speaker, let us add our voices to the celebration of a successful health care system. At a time when hospitals are closing in vast numbers and the high cost of malpractice insurance is causing many physicians to limit their practices, we have found a health care system that works. The choice is ours. We can heal the health care delivery problem in this nation or we can let it overwhelm and consume us, to the detriment of us all.

SSM is a model for success. Today, in Congress, let us register a much-deserved celebration of that fact.

HONORING THE MEMORY OF JUDY MARRON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. STARK. Mr. Speaker, I rise today with a saddened heart at the passing on of Judy Marron, beloved wife of Owen Marron, and devoted mother of six children.

Judy began her career in the State of California Department of Transportation, and then worked for the Heavy Highway Association until 1975. In 1978 Judy returned to employment as a clerk with the State Department of Transportation, rising through various positions to become executive secretary to the director of the department. In 1984 she became the national recruiter of engineers for the Department of Transportation.

In 1987, Judy went to work for the State Department of Health, where she retired as building manager for the department headquarters in Berkeley. She worked tirelessly to integrate women into the building trades and increase employment access for disabled individuals at the Berkeley facility.

Upon her retirement, Judy continued her activism and was retained as a consultant for various special projects, including a new health facility under development in Richmond, California.

Judy held memberships in the National University Alumni Association, American Association of Professional Women, The Association of Executive Secretaries in State Service, ACLU, National Wildlife Federation, Soroptomists of the East Bay, and the California State Employees' Association, SEIU Local 1000.

As an ardent advocate for the rights of working people, women, and disabled individuals, Judy contributed much to the labor movement. She provided valuable assistance to her husband, Owen, during his long tenure as executive secretary-treasurer of the Central Labor Council of Alameda County. Judy could always be counted on to help with marches, rallies, electoral activities, Labor Day picnics, Unionist of the Year events and other important functions to support the community and further the goals of the labor movement.

Judy leaves a legacy of activism filled with caring, commitment and devotion. Her family and all who were privileged to know and work with her will miss her.

TRIBUTE TO MR. LAZAR C. PIRO

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor my friend, Mr. Lazar C. Piro, as he is inaugurated for his second term as President of the Assyrian National Council of Stanislaus. Lazar was again chosen by the community to continue the Council's work to provide social, cultural and spiritual welfare to our Assyrian and non-Assyrian communities. As one of the founders of the Assyrian National Council of Stanislaus, Lazar interacts with local, state and federal agencies on behalf of the Assyrian community.

With 20 local Assyrian organizations as members of the Council, our community is fortunate to benefit from their leadership and guidance on matters concerning the community. I consider Lazar and members of the Council invaluable resources in the 18th Congressional District. The Council has provided a voice to so many who have made America their home.

I am honored to recognize the Council's achievements under Lazar's direction. Lazar has never shied from community involvement. In addition to his work at Piro Trading International, Lazar is a member of the Board of Trustees for the University of California. He is also actively involved with the Assyrian American Civic Club, the Assyrian Church of the East and the Assyrian Welfare Committee to name a few. Lazar and his wife, Francia, reside in Turlock and have three children and three grandchildren.

HONORING SOLDIERS FROM TAMPA BAY

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of four brave soldiers from the Tampa Bay area who lost their lives while serving our country in Iraq. These four men went to war to protect us and our liberty and ultimately gave their lives to preserve our inalienable rights.

On April 3, Staff Sgt. Wilbert Davis, 40, of the 3rd Battalion, 69th Armor, 3rd Infantry Division, died when his vehicle ran off the road as he was driving journalist Michael Kelly to Baghdad. A native of Tampa, Davis grew up in College Hill, pitched for the Belmont Heights Little League team, all the way to the World Series, and graduated from Tampa Bay Tech High School. A devoted husband and father of four, friends and family recall how dedicated Davis was to service. Joining the Army in 1985, he served in the Persian Gulf War and in Bosnia, Kosovo, Korea and Germany.

Just one day later, Tampa lost Sgt. First Class Paul R. Smith, 33, of the 11th Engineer Battalion. Also a graduate of Tampa Bay Tech, Smith knew early on that he wanted to serve as a professional soldier and raise a family. This husband and father of two enlisted right out of high school and served in the Gulf War, Bosnia and Kosovo. A man who is remembered for his dedication to the soldiers he led, Smith has been nominated for the prestigious Medal of Honor for saving dozens of lives before losing his own. During a surprise Iraqi assault, Smith died while manning a .50-caliber machine to fend off the attackers.

On April 7, Lance Cpl. Andrew Julian Aviles, 18, of the 4th Assault Amphibian Battalion, 4th Marine Division, was killed when an enemy artillery round struck his amphibious assault vehicle. A young man with an infectious sense of humor and a promising future in store, Aviles was the student government president of Robinson High School, played on the football and wrestling teams and graduated third in his class. A member of JROTC, Aviles passed up a full academic scholarship to Florida State University to enlist because he felt an obligation to serve his country.

On April 17, another bright future was lost when Cpl. John T. Rivero, 23, of the Florida National Guard's C Company, 2nd Battalion, 124th Infantry Regiment was killed when his Humvee overturned on a mission with Special Forces. A computer science and engineering student at USF, Rivero grew up in Gainesville and joined the Guard in 1998. He was promoted to Corporal during his service in the Middle East. Friends and family remember his big smile and even bigger heart and talk about his dedication to doing his best at everything he tried.

On behalf of the Tampa Bay community, I would like to extend my deepest sympathies to the families and friends of these four courageous soldiers. These men shared a dedication to the ideals that have made this country great. Their bravery and patriotism makes us all proud, and we will never forget their sacrifice.

HONORING THE LIFE OF CESAR CHAVEZ

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. RANGEL. Mr. Speaker, I rise today to remember and pay, tribute to Cesar Chavez, a human rights advocate and a man of justice and peace who worked tirelessly to end the oppressive conditions of so many American farm workers. Founder of the United Farm Workers of America, Mr. Chavez sacrificed his life to those who suffered hardship without any voice of support. Although the ten-year anniversary of his death passed on April 23, 2003,

the legacy of this great man and the inspiration of his mission carries on.

Cesar Chavez was born in 1927 as the son of a poor farm worker and general store owner. The loss of his family's land during the Depression forced him to quit school and work in the fields, where he gained a first-hand understanding for the dingy, overcrowded quarters that these workers must endure—often without electricity, bathrooms, or running water. Although he never owned a house or earned more then $6,000 a year, he moved to California in the early 1960s with his family and began his lifelong mission to advocate an end to such conditions.

Mr. Chavez once said, ''We can choose to use our lives for others to bring about a better and more just world for our children . . . and in giving of yourself you will discover a whole new life full of meaning and love.'' This great man was a selflessly giving leader who should inspire and motivate us all. Through the United Farm Workers of America his life was used for the benefit of future generations, proving that there can be strength and power in unity, no matter how hopeless the situation.

Cesar Chavez must not be forgotten, and neither can his work. In focusing on our treatment of farm workers, and teaching us how to care for fellow Americans, he also showed that there is much work still to be done. We must remember that there are still too many below-poverty wages, unsafe working conditions, and individuals who suffer from substandard living standards without proper benefits. We must use this ten-year anniversary to respond to the continued injustice that exists for farm workers that Mr. Chavez would not tolerate. By continuing the work of this fine man, the mission he had for human rights will carry on and the spirit of his great life will most directly be remembered.

IN HONOR OF MELVINA CONLEY, PRESERVER OF THE ''FREEDOM SUITS'' ARCHIVE, ST. LOUIS CIRCUIT COURT 1978–2001

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CLAY. Mr. Speaker, I rise to pay tribute to Ms. Melvina Conley, a former employee of the St. Louis Circuit Court, Clerk's Office, who realized the value of old lawsuits filed by slaves seeking their freedom, and worked diligently for many years to protect and preserve the documents, now known as the ''Freedom Suits.''

A collection of lawsuits filed in St. Louis by slaves of African descent, who were seeking their freedom, have become the focus of a restoration project by the clerk of the St. Louis Circuit Court. Working with the Court in the state of Missouri and Washington University. This is a great find for St. Louis, a treasure within our own midst. I'm excited that we have a national gift, a part of our history, to share with the world.

So far, at least 281 lawsuits, along with the historic Dred Scott lawsuit (which figured prominently in the start of the Civil War), have been selected for preservation and placed on display on the web site maintained by Washington University at www.stlcourtrecords.wustl.edu.

Called the St. Louis Circuit Court Historical Records Project, the site includes details of the lawsuits—who filed, against whom, when and where—and a copy of the actual handwritten document. Lawsuits also included allegations of trespass, assault and battery, false imprisonment, as well as petition affirming status as a free man.

Found among approximately four million pages of aging court records dating back to 1782, the nearly 300 ''freedom suits'' (filed between 1806 and 1865) were found covered with coal dust, in the labyrinth of the St. Louis Circuit Court system.

As early as 1807, under Missouri territorial statutes, persons held in wrongful servitude could sue for freedom if they had evidence of wrongful enslavement. The territorial statute was codified in Missouri State law in 1824 and remained in effect until after the Civil War.

Most people using this law to obtain their freedom were enslaved Africans. Since their cases were all brought for the same reason, to obtain the basic right to freedom, collectively, historians refer to the cases as ''freedom suits.''

In an effort to protect the ''freedom suits'' and the hundreds of thousands of other old cases from decay, rats and other plagues, courthouse officials began removing them from vulnerable ''off-site'' storerooms to a more secure archive in the main Courthouse and the Old Globe-Democrat Building on Tucker Boulevard. In September 1999, St. Louis Circuit Court Clerk Mariano V. Favazza invited the Missouri State Archives, a division of Missouri's Office of Secretary of State, to initiate a project to preserve and make accessible the historical records. So extensive were the files, a cut-off date of before 1875 was used for the project. The court was founded in 1804.

The freedom suits brought by Dred Scott and his wife, Harriet, in 1846, became the first cases to go online in January 2001, attracting nearly a million information requests from visitors from around the world in their first year on the web. That fall, the American Culture Studies Program in Arts & Sciences agreed to expand this initiative by digitizing additional cases and creating a web-based search tool.

While I thank everyone involved with the project for finding the documents and preserving them, Mr. Speaker, I especially want to make a special tribute to Ms. Melvina Conley, as Preserver of the ''Freedom Suits.''

A 33-year employee of the St. Louis Circuit Clerk's Office—from 1969 to 2001—Ms. Conley spent many years working as a data entry clerk.

In 1978, she began working in a second-floor office in the old and dusty archive section of the courthouse, where she commenced a search for the legendary ''Freedom Suits'' or ''Slave Cases.''

Because of her interest in history, Mrs. Conley was willing to do a job that others did not want to do. Sifting through the old files was literally a dirty business that few wanted.

At the time, the famous Dred Scott case was protected in a vault in the courthouse and she knew Dred Scott was not the first case filed and that there were probably many others. In 1979 she commenced a search of the archive's 444 drawers for suits. The first suit she found was of a mother and her two sons, ages 5 and 2. The mother had filed suit—and lost—to keep her young sons from being ''hired out.'' ''I thought I had died and gone to heaven,'' Ms. Conley says now, describing how she felt at the time of the find.

Preserving the ''Freedom Suits'' in boxes, Ms. Conley became an unofficial historian, archivist and preserver of history in her duties as a data entry clerk. In 1999 when Circuit Clerk Favazza joined forces with city, state and federal agencies to preserve the files, Ms. Conley became a key instrument in helping to make that transition, as well, having helped to carefully preserve the Dred Scott suit and hundreds of other ''Freedom Suits'' for posterity in her adopted home.

Born in Charleston, Mo., Ms. Conley attended Cote Brilliante Grade School, and graduated from Sumner High School in 1957.

After high school she married John Conley who became a politician and served St. Louis and Missouri as a committeeman and a state representative. They have five children, four stepchildren, 16 grandchildren and one great grandchild. In 2001 Ms. Conley retired from her job as an Accountant 1, Supervisor, in the St. Louis Circuit Court.

Joining me in recognizing Melvina Conley's dedication to the nurturing of the ''Freedom Suits'' and the continued nurturing and care of the files by the St. Louis Circuit Court, is U.S. Representative MAXINE WATERS, of California and a St. Louis native.

Recently, the Honorable Ms. WATERS and I visited the archive located in the old Globe-Democrat Building, in the 700 block of N. Tucker Blvd., to meet with city, state and university officials. During our visit we were welcomed enthusiastically by Mr. Michael Everman, CA and Field Archivist, Local Records Program with the Missouri State Archives; and State Archivist Dr. Kenneth Winn. Ms. WATERS said she first learned about the project from a Los Angeles Times article and made arrangements to visit the archive. Both she and I were told by Favazza that ''HBO and Hollywood producers'' have made inquiries to his office about the lawsuits.

''The connection for me between St. Louis and Hollywood is just absolute,'' Ms. WATERS said. Honorable Speaker, I want to find the funds needed to ensure permanent protection for the documents and to keep them safe for future generations. This is just the beginning. I know I can count on my colleague, MAXINE WATERS, to help get national exposure. It is the history of our country, which originated in St. Louis. It makes you proud of their actions—if you can find a silver lining in slavery. You have to preserve your history or you will be doomed to repeat it.

HONORING TAIWAN AND PRESIDENT CHEN SHUI-BIAN

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to congratulate Republic of China President Chen Shui-bian on his third anniversary in office and for Taiwan's continued support and friendship with the United States.

Since his election three years ago, President Chen has continued to make strides toward full democracy by guaranteeing greater constitutional and human rights to the citizens

of Taiwan. Today, Taiwan is home to more than ninety political parties, and virtually every political office is actively contested through free and fair elections. In fact, President Chen is a former political dissident himself. Taiwan's constitution guarantees its citizens extensive political, personal and religious freedoms. Further, President Chen has committed Taiwan to many international human rights treaties.

Under President Chen's strong leadership, Taiwan has remained true to its democratic values and has continued to be a model for its neighbors in the region. But as the Taiwanese people celebrate the third anniversary of their President's election, they also are struggling to contain the recent outbreak of Severe Acute Respiratory Syndrome, or SARS, in their country. The SARS outbreak is a good demonstration of what Secretary of State Colin Powell said recently—that the deadly virus recognizes no international borders. Taiwan is a part of the world that has been deeply affected by SARS and needs to play its proper role in preventing further spread of the virus. For these reasons, Taiwan urgently needs representation in the WHO.

I also strongly support Taiwan's democratization at home and its campaign to join international organizations abroad. Taiwan is a strong ally which stood shoulder to shoulder with the United States after the events of September 11, 2001. We in the United States Congress appreciate Taiwan's support for our nation—a solid partnership that has endured for many years.

Taiwan is making significant contributions to the international community and I know that our bilateral relations will only grow stronger in the coming years. Again, congratulations to President Chen and to the people of Taiwan.

CONGRATULATING SAI GUNTURI ON WINNING THE 76TH ANNUAL SCRIPPS HOWARD NATIONAL SPELLING BEE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. SESSIONS. Mr. Speaker, I rise this morning to honor the champion of the 76th annual Scripps Howard National Spelling Bee. 251 spellers advanced to the finals of the National Spelling Bee that were held here in Washington, D.C. during May 28–29.

The champion of the spelling bee is Sai Gunturi, an eighth grader at St. Mark's School of Texas, that is located in Dallas. Sai was challenged throughout the 15th round of competition, and ultimately won the tournament by correctly spelling the word pococurante {pO-kO-kyu-'ran-tE} (pococurante is defined as caring little or indifferent, nonchalant). Sai was sponsored by The Dallas Morning News and comes from a fine family tradition of spelling excellence, as his sister Nivedita, tied for eighth place in the 1997 National Spelling Bee.

Sai is not just a terrific speller, but also a tremendous asset to the greater St. Mark's school community. He is a community leader and an astounding scholar. My sincere congratulations go out to Sai, his family, and to his teachers and friends at St. Mark's.

HONORING SAINT RICHARD PARISH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to St. Richard Parish. On June 8, 2003, St. Richard will celebrate its 75th Anniversary. With its location on the southwest side of Chicago, St. Richard Parish has a warm and rich heritage which warrants recognition.

On the 8th of June 1928, His eminence George Cardinal Mundelein established St. Richard Parish. The Parish was named after St. Richard de Wyche, bishop of Chichester, England.

Reverend Horace Wellman was appointed the first pastor and in late June 1928, he celebrated his first mass. The first mass was given in a storefront on 51st Street that also served as a temporary home for the church. A census was taken over the following months to determine how many families would support a newly established church. Results from the census comprised of many different ethnic backgrounds for a total 110 families.

Property for St. Richard Parish was purchased at the intersections of Kostner Avenue, 50th Street, and Kenneth Avenue. Within a month the new church was ready and on September 2, 1928 the first mass was presented. The official blessing of St. Richard Church took place October 21st, with Rt. Rev. Msgr. D.J. Dunner D.D. officiating.

Father Wellman served his people well until he unfortunately and surprisingly passed away from a heart attack in 1931. The second pastor appointed to St. Richard Parish was Father Francis J. Quinn who officially took over on October 17, 1931. Under the direction of Father Quinn the Parish grew steadily in number, while also recovering from the Great Depression.

In April 1944, Father Quinn left St. Richard to assume the pastorate of St. Ambrose Church and was succeeded by Father Joseph Griffin. Father Griffin had to resign because of poor health, after serving as pastor for six months.

On November 10, 1944, Reverend Edward L. Kilroy was appointed pastor of St. Richard Church and helped continue the growth of the Parish. Under his direction and guidance, a new brick building combining both church and school was erected. It was Father Kilroy who asked the Dominican Sisters from Sinsinawa, Wisconsin to teach in the school, which opened in September of 1947. By the late 50's the enrollment in the school had passed 1,000 students. Father Kilroy recognized the need for expansion and so in 1959, a new church was erected on the southwest corner of West 50th Street and South Kostner.

In March 1966, Father Kilroy was given the honorary title of Pastor Emeritus and retired from his pastoral duties. Father William Fisher was assigned to succeed Father Kilroy as pastor of St. Richard Parish.

Father Fisher and the people of St. Richard combined their efforts and talents to organize what has become known as the ''annual county fair,'' more commonly known as a carnival. Since 1972, the annual county fair has become a staple within the community.

Father Fisher retired from St. Richard Parish in 1981 as Pastor Emeritus and was succeeded by Reverend Jerome Siwek. Under Father Siwek the church was remodeled and lay minister programs were developed. Father Siwek became Pastor Emeritus on June 13, 1999.

Reverend Thomas Bernas followed Father Siwek and was installed as Pastor of St. Richard Church in June 1999. Upon his arrival he completed many projects that were planned as part of the ''Into the 21st Century'' campaign. Father Bernas sought to expand the vision of St. Richard Parish and has presided over the continued growth in its ministries and programs.

Organizations and groups continue to meet the many and diverse needs of the Parishioners. Because of St. Richard's excellent reputation, and because of the hard work of the faculty and staff, the school continues to see an increase in enrollment. Father Bernas also involved the Parish in a variety of community groups and organizations. St. Richard Parish is an active member of the Archer Heights Civic Association and the Chicago Police Caps Program.

This year marks the 75th Anniversary of St. Richard Parish. For 75 years God has generously blessed this Parish. Hopefully this will be a year of jubilee and celebration. St. Richard Parish has been and continues to be a proud community where people gather to worship God, socialize, work together, learn together, and celebrate as a family of faith.

EXPRESSING SUPPORT FOR FREEDOM AND DEMOCRACY IN BURMA

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. CUNNINGHAM. Mr. Speaker, I rise today to show my wholehearted support for those struggling for freedom and democracy in Burma and to condemn Burma's ruling military junta for their premeditated and cowardly attack on Daw Aung San Suu Kyi—whose whereabouts and condition are still unknown—and members of her National League for Democracy this past weekend.

Although they won an overwhelming victory over the military junta in Burma's 1990 election and are the legitimate, elected government of Burma, Aung San Suu Kyi and the NLD's mandate to rule has been ignored by the junta for 13 years and one week as of today. While Aung San Suu Kyi and the NLD are committed to working with the junta in order to reach a non-violent political solution to restore democracy in Burma, the junta has shown their utter contempt for such civilities and has resorted to violence as every scared, impotent dictatorship does when it feels threatened. In this case, the evil-doers did not stop at a brutal assault, they followed up their premeditated attack by putting the nobel laureate and her top officials in so-called ''protective custody,'' then proceeded to shut down their party offices around the country, tear down their party flags, cut party members' phone lines and place top members under house arrest. So afraid of the power and will of their people and especially the youth of their country, the junta went so far as to shut down all universities the day after the attack.

Mr. Speaker, the United States stands for freedom and we have always shared the goals of others around the world who strive for democracy. These cowardly attacks are an assault on free people everywhere, and we must act now to condemn them and immediately increase pressure on this evil regime. I urge my colleagues to join with me in condemning these despicable attacks.

Daw Aung San Suu Kyi once said, ''Please use your liberty to promote our's (Burma's).'' I believe I just did. I encourage others to heed this plea as well.

TRIBUTE TO MR. WAYNE BUTLER AND MR. JOHN SPARKMAN

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. BLUNT. Mr. Speaker, I rise today to pay tribute to the memories of two individuals who made important contributions to Missouri agriculture, Wayne Butler and John Sparkman. As friends and neighbors, these men will be remembered for the indelible impression they left on Missouri's farmsteads and ranches.

These men exemplified the strength of our Nation through their passion for community involvement. Wayne was a cattleman and forage producer who understood the importance of community service. John was a dairyman and outspoken advocate for issues impacting Missouri agriculture.

Over the years, southwest Missouri and I benefited greatly from the leadership, wise counsel and combined experience of Wayne and John. Both men served as the president of the Greene County Missouri Farm Bureau Chapter and as members of my Southwest Missouri Agriculture/Agri-Business Advisory Committee.

Thomas Jefferson said, ''The spirit of our citizens will make this government in practice what it is in principle, a model for the protection of man in a state of freedom and order.'' Wayne and John were men of faith, family and community. They will be missed; however, their love and dedication to Missouri agriculture will endure.

INTRODUCTION OF THE HIGHER EDUCATION FOR FREEDOM ACT OF 2003

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. PETRI. Mr. Speaker, today I am introducing the Higher Education For Freedom Act. This legislation establishes a competitive grant program making available funds to institutions of higher education, centers within such institutions, and associated nonprofit foundations to promote programs focused on the teaching and study of traditional American history, free institutions, and the history and achievements of Western Civilization at both the graduate and undergraduate level, including those that serve students enrolled in K–12 teacher education programs.

Several years ago I was involved in a congressional effort to highlight the decline in historical and civic literacy among American college students. This effort led to the unanimous, bicameral passage of a concurrent resolution, S. Con. Res. 129, which stated, in part, that ''the historical illiteracy of America's college and university graduates is a serious problem that should be addressed by the Nation's higher education community.''

Given the increased threat to American ideals in the trying times in which we live, it is easy to see how the lack of historical and civic literacy among today's college students has become a more pressing issue. Nevertheless, most of the Nation's colleges and universities no longer require U.S. history or systematic study of Western civilization and free institutions as a general prerequisite to graduation, or for completing a teacher education program.

I believe it is time for Congress to take a more active role in addressing this matter. Our country's higher education system must do a better job of providing the basic knowledge that is essential to full and informed participation in civic life and to the larger vibrancy of the American experiment in self-government, binding together a diverse people into a single Nation with common purposes.

HONORING COURTNEY NORTON

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Courtney Norton, who recently completed the seventh grade at Main Street Junior High School in Madera, California. Courtney was awarded first place prize for the Western Region in the Annual Elks Writing Contest for an entry she submitted while in the sixth grade at Lincoln Elementary School in Madera. The writing prompt was ''What does the flag of the United States of America stand for?'' Courtney responded to the prompt with this poem:

I am the Star Spangled Banner,
The flag of the United States of America,
I stand for freedom, peace, justice, liberty, and dreams,
I have seen every battle fought by our country over the last two hundred years,
I have been flown in France, Korea, Vietnam and Rome.
I have been ripped, torn, spit on, burnt and trampled, but I still stand proud.
I stand for immigrants who gave their lives to make this country a better place to live.
I stand for every soldier in every war who fought for this country.
I stand for a nation of love, hope, and opportunities.
These colors don't run!
I am worshipped, loved, saluted and respected.
I stand for the United States of America, the land of the free and the home of the brave.
FOREVER MAY I WAVE!

As a result of her first place prize, Norton was invited to the Elks annual convention in San Diego to read her poem for the conventioneers. Her poem also caught the attention of Operation Mom, an organization of mothers of the military, who asked Courtney for her permission to include a copy of her poem in each of the thousands of care packages that they send to the service men and women posted overseas. In addition, the organization invited Norton to present her poem at their Operation Welcome Home Rally, scheduled for August 19, 2003, in Livermore, California.

Mr. Speaker, I am pleased to honor Courtney Norton for her outstanding accomplishments, patriotic spirit, and support for our men and women in uniform. I urge my colleagues to join me in wishing Courtney many years of continued success.

PERSONAL EXPLANATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. BEREUTER. Mr. Speaker, this Member was in his congressional district on official business on Monday, June 2, 2003, and therefore missed three rollcall votes. If this Member had been present, he would have voted as follows:

Rollcall No. 227 (H. Res. 159, expressing profound sorrow on the occasion of the death of Texas State Representative Irma Rangel)—''aye'';

Rollcall No. 228 (H. Res. 195, congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs)—''aye''; and

Rollcall No. 229 (H.R. 1465, to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the ''General Charles Gabriel Post Office'')—''aye''.

UPPER DUBLIN LUTHERAN CHURCH CELEBRATES 250TH ANNIVERSARY

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Upper Dublin Lutheran Church, located in Montgomery County, Pennsylvania, on its 250th anniversary of community involvement and dedication.

Since its beginning in 1753, the Upper Dublin Lutheran Church has represented the efforts of an entire community. The building itself has changed several times, but the underlying spirit never wavered.

The Upper Dublin Lutheran Church represents a long history of helping the community. The church's involvement includes helping soldiers as far back as the Revolutionary War. The dedication of its members continued, even when the church itself was destroyed and rebuilt. A tradition was started with Harvest Homes when members of the community would bring fruits and vegetables they could spare from their harvest to give to the less fortunate. The church also started ''Puff's Broadcaster,'' a 12-page monthly newsletter providing poetry, business tips, stories of moral integrity, and important announcements for the community.

Today the Upper Dublin Lutheran Church still stands as a symbol of service and tradition to the Upper Dublin community. The ''Build to Witness'' campaign has provided a magnificent new facility for Sunday school and continues to provide spiritual leadership accompanied by devoted community outreach programs. I am confident that the impact the church has had since its establishment will continue in the future. I wish the members of the church continued success and commend them for 250 years of service.

A NEW MEXICO DESERT FLOWER FLOR DE LAS FLORES

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mrs. WILSON of New Mexico. Mr. Speaker, today I bring to your attention Al Hurricane, a musical legend and the Godfather of New Mexico music. Al Hurricane has brought Norteño music to audiences throughout the Southwest and Mexico for 50 years.

Al Hurricane was born on July 10, 1936 in Dixon, New Mexico. His birth name is Alberto Nelson Sanchez, but his mother gave him his famous nickname because he was like a little ''Hurricane,'' always knocking things over at the dinner table and running through objects in his path.

He began singing when he was 3 and started playing the guitar when he was 5 years old. He was only 12 when he started to sing and play guitar at local restaurants. Throughout his 50 years of music, he formed several bands and played with legendary artists like Fats Domino, Marvin Gaye, Chuck Berry, Jimmy Clanton and Chubby Checker. He has recorded over 40 albums, tapes and CDs. His trademark ''black eye patch'' is a result of an injury he received in a serious automobile accident. Of course, he was on his way to play at a sold-out performance. The accident and the new eye patch could not stop his music.

While Al Hurricane is known for playing and performing music, like Flor de las Flores, or Sentimiento, we cannot forget his strong commitment to his family and his community. He has eight children, several of whom have followed their father's footsteps into the music business. He has won numerous public service awards such as The Lifetime Achievement Award given to him by the New Mexico Hispanic Awards Association and the Governor's Award for Music. He is currently the State Chairperson for the National Education Association-New Mexico's Read Across America.

Mr. Speaker, I ask you to join me and all the residents of New Mexico in honoring and thanking Al Hurricane for 50 years of bringing joy into our lives through his music and his commitment to our community. Here's to another 50 years of Rancheras, Norteñas, and Corridos from the Godfather of New Mexico music, Al Hurricane.

CONGRATULATIONS TO PRESIDENT CHEN SHUI-BIAN ON THIRD ANNIVERSARY

HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. SCHROCK. Mr. Speaker, 3 years ago, in the first peaceful and successful transition of power in Taiwan's history, voters elected Mr. Chen Shui-bian President of the Republic of China on Taiwan. Leading his country's transition from an authoritarian state to a democracy, President Chen has shown to the international community that democracy is indeed alive and able to thrive in a Chinese society like Taiwan. Now in 2003, President Chen has continued to make strides toward full democracy by guaranteeing Taiwan's citizens full constitutional and human rights, which include free elections and a totally free press.

Since his election, President Chen Shui-bian has ardently sought a meaningful dialogue with his counterparts in the People's Republic of China (PRC). He has repeatedly urged them to discuss issues of mutual interest and has talked of sending a delegation to Beijing, further emphasizing his struggle for peace. Unfortunately, China has ignored President Chen's many gestures of friendship and cross-straight dialogue. Positioning hundreds of short-range missiles aimed at Taiwan, China has made it obvious that it does not believe that peace and stability in the Taiwan Strait is a priority. We hope Beijing will soon realize that peace and stability in the Strait is indeed in everyone's best interest and will pursue a peaceful resolution of tensions with Taiwan.

We in the United States Congress greatly appreciate Taiwan's overwhelming support for our initiatives both home and abroad throughout the years. Since the tragic terrorist attacks of September 11, 2001, Taiwan has graciously offered assistance to the United States in helping the country fight global terrorism. Assuring Washington of its support in the anti-terrorism effort in Iraq, the Taiwan government issued a statement during Operation Iraqi Freedom supporting the Coalition of the Willing's cause and pledging to offer humanitarian assistance to postwar-Iraq.

Taiwan is currently enduring an outbreak of the alarming disease Severe Acute Respiratory Syndrome (SARS). We wish Taiwan's government every success in their endeavor to fight against this disease and acknowledge the need for Taiwan's representation in the World Health Organization. As Secretary of State Colin Powell stated recently, SARS recognizes no international borders, and Taiwan should be able to utilize every opportunity to contribute to the battle to conquer this disease.

On the third anniversary of President Chen's election, I wish President Chen well and wish Taiwan continued success in gaining a greater international role. The world has much to gain from what Taiwan has to offer, and the United States affirms its support for President Chen and his country.

AMERICA: A POEM BY MARK E. CRISPELL

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. BOEHLERT. Mr. Speaker, I respectfully submit the poem of my constituent, Mark E. Crispell of Brooktondale, NY, for submission into the CONGRESSIONAL RECORD. Mr. Crispell has dedicated this inspirational work to the House and the Senate.

In addition to his gift to Congress, Mr. Crispell has also been able to donate this poem to various VFW and American Legion chapters across the New York State. It has touched the hearts of all who read it, as it honors the men and women who have risked their lives to protect America.

I commend Mr. Crispell for his creativity as well as his thoughtful gift.

AMERICA

In the valleys and on the hilltops
you could hear that horrible roar
thousands of men on horseback
riding off to war
red coats on the offensive
us turncoats out of sight
with our blood and a strong belief
we fought with all our might

When the war was over
as the white smoke rolled away
I cried with pain through tears of loss
it's Independence Day
but I'm so young, I'm just a child,
I don't think I can lead
I hope my fathers get together
and write the laws I need

1861, again I heard my fathers say
mount your horses head for the South
the South will head this way
my knees grow weak I could not stand
and to the floor I knelt
oh God if you can hear my cry
remember the pain I felt

The cost of war is so much more
I said to God that day
if Your will be satisfied make it go away
but shots were heard as muskets fired
and white smoke filled the day
young boy hollers, I've been hit
as his brother rides away

When the war was over
I hung my head and cried
and asked myself through my tears
why so many died
it was then God raised my head
to see a black man say
through the pain and tears of loss
it's Independence Day!

So I pledge allegiance to our flag
for the wars that I've been through
I fought more wars as before
for freedom and for you
so when from afar you can hear me sing
''God shed His grace on thee''
know I'm united under God
for justice and liberty

I was older now and wiser
historically in my teens
but in those days of my youth
food became so lean
but even in my darkest hour
I didn't give up the fight
I plowed the fields for our next meal
thanking God for every bite

And in the 20th century
when at times things seemed their worst
we embraced the changes
God bestowed upon us first

horses learned to fly
their tails grew into wings
letters turned to digits
phones began to ring
cars come here and take us there
never leaving us far behind
technology seems to challenge
my ever evolving mind

Now Vietnam has come and gone
history takes its place
oh, God forgive me for I have sinned
when I tried to hide my face
Desert Storm let's not forget
the blood that you had shed
so men and women could return
to the countries that they fled

And for all the men and women
who will answer a fatal call
I say to you I'll place your name
upon my strongest wall
and when at war and we need it most
our founding fathers will say
hear ye, hear ye,
then you'll hear them pray

Yes I'm fighting hard
as my father's son
so men and women can be free
that's why those wars were won
so it doesn't really matter
where you are and when you say
God bless America
it's Independence Day!

Yes,
God bless America
it's Independence Day!

2003 BLOOMFIELD CITIZENS COUNCIL AWARDS

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. DOYLE. Mr. Speaker, I rise today to pay tribute to a number of Pittsburgh residents who were honored on May 3rd 2003 with Bloomfield Citizens Council Awards.

Every year, the Bloomfield Citizens Council gives out these awards to recognize members of the community who have improved the quality of life in the Bloomfield neighborhood of Pittsburgh. I would like to take this opportunity to commend the 2003 award winners for their efforts to make Bloomfield a better place to live.

Emil DelCimuto has been selected as the recipient of the Mary Cercone Outstanding Citizen Award for his commitment to helping others in the community. As a volunteer for the Bloomfield Lions Club, the St. Joseph Nursing Home, and Meals on Wheels, Mr. DelCimuto has dedicated his time and energy to the people of Bloomfield. He is also an active member of the Bloomfield Preservation and Heritage Society and a sports columnist for several local newspapers.

The Distinguished Patriotism Award was presented to Raymond Fern. As a Korean War Veteran and life member of the Veterans of Foreign Wars, Mr. Fern is currently Commander of District 29, which has 15,000 members. Mr. Fern also became the first Pennsylvanian in 25 years to receive the All Star Grand Commander of the Military Order of the Cootie in 2000 for his strong commitment to hospitalized veterans.

The People of Vision Award was presented to David Voelker, Richard Voelker and Marcia Deaktor for their financial investments in the economic growth and development of Bloomfield.

The Bloomfield Citizens Council will present two awards for Christmas decorations this year. Joe and Toni Surmacy received the Keeping Christ in Christmas Award for their holiday arrangement with a religious theme, and Art and Mary Harrover received the Most Outstanding and Completely Decorated Home for their detailed Christmas designs.

In closing, I would like to congratulate the recipients of the 2003 Bloomfield Citizens Council Awards on their important contributions to the quality of life in Bloomfield. On behalf of the residents of Bloomfield and the rest of the 14th Congressional District, I thank them for their efforts.

SUCCESS WITH SCALLOPS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, we hear too rarely of our public policy successes, because of a natural tendency for people to focus on areas where our efforts have fallen short of what we sought to achieve.

It is important to examine the policies which have not worked well, so that we can change them. But when organizations, the media, and others pay attention only to failure, the public gets a distorted overall picture, and people become unduly pessimistic about our ability to achieve important goals through public policy.

One area in which the private and public sectors can work together to produce a very favorable current situation is that of the scallop fishery. This does not mean that no errors were made in the course of this work, and to some extent we have seen here a process of trial and error. One of the errors we had previously made was to rely exclusively on science conducted by the regulators, and in recent years, independent scientific assessment of the fishery has proven to be an extremely useful tool.

Today, the scallop fishery is a very successful one. The catch is high, the stock has been replenished, the economy of the Greater New Bedford area—and other scallop fisheries—benefits, and, perhaps most importantly, consumers are able to receive a steady supply of a food that is both good and good for them. Sadly, this success seems, in some cases, to have angered some conservationists when it should, instead, have given them a sense of confidence about our ability to make public policy decisions. As the Representative of the City of New Bedford, the Town of Fairhaven, and other communities in which scallop fishing is important, I have had the disappointing experience of seeing some—by no means all—environmental organizations take unreasonable positions, and maintain them even in the face of contradictory experience.

I hope, Mr. Speaker, that when we reauthorize the Sustainable Fisheries Act, we build on the experience that we have gained in the scallop fishery, as well as in other fisheries, and make changes in the law that will enhance our ability to achieve the public policy successes that we have seen in the regulation of scalloping.

In a very comprehensive and thoughtful article, our former colleague, Gerry Studds, and Dr. Trevor Kenchington, a marine biologist, present the story of the success in the scallop fishery—as the sub-headline of their article in the May 25 issue of the New Bedford Standard Times correctly notes, ''cooperation between managers and fishermen has rebuilt stocks.''

Those who served with Gerry Studds during his twenty four years in the House, including his service as Chair of the Committee on Merchant Marine and Fisheries before its abolition, will not be surprised to read his cogent and balanced presentation. As a leading voice in this House on the question of fishing, Mr. Studds had a major role in bringing about many of the achievements chronicled in this article, and I am proud as his successor in representing the major scallop fishery in American to have been able to carry on his work.

Because this is a very important issue that we will, I hope, be addressing in legislation this year, I ask that the very informative article ''Success With Scallops'' offered by Mr. Studds and Dr. Kenchington and carried in the New Bedford Standard Times, be reprinted here.

SUCCESS WITH SCALLOPS

COOPERATION BETWEEN MANAGERS AND FISHERMEN HAS REBUILT STOCKS

(By Trevor J. Kenchington and Gerry E. Studds)

If you thought all living marine resources were either severely depleted or on the verge of extinction, due to a combination of ineffective management and the greed and shortsightedness of fishermen, you could hardly be blamed. After all, that is the message conveyed to you day after day in the media—and in the fund-raising solicitations of many environmental groups.

You might be more than a little surprised, therefore, to learn that an immensely valuable component of commercial fishing in New England and the Mid-Atlantic—the Atlantic sea scallop fishery—presents a shining example of successful management and an unprecedented instance of cooperation between fishermen and managers.

''The scallop resource on Georges Bank and in the Mid-Atlantic region has not only increased dramatically in recent years, but is at record high levels and considered fully rebuilt,'' said the Executive Director of the New England Fishery Management Council last fall. (Heading Toward Recovery: Rebuilding New England's Fisheries, Fall 2002)

Under these circumstances, you might be even more surprised to learn that several environmental organizations and their allies have gone to court again and again to block these management efforts. To date, their legal challenges have been uniformly unsuccessful. But they have succeeded in tying managers and fishermen in expensive, litigious knots.

Why is it that these groups, among them the Conservation Law Foundation and Oceans, have painted a target on the backs of the scallop fishermen when pinning a medal on their chests for innovative, proactive citizenship might seem more appropriate?

Let's take a closer look, first at the scallops themselves and their importance to the country and to local communities, then at the recent history of scallop management.

Scallops feed on the lowest level in the marine ecosystem—microscopic floating plants. Much as cattle turn grass into beef, scallops turn natural plant energy into meat. Scallop meat is, moreover, nutritious, low fat and a prized delicacy when fresh.

Left to themselves, however, scallops are not an efficient pathway for the plants to feed the rest of the ecosystem. Scallops, with their strong shells, resist most predators. Enter humans. With effective management of the U.S. Atlantic scallop fishery, annual production of some 40 million pounds of high-quality scallop meat can be landed and enjoyed by consumers, replacing high-priced imports with fresh product. Importantly, because scallops are ''shucked'' (opened) at sea with only their meats brought ashore, their viscera are discarded overboard and thereupon become a food source for predatory fish such as cod.

The scallop industry is very important to the social fabric of shoreside communities from Maine to North Carolina. The bulk of the catch is harvested by approximately 200 full-time scallop vessels, while another 100 or so fish for scallops to a lesser extent. Some 2,000 people are directly employed in the harvesting. In the process of supplying this product to consumers, the scallop fishery can earn between $150 million and $200 million per year, valued at the point of landing. Even more value is added and more jobs supported in processing, distribution and sales.

Income from scalloping contributes to the economies and way of life of many coastal communities in a half-dozen states. That is an important contribution for some ports like Stonington, Conn.; Cape May, N.J.; and Hampton Roads, Va. But, scalloping is vital to New Bedford, where the majority of Atlantic scallops are landed. In fact, the revitalization of the scallop fishery has propelled New Bedford into its current position as the No. 1 fishing port in the United States, measured by dollar value of product landed.

But it is not foreordained that the scallop industry should have its current success. In the past, scallop fishermen, like those in so many other U.S. fisheries, compensated for a declining resource by fishing harder (and more dangerously) struggling to maintain their income but driving the scallops down further.

1994 RULES

In 1994, all that began to change when strict rules were implemented limiting the number of participants in the fishery and, more importantly, the number of days that scallop vessels could fish in a given year. Further cuts followed, particularly in 1998. Full-time scallop vessels are now limited to 120 days at sea each year compared to the 250 or more that many worked before restrictions began. They are also now limited to seven men, which severely limits their catching power, compared to the 13 men commonly carried in earlier years. In addition, large portions of the most productive scallop grounds in the world (on Georges Bank, off Massachusetts) were closed in order to assist federal efforts to rebuild stocks of groundfish (cod, flounder, and haddock). About 80 percent of the Georges Bank scallops (roughly half of the entire Atlantic scallop resource) is currently off-limits to fishing.

Under these strict management measures, the weight of scallops alive in the ocean has increased almost eight-fold since its low point in 1993. It is now safely above target levels set by federal managers for rebuilding the stock pursuant to the federal Sustainable Fisheries Act. For scallops, a formal 10-year rebuilding plan was initiated in 1999. By 2001—just three years—scallop stocks had rebuilt to their target level.

RELATED REASONS

They rebuilt so quickly for a series of inter-related reasons.

First, scallop stocks can be, and were, very productive. Second, significant conservation measures were imposed in time to capitalize on a large, natural up-tick in scallop productivity. Third, the scallop fleet responded to challenges imposed by the Sustainable Fisheries Act by organizing itself to partner with the federal government to achieve conservation goals. Almost 200 full-time participants in the Atlantic scallop fishery have come together under the banner of the Fisheries Survival Fund (FSF), which is headquartered in Fairhaven, Massachusetts, just outside New Bedford.

FSF participants have worked with the federal government to develop innovative approaches to improve scallop yield, reduce the (already very limited) bycatch of other fish species by scallop dredges and reduce the potential for interactions between scallop dredges and the ocean bottom habitat. FSF members have also worked in partnership with major East Coast universities, such as the University of Massachusetts School for Marine Sciences and Technology and the Virginia Institute of Marine Sciences at the College of William & Mary, using both scallop gear and high-resolution video cameras to survey scallop stocks, to learn about the ocean bottom in scallop areas and to develop gear that can reduce the potential for fish bycatches and the small potential for interaction of scallop dredges with endangered sea turtles.

Pilot projects, involving the industry, academia and the federal government, were undertaken in 1999 and 2000 to reopen portions of the Georges Bank groundfish closed areas to environmentally responsible scallop fishing. Areas have been closed in the Mid-Atlantic to allow concentration of small scallops detected in those regions to grow and then to spread the catches of these large concentrations of harvestable scallops over a period of years, rather than have them be taken in one ''gold-rush'' event.

ROTATING CLOSURES

The FSF has also been working since 1999 to devise a systematic approach to rotational management of scallop beds—an effort that promises important habitat benefits and further reductions in the already small bycatches.

Few, if any, fishery participants nationwide have invested more time, effort and material resources in developing proactive management approaches. Significantly, moreover, these cooperative management efforts have repeatedly (and, sad to say, expensively) stood the test of determined court challenges.

This is fisheries management for the 21st century. If anything became clear in the 20th century, it was the top-down management of fisheries, in an atmosphere of conflict between managers and the managed, has failed worldwide and would not have worked for the Atlantic scallop fishery.

It is, finally, important to recognize that the scallop fishery is an environmentally clean fishery. Scalloping involves very little bycatch. There are only negligible catches of cod, haddock and most other species of fish. Bycatches of flounder, monkfish and skate are a bit higher but still relatively small.

Scalloping alone would pose no threat to those populations; however, there can be issues when a resource has been depleted by directed fishing (that is, not by scalloping) or by environmental factors. The potential for scalloper bycatch is something that needs to be considered in developing rebuilding measures in these cases. The scallop industry is working with managers to identify and resolve these specific issues when they arise.

DESIGNED TO WORK

Then there is the issue of the scallop dredge itself. Simply put, harvesting scallops from deep offshore waters requires towed gear. Thus, dredges are necessarily used for the bulk of the scallop fishery. Importantly, however, while the dredge is a large and heavy device when sitting on land or aboard a boat, when towed under the water, hydrodynamic forces literally lift it off the bottom. In fact, the New Bedford style scallop dredge used in the Atlantic has been called an ''airplane'' dredge and actually requires ''depressor plates'' (which function as upside-down airplane wings) to maintain contact with the bottom—contact that involves chains and skids skimming across the bottom, rather than digging into it. Contrary to the impressions created by some, dredges do not plow the bottom for scallops; rather, water flow behind the depressor plates causes scallops to be sucked off the bottom and whirled into the bag portion of the dredge.

Moreover, scallopers tend to avoid areas with even occasional boulders unless they are forced there by lack of resource elsewhere or by closures of productive scalloping areas. Their gear is not efficient in those areas while damage to expensive dredges is both common and dangerous. It is those rocky bottom areas that represent the main focus of efforts to protect essential groundfish habitat from the adverse effects of fishing gear. Scallops and scalloping on the other hand are most productive where the seabed is sand or fine gravel.

Managers are currently working, as they should be, towards focusing scallop fishing efforts on large concentrations of large scallops, including those in closed areas of Georges Bank. Moreover, focusing scallop effort on areas where scallops are abundant also reduces the potential for any impact of the scallop dredge on the ocean bottom and the potential for bycatch of other species. Scallopers fishing in areas of high abundance spend less time fishing for scallops and more time processing them. This reality is at the heart of scallop rotation management, as championed by the industry. Successful rotation management, therefore, requires access to areas of scallop abundance.

So, to return to where we began, why is it that the fisherman who regularly risks his life in the most dangerous of all occupations to wrest a living from the sea and put food on our table who has not only played by the rules but has taken the initiative (at considerable expense to himself) to help develop an innovative, conservation-positive management system that is working and working well—why is it that, in addition to the forces of nature and the processes of regulatory bureaucracy, he must now contend with a sustained legal assault from groups that seek to portray him as the most avaricious and irresponsible of men?

Might it be that the scallop industry has ''stepped on the message'' of some whose world view has no place for them? Are there those whose agenda is somehow threatened by proof that a fishery can be both successful and sustainable? These are questions that thoughtful and responsible people would do well to ponder.

RECOGNIZING WORCESTER COMMUNITY ACTION COUNCIL WARM FRIENDS AWARDS RECIPIENTS

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to this year's Worcester Community Action Council Warm Friends Award recipients from the City of Worcester. I am very

proud of the service these recipients have given to the people of the City of Worcester.

Mr. Speaker, the Worcester Community Action Council (WCAC), created in 1965, serves as an umbrella organization for 20 education and social service programs. It includes Energy Assistance, Head Start, Healthy Families, Training and Youth Education Mediation, Consumer Council, and Community Connections. WCAC's mission is ''to stimulate change in the fundamental causes of poverty and to create and provide opportunities for economic self-sufficiency through services, partnership, and advocacy.''

Mr. Speaker, this ceremony honors organizations and individuals who promote economic self-sufficiency and work tirelessly on behalf of those less fortunate in our society. The following recipients are being honored today for their commitment to the education of all of our children: Allmerica Financial, for their support of WCAC's Cityworks Program; Anne Quinne for her work to develop programs for at-risk youth; and Lisa Perez for her efforts to encourage parent involvement in Worcester's schools.

Mr. Speaker, I am honored to acknowledge the contributions of the following organizations: Nstar Gas for its support of weatherization services for families; University Home Improvement and Ken Martinetty for their services as weatherization contractors; and Amara Thomas for her participation in the Cityworks corps member and current IDA participant.

Finally, Mr. Speaker, we are also honoring the contributions of the following community leaders: State Representative Robert Spellane for his service on behalf of families in need; Worcester County Treasurer Michael Donoghue for his exemplary community service; Mike Keegan for his leadership of WCAC; Winifred Octave for her parent leadership efforts; Dr. James Ostromecky for his free dental services for Head Start children; Christopher and Laura Pallotta for their support of WCAC's mediation services; Marge Perves for her community involvement and volunteer mediation services; Larry Raymond for his commitment to family and self sufficiency; and Steve Teasdale for his efforts to revitalize the Main South neighborhood.

Mr. Speaker these individuals are the embodiment of our collective common good, and I am sure that my colleagues in the House of Representatives join me in extending sincere thanks to the recipients of WCAC's Warm Friends Awards.

THE GLOBAL PATHOGEN SURVEILLANCE ACT

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mrs. TAUSCHER. Mr. Speaker, I am pleased to introduce the Global Pathogen Surveillance Act of 2003 with my colleague, Congressman MARK KIRK. This important bipartisan legislation mirrors legislation offered by Senators BIDEN and LUGAR, and will reduce the risk of infectious diseases entering this country.

As we have learned from the outbreak of severe acute respiratory syndrome, or SARS, and the anthrax attacks, nature and terrorists do not stand still while the world finds ways to improve its preparedness against biological threats.

Indeed, new diseases—no matter where they start—can spread to the United States in days or even hours. Many of them, including smallpox, SARS and the plague have lengthy incubation times, lasting two to twelve days.

The flight time between any two cities, however, is under 36 hours. Any of the 140 million people who enter the United States by air each year can, unknowingly, carry these dangerous pathogens with them.

SARS, for example, came to the world's attention in East Asia in March. Today, there are over eight thousand cases worldwide, with the highest number of cases in the United States occurring in my home state of California.

Because it was not reported immediately and a strong international network was not in place to monitor and control it, SARS has become a worldwide epidemic.

It has put a severe strain on hospitals and health care systems and caused financial chaos in dozens of countries.

While Congress has been generous in funding measures to improve domestic biopreparedness, rapid detection of outbreaks requires significant improvements in international disease surveillance.

While developing nations are most likely to experience rapid disease outbreak, they don't have the trained personnel, the laboratory equipment or the public health infrastructure to deal with epidemics—much less warn the rest of the world.

Our bill would help train public health professionals in developing countries to use electronic syndrome surveillance systems and traditional epidemiology methods to better detect, diagnose and contain infectious disease outbreaks.

Our bill would also help developing countries purchase public health laboratory equipment for health surveillance and diagnosis as well as communications technology to transmit information about infectious diseases.

This legislation would also develop and enhance existing regional health networks and establish lab-to-lab cooperative relationships between the United States and public health laboratories and foreign counterparts.

It would also strengthen the reporting capabilities of the World Health Organization, whose decision to issue a global alert in March allowed health officials around the world to take appropriate measures to control the spread of SARS.

All these provisions strengthen a global surveillance network which will detect the unique symptoms of an epidemic before it spreads and allow earlier diagnosis and better containment measures.

I call on my colleagues to support this important bill and help us close the huge gaps in our defense against emerging diseases.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

SPEECH OF

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 3, 2003

Mrs. CUBIN. Mr. Speaker, I rise today in strong support of H.J. Res. 4, a constitutional amendment to restore protections for the most widely recognized symbol of our nation and our traditions, the flag of the United States of America.

Some would call stuffing an American flag in a toilet or a trash can a work of art. I would call it a disgrace. Too many brave Americans have fought and died in defense of our flag to allow it to be soiled. In fact, they're fighting even today in Afghanistan, Iraq and all over the globe to secure the ideals for which the flag stands.

Mr. Speaker, I spent this past weekend in my home state of Wyoming to celebrate Memorial Day. I spoke to a veteran there who wore a shirt with a picture of our flag and the legend, ''This flag wasn't earned to be burned.''

Over the course of our history, more than a million brave Americans have given their lives in defense of our flag. We should honor their sacrifice by defending the flag with the same conviction they did. I urge the passage of this bill and yield back the balance of my time.

PERSONAL EXPLANATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. KOLBE. Mr. Speaker, on Rollcall 234 on H.J. Res. 4, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, I inadvertently voted ''yea'' but I meant to vote ''nay.'' Although I abhor desecration of our flag, I believe it is a form of political expression and dissent protected under the First Amendment. I would like the record to reflect that my intended vote was ''nay''

ASSURED FUNDING FOR VETERANS HEALTH CARE ACT OF 2003

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. EVANS. Mr. Speaker, today, on behalf of myself and 72 of my colleagues, I am introducing H.R. 2318 the ''Assured Funding for Veterans Health Care Act of 2003.'' Starting in Fiscal Year 2005, the bill would require the Secretary of the Treasury to provide funding for the Department of Veterans Affairs Health Care System based on the number of enrollees in the system and the consumer price

index for hospital and related services. I believe the measure I am offering will create a vastly improved funding system that better responds to the needs of our veterans.

Last week the President's Task Force to Improve Health Care Delivery For Our Nation's Veterans issued its final report. In it, the ''growing mismatch between funding and demand'' is repeatedly referenced. To address this problem, the report recommended: The Federal Government should provide full funding to ensure that enrolled veterans in Priority Groups 1 through 7 (new) are provided the current comprehensive benefit in accordance with VA's established access standards. Full funding should occur through modifications to the current budget and appropriations process, by using a mandatory funding mechanism, or by some other changes in the process that achieve the desired goal. (p. 77)

In addition, the Task Force addressed the need to clarify standards of access for Priority 8 veterans. Priority 8 veterans are the so-called ''high-income'' veterans without compensable service-connected conditions. Who are these individuals? Anyone with an income level of more than the geographically adjusted Housing and Urban Development threshold for low-income housing is considered ''high income''. In some communities, this means veterans with incomes of more than $24,644—most often work-a-day folks who sometimes have to choose between prescription drugs and heat or groceries. My bill would cover these veterans.

Some will say that we've done well by our veterans this year. I would say it might well have gone the other way. This body passed a budget resolution that would have required us to cut veterans benefits during a period of war. It still remains unclear how veterans' health care will fare when pitted against such disparate programs as low-income housing, the space program and other independent agencies. Other health programs such as Medicare and TRICARE for Life are not subject to the same types of considerations because funding for these programs is based on need.

The result of this funding process is the ''growing mismatch'' addressed by the President's task force—the system is starving! We all have heard the numbers of veterans who have waited more than six months for health care services. There were more than 200,000 veterans in the queue at the beginning of the year. Even with increases proposed in the joint budget resolution, VA will still impose some regulatory constraints on access and has identified more than a billion in illusory ''management efficiencies.''

Last year, I cosponsored H.R. 5250, the ''Veterans Health Care Funding Guarantee Act of 2002'' with 129 other members of the House. The bill I am offering today closely resembles that legislation. The Congressional Budget Office slapped a hefty price tag on H.R. 5250 largely assuming huge increases in demand would result if the veterans' health care system were adequately funded! Think about this—our budget office assumes that our health care system for veterans is so fiscally deprived that a fairer funding system that responds to changes in demand would create a run on health care!

Our veterans deserve better than a chronically underfunded health care system. I believe veterans—all veterans—have earned the right to access the health care system that was created to serve their needs. The price we pay as a Nation for assuring timely access to high-quality health care services is small in relation to the price we have asked them to pay in securing our freedom.

I urge my colleagues to join me and the 72 other members of the House that believe this is the right thing to do for our veterans. Every major veterans service organization, including The American Legion, Disabled American Veterans, and Veterans of Foreign Wars, has stated support for this bill. Join us in the fight to do the right thing for our veterans. Join me in cosponsoring the ''Assured Funding for Veterans Health Care Act of 2003''.

THE SANTA CLARA COUNTY CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATIONS HONOR AMY B. DEAN

HON. ANNA G. ESHOO

OF CALIFORNIA

HON. MICHAEL M. HONDA

OF CALIFORNIA

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Ms. ESHOO. Mr. Speaker, Mr. HONDA, Ms. LOFGREN, and myself, rise to honor Amy B. Dean, Chief Executive Officer of the South Bay AFL–CIO Labor Council who is leaving the Bay Area to go back to her original home of Chicago. On June 7, 2003, Amy Dean will be participating in her final COPE Awards Banquet as CEO of the organization she has so ably led.

Through Amy Dean's leadership, the South Bay AFL–CIO Labor Council has been extremely successful in working for living wage contracts for city workers, affordable housing requirements in new developments, and health insurance for every child in Santa Clara County. Amy Dean has been a tireless and passionate advocate for social justice and has helped to strengthen the labor movement, bringing dignity and hope to countless families, whether they are union or non-union workers. Amy Dean was the youngest person in the country to lead a large metropolitan labor council and the first woman to head a labor council as large as the South Bay AFL–CIO Labor Council. She founded Working Partnerships USA, a non-profit organization dedicated to rebuilding the links between regional economic policy and community well-being. She will continue her advocacy for community-centered economic development through Working Partnerships in Chicago. She has been widely recognized for her many accomplishments, has served on many committees and advisory boards and has written extensively on labor issues.

Mr. Speaker, we ask our colleagues to join us in honoring Amy B. Dean for her extraordinary service to our community as an ardent advocate for working women and men and their families.

A TRIBUTE TO OLUYEMI O. BADERO, MD., FACC

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Oluyemi O. Badero, in recognition of his outstanding accomplishments in the field of medicine.

Dr. Badero was born in Nigeria. Four years after completing medical school in Nigeria, he came to the United States in 1988. Dr. Badero, who is a U.S. citizen, received his internship and residency training in internal medicine at SUNY Downstate-Kings County Hospitals in Brooklyn, New York where he also served as chief resident, a prestigious position.

He completed three separate fellowship training programs in critical care medicine, cardiovascular disease and interventional cardiology, the latter at the Yale University Program in Bridgeport, Connecticut.

Dr. Badero is board certified in internal medicine, cardiovascular disease and interventional cardiology. He is one of a very few African-American specialists in his field. In fact in February 2003, The Network Journal, named Dr. Badero as one of the top black doctors for cardiology based on his experience, expertise and bedside manner.

Having completed an unprecedented nine consecutive years of post-graduate training, Dr. Badero is a highly regarded expert in cardiology. He is a fellow of the American College of Cardiology and an active member of several other professional organizations.

Dr. Badero has been widely published on a wide range of medical topics and has won numerous awards for his accomplishments. He currently serves as the Associate Chief of Cardiology and Associate Director of Cardiac Catheterization Laboratory at Interfaith Medical Center, the Director of the Cardiology Clinic at Kings County Hospital, director of Cardiac Screening Clinic and Assistant Professor of Clinical Medicine at SUNY Health Science Center. All of these medical institutions are located in Brooklyn, New York.

Mr. Speaker, Dr. Oluyemi O. Badero has reached the highest levels of medicine in our country, all the way from Nigeria, and he has used his expertise to improve the lives of his community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

A PROCLAMATION RECOGNIZING CASSIE SHAW

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. NEY. Mr. Speaker, whereas, Cassie Shaw has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Cassie Shaw has shared her time and talent with the community in which she resides; and

Whereas, Cassie Shaw has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Cassie Shaw 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 Kingston and the entire 18th Congressional District in congratulating Cassie Shaw as she receives the Girl Scout Gold Award.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.J. Res. 4, the proposed amendment to the Constitution to prohibit the physical desecration of the United States flag. I respect our flag, what it stands for, and personally deplore acts of desecration against the flag. However, I believe that our commitment to respecting our flag while preserving our fundamental freedoms, as symbolized by our flag and embodied in the Constitution and Bill of Rights, can be met without amending the Constitution.

Many Members of Congress see continued tension between ''free speech'' decisions of the Supreme Court, which protect flag desecration as an expression of first amendment speech, and the symbolic significance of the United States flag. Consequently, every Congress that has convened since those decisions were issued has considered possible measures to permit the punishment of those who engage in flag desecration. However, the amendment offered today by the majority would diminish the First Amendment's guarantee of freedom of expression, one of our most fundamental guarantees of the Bill of Rights.

Amending the U.S. Constitution is necessarily and understandably a rigorous task. To become the law of the land, the flag desecration amendment would have to get the approval of two-thirds of both chambers of Congress and then be ratified by three quarters of the state legislatures. The fact that only 27 amendments, including the Bill of Rights, the civil rights amendments, and women's suffrage, have been made to the Constitution in the past 200 years illuminates the infrequency of such legislative initiatives. Moreover, since its ratification in 1791, the Bill of Rights has not been altered in any manner. Consequently, I believe that passage of such an amendment would set a dangerous precedent for further erosion of our constitutional rights and freedoms.

Not only is amending the Constitution a task that must not be taken lightly, we must be absolutely sure that it is necessary. In this case, I am not convinced that the requisite level of necessity has been met. For example, flag burning is an exceedingly rare occurrence—since the Supreme Court's free speech, flag desecration decisions, fewer than 10 flag burning incidents have been reported each year.

Considering this, I believe that amending the Constitution to address the shameful conduct of such a minute portion of our general populace is simply unnecessary. This conviction is generally supported by a letter sent to Senator PATRICK LEAHY in May 1999, in which General Colin Powell, now Secretary of State, wrote that ''The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.'' Secretary Powell, one of our most noted patriots and war heroes, obviously believes that diminishing our First Amendment rights is not the solution to the perceived problem at hand.

Taking into account the infrequency of flag desecration, as noted by Secretary of State Powell, I question today what it is that we are trying to regulate: is it the act of physical desecration itself or rather the sentiment behind the action? I believe that H.J. Res. 4 would affectively and severely abridge our rights of free expression. As such, I will oppose passage of this proposed constitutional amendment.

TRIBUTE TO MR. JACOB HOFFMAN

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 2003

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor a respected member of the Philadelphia community. Mr. Jacob Hoffman is turning 100 years young.

Mr. Hoffman, a resident of Brith Shalom House, will celebrate his 100th birthday this July 2, 2003. A retired real estate broker and developer, Mr. Hoffman is well regarded in the real estate community. He served on the Philadelphia Board of Realtors and was a founder of the south Philadelphia Realty Board in 1929.

Mr. Hoffman has remained very active in Jewish circles. He received a citation for being a member of B'nai B'rith for over 50 years. He is the oldest board member of Har Zion Temple and is also a member of the Lions Club.

Along with his two daughters, three grandchildren, and two great grandchildren, I ask that you and my other distinguished colleagues join me in congratulating Mr. Jacob Hoffman during his 100th birthday celebration.

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, June 5, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 6

9:30 a.m.

Judiciary

To hold hearings to examine the nomination of Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

SD–226

10 a.m.

Finance

To hold hearings to examine issues related to strengthening and improving Medicare.

SD–215

JUNE 10

9:30 a.m.

Armed Services

To hold closed hearings to examine certain intelligence programs.

S–407, Capitol

Commerce, Science, and Transportation

To hold hearings to examine reauthorization of the Federal Motor Carrier Safety Administration.

SR–253

Governmental Affairs

To hold hearings to examine castaway children, focusing on whether parents must relinquish custody in order to secure mental health services for their children.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the reauthorization of the Federal Public Transportation Assistance Program.

SD–538

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold hearings to examine the current regulatory and legal status of federal jurisdiction of navigable waters under the Clean Water Act, focusing on issues raised by the Supreme Court in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers No. 99–1178.

SD–406

2 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine internally displaced persons in the Caucasus Region and Southeastern Anatolia.

334, Cannon Building

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, S. 546, to provide for the protection of paleontological resources on Federal lands, S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct

and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, S. 1060 and H.R. 1577, bills to designate the visitor center in Organ Pipe National Monument in Arizona as the ''Kris Eggle Visitor Center'', H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretative Center in Nebraska City, Nebraska, and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia.

SD–366

JUNE 11

9 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine patient safety, focusing on instilling hospitals with a culture of continuous improvement.

SD–342

9:30 a.m.
Judiciary
To hold hearings to examine the nominations of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, and Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice.

SD–266

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.

SD–430

Indian Affairs
To hold hearings to examine S. 1146, to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota, and the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.

SR–485

2 p.m.
Judiciary
To hold hearings to examine P2P file-sharing networks, focusing on personal and national security risks.

SD–226

2:30 p.m.
Commerce, Science, and Transportation
Competition, Foreign Commerce, and Infrastructure Subcommittee
To hold hearings to examine reauthorization of the Federal Trade Commission.

SR–253

JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine global overfishing.

SR–253

Foreign Relations
To hold hearings to examine repercussions of Iraq stabilization and reconstruction policies.

SD–419

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the Department of Agriculture's implementation of the Agricultural Risk Protection Act of 2000 and related crop insurance issues.

SR–328A

Health, Education, Labor, and Pensions
To hold hearings to examine private sector lessons for Medicare.

SD–430

2 p.m.
Health, Education, Labor, and Pensions
To hold hearings to examine certain issues relative to TWA.

Room to be announced

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 434, to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes, S. 435, to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, S. 490, to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California, H.R. 762, to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of certain rights-of-way granted, issued, or renewed under these Acts, S. 1111, to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the RECORD of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad, and H.R. 622, to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona.

SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine issues relating to cloning.

SR–253

JUNE 17

10 a.m.
Governmental Affairs
Business meeting to consider pending calendar items.

SD–342

JUNE 18

9:30 a.m.
Governmental Affairs
To hold hearings to examine the nominations of Fern Flanagan Saddler, Judith Nan Macaluso, Joseph Michael Francis Ryan III, and Jerry Stewart Byrd, all of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

10 a.m.
Indian Affairs
To hold oversight hearings to examine Native American sacred places.

SR–485

JUNE 19

10 a.m.
Governmental Affairs
To hold hearings to conduct an initial review of the ULLICO matter, focusing on self-dealing and breach of duty.

SD–342

JUNE 24

10 a.m.
Governmental Affairs
To hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study.

SH–216

JUNE 25

10 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.

SD–366

JUNE 26

9:30 a.m.
Governmental Affairs
To hold hearings to examine the need for Federal real property reform, focusing on deteriorating buildings and wasted opportunities.

SD–342

2 p.m.
Foreign Relations
To hold hearings to examine the Department of State's Office of Children's Issues, focusing on responding to international parental abduction.

SD–419

POSTPONEMENTS

JUNE 10

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Head Start program.

SD–430

Daily Digest

HIGHLIGHTS

Senate passed H.R. 1588, National Defense Authorization Act.

The House passed S. 3, Partial-Birth Abortion Ban Act after amending it to contain the text of H.R. 760, as passed the House.

Senate

Chamber Action

Routine Proceedings, pages S7269–S7415

Measures Introduced: Ten bills and three resolutions were introduced, as follows: S. 1178–1187, S. Res. 159, and S. Con. Res. 48–49. **Page S7381**

Measures Passed:

National Defense Authorization Act: Senate passed H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 1050, Senate companion measure, as passed by the Senate on May 22, 2003, and after taking action on the following amendments proposed thereto:

Pages S7279–S7365

Adopted:

Kennedy Amendment No. 847, to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents.

Pages S7280–83

Reid Amendment No. 848, to permit retired members of the Armed Forces who have a service-connected disability to receive both military pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability. **Pages S7284–86**

Rejected:

By 42 yeas to 53 nays (Vote No. 205), Dorgan Amendment No. 849, to repeal the authorities and requirements for a base closure round in 2005.

Pages S7286–95, S7297

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Warner, McCain, Inhofe, Roberts, Allard, Sessions, Collins, Ensign, Talent, Chambliss, Graham (SC), Dole, Cornyn, Levin, Kennedy, Byrd, Lieberman, Reed, Akaka, Nelson (FL), Nelson (NE), Dayton, Bayh, Clinton, and Pryor.

Subsequently, Senate vitiated the May 22, 2003 passage of S. 1050. **Pages S7364–65**

Subsequently, S. 1050 be returned to the Senate Calendar. **Pages S7364–65**

A unanimous-consent agreement was reached with respect to further consideration of S. 1047, S. 1048, and S. 1049; that if the Senate receives a message from the House of Representatives with regard to any of these measures, the Senate disagree to the amendment or amendments of the House to the Senate-passed bill, and agree to or request a conference, as appropriate, with the House of Representatives on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees; and that the foregoing occur without any intervening action or debate. **Pages S7364–65**

A unanimous-consent agreement was reached providing that the engrossment of S. 1047, as passed by the Senate on May 22, 2003, be corrected by inserting the text of Amendment Nos. 847 and 848 to H.R. 1588. **Page S7364**

Energy Policy Act: Senate continued consideration of S. 14, to enhance the energy security of the United States, taking action on the following amendments proposed thereto: **Pages S7365–73**

Rejected:

By 37 yeas to 58 nays (Vote No. 206), Bingaman/Sununu Modified Amendment No. 851 (to Amendment No. 850), to authorize the Secretary of Energy to waive the ethanol mandate on the East and West Coast in the event of a significant price increase or supply interruption. **Pages S7369–71**

Pending:

Domenici/Bingaman Amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program (LIHEAP), weatherization assistance, and State energy programs. **Page S7365**

Domenici (for Gregg) Amendment No. 841 (to Amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981. **Page S7365**

Domenici (for Frist) Amendment No. 850, to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence. **Pages S7365–69**

Schumer/Clinton Amendment No. 853 (to Amendment No. 850), to exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program. **Pages S7372–73**

A unanimous-consent agreement was reached providing that the only remaining second-degree amendments to Domenici Amendment No. 850 (listed above) be ethanol-related amendments by Senators Schumer (listed above) and Boxer (two amendments); that when the Senate resumes consideration of S. 14 at 10 a.m., on Thursday, June 5, 2003, Senator Boxer be recognized to offer an amendment; and that following debate on the ethanol-related amendments, they be temporarily set aside and the votes occur in relation to the amendments in the order offered at a time determined by the Majority Leader, after consultation with the Democratic Leader. **Page S7415**

Messages From the House: **Page S7378**

Measures Referred: **Page S7378**

Measures Placed on Calendar: **Page S7378**

Executive Communications: **Pages S7378–81**

Additional Cosponsors: **Pages S7381–83**

Statements on Introduced Bills/Resolutions: **Pages S7383–S7405**

Additional Statements: **Pages S7375–77**

Amendments Submitted: **Pages S7405–14**

Notices of Hearings/Meetings: **Page S7414**

Authority for Committees to Meet: **Page S7414**

Privilege of the Floor: **Pages S7414–15**

Text of H.R. 1588 as Previously Passed (Senate amendment which is the text of S. 1050, as passed the Senate on 5–22–03, and further amended on today): **Pages S7297–S7364**

Text of S. 1047 as Previously Passed (Division A of Senate amendment to H.R. 1588): **Pages S7301–43**

Text of S. 1048, as Previously Passed (Division B of Senate amendment to H.R. 1588): **Pages S7343–54**

Text of S. 1049, as Previously Passed (Division C of Senate amendment to H.R. 1588): **Pages S7354–64**

Record Votes: Two record votes were taken today. (Total—206) **Pages S7297, S7317**

Adjournment: Senate met at 9:30 a.m., and adjourned at 6:20 p.m., until 9:30 a.m., on Thursday, June 5, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S7415.)

Committee Meetings

(Committees not listed did not meet)

MEDIA OWNERSHIP

Committee on Commerce, Science, and Transportation: Committee concluded oversight hearings to examine activities of the Federal Communications Commission, focusing on their recent decision to adopt new broadcast ownership limits, after receiving testimony from Michael K. Powell, Chairman, and Kathleen Q. Abernathy, Michael J. Copps, Kevin J. Martin, Jonathan S. Adelstein, each a Commissioner, all of the Federal Communications Commission.

PUBLIC LANDS

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests concluded hearings to examine S. 714, to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, S. 391, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River, H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, and S. 924, to authorize the exchange of lands between

an Alaska Native Village Corporation and the Department of the Interior, after receiving testimony from Senator Murray; Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment; Jim Hughes, Deputy Director, Bureau of Land Management, Department of the Interior; Mike Town, Friends of the Wild Sky, Skykomish, Washington; Mark Heckert, Washington Wildlife Federation, Olympia; Ed Husmann, Sultan, Washington, on behalf of the Snohomish County Farm Bureau; and John Postema, Snohomish, Washington.

IRAQ RECONSTRUCTION

Committee on Foreign Relations: Committee held hearings to examine Iraq stabilization and reconstruction, focusing on international contributions and resources, receiving testimony from Alan P. Larson, Under Secretary of State for Economic, Business and Agricultural Affairs; Dov S. Zakheim, Under Secretary of Defense (Comptroller); John B. Taylor, Under Secretary of the Treasury for International Affairs; and Andrew S. Natsios, Administrator, U.S. Agency for International Development.

Hearing continue on Thursday, June 12.

NATIONAL SECURITY PERSONNEL SYSTEM

Committee on Governmental Affairs: Committee concluded hearings to examine proposed legislation to create a National Security Personnel System, focusing on transforming the way the Department of Defense recruits, retains and manages its civilian workforce, after receiving testimony from Donald H. Rumsfeld, Secretary of Defense; David M. Walker, Comptroller General of the United States, General Accounting Office; Bobby L. Harnage, Sr., American Federation of Government Employees (AFL–CIO), Washington, D.C.; Paul C. Light, New York University Wagner School of Public Service, New York, on behalf of the Center for Public Service and the Brookings Institution.

INDIAN RESERVATION ROADS PROGRAM

Committee on Indian Affairs: Committee concluded hearings on S. 725, to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, 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, and S. 1165, to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads, after receiving testimony from Senator Bingaman; Arthur E. Hamilton, Associate Administrator for Federal Lands Highways, Federal Highway Administration, Department of Transportation; Terry Virden, Director, Bureau of Indian Affairs, Department of the Interior; Joe Shirley, Jr., Navajo Nation, Window Rock, Arizona; Chadwick Smith, Cherokee Nation, Tahlequah, Oklahoma; Richard Milonovich, Agua Caliente Band of Cahuilla, Palm Springs, California; James Garrigan, Red Lake Band of Chippewa Indians of Minnesota, Red Lake; and Loretta Bullard, Kawerak, Inc., Nome, Alaska.

AUTHORIZATION—SMALL BUSINESS ADMINISTRATION

Committee on Small Business and Entrepreneurship: Committee concluded hearings to examine the President's proposed budget request and proposed legislation authorizing funds for fiscal year 2004 for the Small Business Administration, after receiving testimony from Hector V. Barreto, Administrator, Small Business Administration.

House of Representatives

Chamber Action

Measures Introduced: 26 public bills, H.R. 2318–2343; and; 3 resolutions, H. Con. Res. 206–207, and H. Res. 259, were introduced.

Pages H4976–77

Additional Cosponsors: Pages H4978–79

Reports Filed: Reports were filed today as follows:

Supplemental report on H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards (H. Rept. 108–125, Pt. 2);

H. Res. 258, providing for consideration of S. 222, to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for consideration of S. 273, to provide for the expeditious completion of the acquisition of

land owned by the State of Wyoming within the boundaries of Grand Teton National Park (H. Rept. 108–140); and

H. Con. Res. 190, to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people (H. Rept. 108–141). **Page H4976**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Bass to act as Speaker Pro Tempore for today. **Page H4879**

Guest Chaplain: The prayer was offered by the Rev. Clint Decker, pastor, Clay Center Wesleyan Church of Clay Center, Kansas. **Page H4879**

Recess: The House recessed at 10:32 a.m. and reconvened at 1:02 p.m. **Page H4883**

Suspension: The House agreed to suspend the rules and agree to the following measures:

Commending the Participants and Supporters of Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq: H. Con. Res. 177, amended, recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations (agreed to by ⅔ yea-and-nay vote of 406 yeas to 2 nays with 8 voting "present", Roll No. 237); **Pages H4883–92, H4919–20**

Commending the Support of Businesses and Business Owners to the Armed Forces and their Families: 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 (agreed to by ⅔ yea-and-nay vote of 410 yeas with none voting "nay", Roll No. 238); **Pages H4892–95, H4920–21**

Sports Agent Responsibility and Trust Act: H.R. 361, amended, to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; and **Pages H4895–99**

Armed Forces Naturalization Act: H.R. 1954, amended, to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces (agreed to by ⅔ yea-and-nay vote of 414 yeas to 5 nays, Roll No. 239). **Pages H4899–H4910, H4921**

Supplemental Report: Agreed that the Committee on the Judiciary have permission to file a supplemental report on H.R. 1086, Standards Development Organization Advancement Act of 2003. **Page H4922**

Partial-Birth Abortion Ban Act: The House passed H.R. 760, to prohibit the procedure commonly known as partial-birth abortion by yea-and-nay vote of 282 yeas to 139 nays, Roll No. 242. The House subsequently passed S. 3, a similar Senate-passed bill after striking all after the enacting clause and inserting in lieu the provisions of H.R. 760, as passed the House, and H.R. 760 was laid upon the table. The House insisted on its amendment and requested a conference with the Senate. Appointed as conferees from the Committee on the Judiciary: Chairman Sensenbrenner and Representatives Hyde and Nadler. **Pages H4910–19, H4922–53**

Agreed to the Nadler motion to instruct conferees to insist that the Committee of Conference allow members to offer and debate amendments and that all meetings be open to the public and media and be held in venues selected to maximize the capacity for attendance of the public and the media. **Page H4953**

Rejected the Baldwin motion that sought to recommit the bill to the Committee on the Judiciary with instructions to report it back to the House forthwith with an amendment that permits an exception for abortions that are necessary for the preservation of the life or health of the mother by yea-and-nay vote of 165 yeas to 256 nays, Roll No. 241. **Pages H4948–50**

Rejected the Greenwood amendment in the nature of a substitute printed in H. Rept. 108–139 that sought to make it unlawful to knowingly perform an abortion after the fetus has become viable unless it is necessary to preserve the life of the woman or to avert serious adverse consequences to her health by yea-and-nay vote of 133 yeas to 287 nays, Roll No. 240. **Pages H4939–48**

H. Res. 257, the rule that provided for consideration of the bill was agreed to by yea-and-nay vote of 280 yeas to 138 nays, Roll No. 236. **Page H4919**

Order of Business—Joint Committee to Review House and Senate Rules Pertaining to the Continuity of Congress: Agreed that it be in order at any time without intervention of any point of order to consider H. Con. Res. 190, to establish a joint

committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people; that it shall be considered as read for amendment; debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion. Page H4956

Senate Message: Message received from the Senate today appear on page H4879.

Referral: S. 313 was referred to the Committee on Energy and Commerce. Page H4975

Amendments: Amendments ordered printed pursuant to the rule appear on page H4979.

Quorum Calls—Votes: Seven yea-and-nay votes developed during the proceedings of the House today and appear on pages H4919, H4920, H4920–21, H4921, H4948, H4949–50, and H4950–51. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 11:45 p.m.

Committee Meetings

FARM BILL—CONSERVATION TITLE IMPLEMENTATION

Committee on Agriculture: Subcommittee on Conservation, Credit, Rural Development, and Research held a hearing to review conservation technical assistance and the implementation of the Conservation Title of the 2002 Farm Bill. Testimony was heard from Jim Moseley, Deputy Secretary, USDA; and public witnesses.

DISTRICT OF COLUMBIA APPROPRIATIONS

Committee on Appropriations: Subcommittee on the District of Columbia held a hearing on Fiscal Year 2004 Budget Request. Testimony was heard from the following officials of the District of Columbia: Anthony Williams, Mayor; Linda Cropp, Chairman, Council; and Natwar Gandhi, Chief Financial Officer.

TEACHER RECRUITMENT AND RETENTION ACT; READY TO TEACH ACT

Committee on Education and the Workforce: Subcommittee on 21st Century Competitiveness approved for full Committee action, as amended, the following bills: H.R. 438, Teacher Recruitment and Retention Act of 2003; and H.R. 2211, Ready to Teach Act of 2003.

STRENGTHENING PENSION SECURITY

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing on "Strengthening Pension Security: Examining the Health and Future of Defined Benefit Pension Plans." Testimony was heard from public witnesses.

WIRELESS E–911 IMPLEMENTATION

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled "Wireless E–911 Implementation: Progress and Remaining Hurdles." Testimony was heard from John B. Muleta, Bureau Chief, Wireless Telecommunications, FCC; and public witnesses.

FAIR CREDIT REPORTING ACT

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled "Fair Credit Reporting Act: How it Functions for Consumers and the Economy." Testimony was heard from Howard Beales, Director, Bureau of Consumer Affairs, FTC; Dolores Smith, Director, Division of Consumer and Community Affairs, Board of Governors, Federal Reserve System; William H. Sorell, Attorney General, State of Vermont; and public witnesses.

U.S. NONPROLIFERATION POLICY AFTER IRAQ

Committee on International Relations: Held a hearing on U.S. Nonproliferation Policy After Iraq. Testimony was heard from John R. Bolton, Under Secretary, Arms Control and International Security, Department of State; Alan Zelikoff, Senior Scientist, Center for National Security and Arms Control, Sandia National Laboratories; and public witnesses.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Africa approved for full Committee action the following measures: H. Con. Res. 80, expressing the sense of Congress relating to efforts of the Peace Parks Foundation in the Republic of South Africa to facilitate the establishment and development of transfrontier conservation efforts in southern Africa; H. Con. Res. 134, acknowledging the deepening relationship between the United States and the Republic of Djibouti and recognizing Djibouti's role in combating terrorism; H. Con. Res. 154, concerning the transition to democracy in the Republic of Burundi; H. Res. 177, amended, commending the people of the Republic of Kenya for conducting free and fair elections, for the peaceful and orderly transfer of power in their government, and for the continued success of democracy in their nation since that transition; H. Res. 237, honoring the life and work of

Walter Sisulu, a critical leader in the movement to free South Africa of apartheid, on the occasion of his death; and H. Res. 194, amended, regarding the importance of international efforts to abolish slavery and other human rights abuses in the Sudan.

PROPOSED JOINT COMMITTEE—REVIEW HOUSE AND SENATE RULES, AND OTHER MATTERS ASSURING CONTINUING REPRESENTATION AND CONGRESSIONAL OPERATIONS

Committee on Rules: Ordered reported H. Con. Res. 190, to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people.

Prior to this action, the Subcommittee on Technology and the House held a hearing on the concurrent resolution. Testimony was heard from Representatives Dreier and Frost.

ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT; AND GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Committee on Rules: Granted, by a vote of 8 to 3, a closed rule providing that S. 222, Zuni Indian Tribe Water Rights Settlement Act shall be debatable in the House for 40 minutes equally divided between the chairman and ranking minority member of the Committee on Resources. The rule waives all points of order against consideration of S. 222. The rule provides one motion to recommit, with or without instructions, for S. 222. The rule further provides that S. 273, Grand Teton National Park Land Exchange Act, shall be debatable in the House for 40 minutes equally divided between the chairman and ranking minority member of the Committee on Resources. The rule waives all points of order against consideration of S. 273. Finally, the rule provides one motion to recommit, with or without instructions, for S. 273.

AQUATIC INVASIVE SPECIES RESEARCH ACT

Committee on Science: Ordered reported, as amended, H.R. 1081, Aquatic Invasive Species Research Act.

STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE FIREFIGHTERS ACT

Committee on Science: Held a hearing on H.R. 1118, Staffing for Adequate Fire and Emergency Response Firefighters Act of 2003. Testimony was heard from public witnesses.

SMALL BUSINESS ADVOCACY IMPROVEMENT ACT

Committee on Small Business: Ordered reported, as amended, H.R. 1772, Small Business Advocacy Improvement Act of 2003.

VISA APPROVAL BACKLOG

Committee on Small Business: Held a hearing on the Visa Approval Backlog and its impact on American Small Business. Testimony was heard from Janice L. Jacobs, Deputy Assistant Secretary, Visa Services, Department of State; Robert J. Garrity, Deputy Assistant Director, FBI, Department of Justice; and public witnesses.

ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management held an oversight hearing on The Administration's Proposal to Reauthorize the Economic Development Administration. Testimony was heard from David A. Sampson, Assistant Secretary, Economic Development, Department of Commerce and a public witness.

WATER: IS IT THE "OIL" OF THE 21ST CENTURY?

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment concluded oversight hearings on Water: Is it the "Oil" of the 21st Century? Testimony was heard from public witnesses.

CIA TECHNICAL PROGRAM

Permanent Select Committee on Intelligence: Subcommittee on Human Intelligence, Analysis and Counterintelligence met in executive session to hold a hearing on CIA Technical Program. Testimony was heard from departmental witnesses.

Joint Meetings

SERBIA

Commission on Security and Cooperation in Europe (Helsinki Commission): Commission concluded hearings to examine democracy, human rights, and justice in Serbia today, after receiving testimony from Ivan Vujacic, Ambassador of Serbia and Montenegro to the United States, Nina Bang-Jensen, Coalition for International Justice, and Elizabeth Anderson, Human Rights Watch, all of Washington, D.C.

COMMITTEE MEETINGS FOR THURSDAY, JUNE 5, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Foreign Operations, to hold hearings to examine proposed budget estimates for fiscal year 2004 for foreign operations, 2 p.m., SD–192.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine reauthorization of the Defense Production Act, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine Title XI, 2:30 a.m., SR–253.

Subcommittee on Surface Transportation and Merchant Marine, to hold hearings to examine financing AMTRAK, 10 a.m., SR–253.

Committee on Environment and Public Works: Subcommittee on Clean Air, Climate Change, and Nuclear Safety, to hold hearings to examine S. 485, to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, focusing on emissions-control technologies and utility-sector investment issues, 9:30 a.m., SD–406.

Committee on Finance: to hold hearings to examine S. 824, to reauthorize the Federal Aviation Administration, Time to be announced, Room to be announced.

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs, to hold hearings to examine life inside North Korea, 1:30 p.m., SD–419.

Committee on Governmental Affairs: to hold hearings to examine the nominations of C. Stewart Verdery, Jr., of Virginia, and Michael J. Garcia, of New York, both to be an Assistant Secretary of Homeland Security, 10:30 a.m., SD–342.

Committee on the Judiciary: business meeting to consider S. Res. 116, commemorating the life, achievements, and contributions of Al Lerner, and the nominations of R. Hewitt Pate, of Virginia, to be an Assistant Attorney General, David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States, Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit, J. Ronnie Greer, to be United States District Judge for the Eastern District of Tennessee, Thomas M. Hardiman, to be United States District Judge for the Western District of Pennsylvania, Mark R. Kravitz, to be United States District Judge for the District of Connecticut, and John A. Woodcock, Jr., to be United States District Judge for the District of Maine, 9:30 a.m., SD–226.

Committee on Rules and Administration: to hold hearings to examine Senate Rule XXII relative to the cloture rule and proposals to amend this rule, 2 p.m., SR–301.

House

Committee on Agriculture, Subcommittee on General Farm Commodities and Risk Management, hearing on the Commodity Futures Trading Commission, 10 a.m., 1300 Longworth.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled "Consumer Directed Services: Improving Medicaid Beneficiaries' Access to Quality Care," 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing on H.R. 2179, Securities Fraud Deterrence and Investor Restitution Act of 2003, 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing on "Wasted Space, Wasted Dollars: Reforming Federal Real Property to Meet 21st Century Needs;" followed by a markup of H.R. 2086, Office of National Drug Control Policy Reauthorization Act of 2003, 10 a.m., 2154 Rayburn.

Committee on the Judiciary, oversight hearing entitled "The United States Department of Justice," 9 a.m., 2141 Rayburn.

Committee on Science, Subcommittee on Environment, Technology, and Standards, to mark up H.R. 1856, Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003; followed by a hearing on Manufacturing R&D: How Can the Federal Government Help? 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on The Aircraft Cabin Environment, 10 a.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, Subcommittee on Intelligence Policy and National Security, executive, briefing on Global Intelligence Update, 9 a.m., H–405 Capital.

Select Committee on Homeland Security, Subcommittee on Emergency Preparedness and Response and the Subcommittee on Intelligence and Counterterrorism, joint hearing entitled "Does the Homeland Security Act of 2002 give the Department the tools it needs to Determine Which Bio-Warfare Threats are Most Serious?" 2 p.m., 2318 Rayburn.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings to examine arming rogue regimes, focusing the role of OSCE Participating States, 10 a.m., 334 Cannon Building.

Next Meeting of the **SENATE**

9:30 a.m, Thursday, June 5

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of S. 14, to enhance the energy security of the United States, with votes to occur on certain amendments.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, June 5

House Chamber

Program for Thursday: Consideration of H.R. 1474, Check Clearing for the 21st Century Act (open rule, one hour of debate);

Consideration of H. Con. Res. 190, Joint Committee to Review House and Senate Rules Pertaining to the Continuity of Congress (unanimous consent, one hour of debate);

Consideration of S. 222, Zuni Indian Tribe Water Rights Settlement Act (closed rule, 40 minutes of debate); and

Consideration of S. 273, Grand Teton National Park Land Exchange Act (closed rule, 40 minutes of debate).

Extensions of Remarks, as inserted in this issue

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